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ZAMBIA CONGRESS OF TRADE UNIONS

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Between a rock and a hard place: Gold mines are under growing pressure to deal with their environmental and social impacts

By Victor Munnik

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Part 1: Introduction: the problem with gold mining

The gold mining industry, like other extractive industries, is slowly, and reluctantly, bending under pressure for environmental and social sustainability. Achieving sustainability will be no easy task, if it is possible at all as many aspects of gold mining are inherently destructive. But the industry's biggest failure has been its refusal to take responsibility for the destruction it has wreaked on communities and ecosystems for more than the past 100 years.

Gold mining disturbs the landscape, the water table, geological stability and the surrounding eco-systems because large amounts of ore have to be removed to get small amounts of gold. Gold mining disturbs underground water and pollutes water systems. Mining creates mountains of toxic waste because of the nature and quantities of chemicals used in processing gold. It produces noise and dust, which can also be toxic and radioactive.

Gold mining has to take place where the gold ore is, regardless of whether this is sacred land, the basis of people's livelihoods or in an environmentally sensitive area. It uses large amounts of water and energy, competing with other water users, particularly local communities, and contributes to global warming. It disturbs and restructures local economic systems when operations start (taking away some resources while providing jobs) and then leaves an economic vacuum when the mine closes.

Its very arrival means social disturbances. The impact on communities and particularly on women has been harsh. This includes the loss of access to natural resources, through trespassing laws on land now belonging to mine companies stopping collection of wood and other forest products; pollution of drinking, fishing, and farming water as well as negative social consequences such as the breakdown of families under pressure of migrant labour.

While mining companies may have the legal means to avoid responsibility for mining legacies from 50 or 100 years ago, communities suffering the consequences do not see such differences. Communities living with the consequences, and activists concerned about the consequences, see the industry as a threatening whole. They have collected detailed information about impacts, devised strategies and built networks to deal with the impacts of mining on communities and the environment. Facing intimidation and greenwashing[1], they are often suspicious of all mining initiatives and of government and industry attempts at more responsible mining.

Most mining activities can be argued to deliver the basic ingredients for industrial production and a modern, industrial lifestyle, whether in transport, medicine, communication or any other industry, but not gold mining. In 1997, the year of peak production, jewellery constituted 78 per cent of the total demand for gold, and electronics 5.6 per cent, for example in cell phones. So its main functions are for jewellery and, as a store of wealth, to underpin the financial system as a "natural" currency. Some activists have started to attack the foundation of these belief systems, in the knowledge that destroying the market destroys the industry.

Project Underground[2], for example, argues that gold consumption in India, a market for golden jewellery double the size of that of the US, is part of the oppressive dowry system. In this system,

[1] Greenwashing is the practice of hiding environmental irresponsibility behind a pretense of environmental concern.
[2] www.moles.org

gold is the only security for the woman who is getting married, and a range of Indian organisations are trying to change this system. Project Underground suggests that the price of gold – hoarded gold – is sure to decrease, eventually below extraction costs. They propose that the existing gold in bank vaults be used to meet the demand in jewellery and electronics. This may sound fanciful at first, but silver is an example of a metal that did lose its function as a store of value.

1.1 Role of governments

Governments do provide regulations for mining, such as the requirement for Environment Management Plans (EMPs) in South Africa. The existence of democratic governments and the legal space opened up by new legislation, for example in South Africa the Constitution and the NEMA, do give hope for improvement. The role of governments in regulating the mining industry in Africa, however, is constrained. Governments in countries like South Africa and Ghana remain critically dependent on the mining industry for tax and export income. This leads to preferential treatment of the mines and cautious application of environmental regulations, tending towards voluntary self regulation by the companies. Governments are also aware of the importance of mining jobs. The South African National Union of Mineworkers is a major player in the South African labour movement and has numerical strength within COSATU – as well as the potential for unrest following from mineworkers losing jobs[3].

Gold mining companies are politically influential and can form alliances with elites, even while differing sharply on issues such as tax. The South African Chamber of Mines, for example, has been a major player in South African politics ever since the late 19th century. Africa Undermined[4] provides chilling accounts of mining companies' involvement in politics. Today there are attacks on mining companies in Tanzania – mostly by small scale miners who resent the uneven competition. Controversies about regulatory environments and the environmental impacts form no small part of these debates[5]. Gold mining is generally a large scale undertaking, with head offices and beneficiaries in other countries. A full 90 per cent of the wealth generated from gold mining leaves African countries, argues mining critic Tetteh Hormeky[6]. Mining has also externalised many of its costs in the shape of pollution or impacts on community environments and livelihoods. Some of these costs, like health costs for serious respiratory problems in Riverlea, Johannesburg, are picked up by the state.[7] In South Africa, the historical roots of this injustice lie in apartheid designs which purposely relocated communities to the cheapest land available – in Johannesburg next to mine dumps.

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[3] Mining, Minerals and Sustainable Development (MMSD) chapter 10
[4] Mueller and Lanning, Africa Undermined.
[5] Third World Resurgence, Issue no 93: Social and Environmental Impact of MINING in the Third World.
[6] Tetteh Hormeku, Accra Report, p. 5
[7] Desmond Rose, in an interview, spoke of people of the suburb of Riverlea going to Helen Joseph Hospital for treatment for respiratory problems caused by mine dust.

1.2 From inside the industry

From inside the industry – driven by those who finance mining with public money – there is recognition of the environmental and impacts. The World Bank[8], for example, clearly recognises that there must be a problem when it argues that it is worthwhile for mining operations to set up environmental management systems because mines leave behind such obvious environmental footprints

> "… at worst seriously limiting the ability of surrounding communities to earn and sustain their livelihood, particularly in areas where communities rely on their natural environment to provide food, shelter, transport and other opportunities".

A series of industry initiatives – and initiatives of those that finance the industry, especially in developing countries – constitute a wave of pressure from inside that mining companies have to deal with. These include the Berlin Guidelines (of 1992 and rewritten in 2002), the ICMM[9], the MMSD[10] process and the World Bank's Extractive Industries Review. South Africa has seen two recent conferences on the topic: Environmentally Responsible Mining in Southern Africa (September 2001) and Implementing Mining and Sustainable Development (November 2003).

Gold mining in Africa is slowly changing direction towards environmental and social sustainability, under pressure from changing public awareness and values, reflected increasingly in pressure from financial institutions. However, this change is uneven in an old industry with decades of environmental destruction and social injustice backing it. In his opening speech to the "Mining and Sustainable Development Conference" (November 2003), the UNEP representative expressed the view that mining was at the early stages of environmental awareness, that the industry is looking for mitigation and "end-of-pipe" solutions rather than changing its methods. Changing methods might be inherently difficult.

The South African-based companies approached in this study seem to have chosen between 3 options, or combinations of which. All three are illustrated in this study:

- ??To comply with government regulations,
- ??To comply with industry internal standards,
- ??To strive for best environmental standards such as the ISO 14000 accreditation.

An environmental manager at Gold Fields, clearly committed to his field, argued that gold mining is not the most polluting form of mining – it is less polluting that coal mining, for example, or some chemical industries. This is true enough. And like other mining activities it provides jobs, builds infrastructure and housing, and contributes to state coffers.

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[8] World Bank and International Finance Corporation, 2002: An Asset for Competitiveness, p.1.
[9] ICME and International Council for Mining and Minerals (ICMM,founded in 2002)
[10] Minerals, Mining and Sustainable Development.

1.3 Perspectives

This report starts with a selective overview of the vast and varied literature on gold mining and the debates contained within. It also includes material gathered in interviews with the three mining companies: Anglogold Ashanti, Gold Fields and Metorex, as well as with environmental justice activists.

This report is based on secondary sources, literature such as declarations, web sites, books and analyses. It is not based on site visits or interviews with communities affected by gold mining and therefore cannot evaluate the actual conditions in the field. What it can do is to give an overview of the issues, to introduce and encourage the thinking about environmental and social impact, to indicate the views of different stakeholders and compare them. From such comparison some picture of where the debate about the environmental impact of gold mining is, will emerge.

This essay will exclude social responsibility and workers' health but will refer to community health and livelihood effects, as well as the ecosystems on which people depend. The focus will be on the environment, within a framework of "sustainable development", and how women specifically are affected. A focus on women's issues is not only important in its own right, but tends to shift attention to the realm of reproduction of households and the day-to-day realities of households' ability to fulfil the need for water, energy, food and cultural expression.

The methods are desktop studies of a range of documents as well as interviews where possible. Reference will be made to the environmental impact of gold mining in operations of AngloAmerican, Gold Fields and Metorex, who have gold mines in South Africa, Zimbabwe, Namibia, Zambia, Tanzania and Ghana. Due to limited resources, the focus is unevenly on South Africa.

1.4 Environmental management, environmental justice and sustainable development

The concepts of environmental management, environmental justice and sustainable development as used in this study are related, but different. Integrated environmental management includes a number of tools to enable industry to manage its environmental impacts and report on it to authorities and communities. These include environmental impact assessments, environmental plans and environmental management systems[11]. At present, these instruments include social impact assessments and cost benefit analyses, with requirements (not always fully developed) for public participation in the form of interested and affected parties. The basis for this system in South Africa is the constitutional right to a clean and healthy environment, to participation, to access information, etc, and various provisions in other legislation such as the National Environmental Management Act (NEMA).

[11] For a comprehensive explanation see DEAT, 2004: Integrated Environmental Management, DEAT, Pretoria.

But these rights can also be used to support activism for environmental justice[12]. Such activism highlights the injustice in the distribution of environmental impacts on poor people and people of colour, usually because of their lack of political and economic power. It is an increasingly powerful concept for organising. A related concept is that of an ecological debt.[13] This concept argues that throughout colonial (and post-colonial) times, colonial governments and companies have built up a debt through their environmental and social exploitation. Sustainable development[14] presents a compromise platform, with space for many interpretations, between proponents of development and socio-ecological justice, and is mainly associated with governmental initiatives such as Agenda 21[15]. Sustainable development is defined as development that meets the needs of present generations without compromising the needs of future generations. It is associated with the precautionary principle, meaning that harm does not have to be proven before it is to be avoided.

1.5 The literature

The literature on gold mining is rich and varied. It includes a number of interesting papers from the South African Water Research Commission, dealing mainly with water pollution. There are various reports of community organising[16] and activism on an international level[17]. An activist toolkit (The Gold Album) for taking on the gold mining industry is available. Many of these contain reports and case studies of abuses of people and the environment by the gold mining industry. There is emerging literature of attempts from inside the industry to regulate or reform itself, and attempts to regulate it by governments and international financial institutions, which suggests the problems the industry is grappling with. Due to its importance in Africa, and the political history of South and Southern Africa, mining has been under scrutiny in studies ranging from political economy, on questions such as the relationship between state and capital since the days of the Boer Republics[18], the relationship with labour[19]: the migrant labour system and the so called Native Question[20] to the broader issues of the place of Africa's minerals in the world economy. The political power of mining companies in Africa and their intricate patron-client relationships with current governing elites are described in detail in Africa Undermined.[21] There are also company reports, as well as a tradition of popular history writing, mostly in a more traditional "heroic" style of writing.[22] Gold is highly visible, and so are gold mines.

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[12]See, for example the work of the Environmental Justice Network Forum, EJNF, and the Third World Network in Ghana.
[13] See the work of Martinez-Alier and the Jubilee movement.
[14] See Dryzek, J.S., 1997: The Politics of the Earth, Environmental Discourses, for a discussion of the tactical possibilities of an "empty" concept such as "sustainable development".
[15] Agenda for the 21st century, agreed between governments in 1992 in Rio de Janeiro. It contains 40 chapters to guide environmental management of the planet as a whole.
[16] Group for Environmental Monitoring (GEM), Environmental Justice Networking Forum (EJNF) and Legal Resources Centre (LRC)
[17] Third World Network, FIAN
[18] Yudelman, The Emergence of Modern South Africa.
[19] Jeremy Baskin in "21 days that shook the Chamber", in Striking Back, A History of Cosatu.
[20] Ashforth, The Politics of Official Discourse in 20th century South Africa
[21] Africa Undermined, Lanning and Mueller.
[22] Goldstrike! Through Rock and Fortress, Gold Fields, a Centenary Portrait and other works mostly celebrating "the Randlords".

Part 2: What is the impact of gold mining?

There are two types of gold mining operations to consider for this study: deep or subsurface mining as on the Rand in South Africa, and open cast mining which became prevalent from the 1960s and is the norm in most of Africa[23]. The two systems differ in their environmental effects. Open cast mining is quicker to develop and therefore has fewer positive spin-offs like road building, home construction, health clinics, etc. It affects groundwater radically, as the level has to be lowered below that of the pit, affecting wells and ecosystems over a huge area. Its tailings are also proportionally large and thus take up huge areas. Despite their differences, both types of mining share a range of environmental impacts. These are:

1) Water use and water pollution, often in water-scarce situations
2) Energy-intensity. Where coal is the main source, as in South Africa, it has climate change knock-on effects
3) Waste in huge volumes, some of it highly toxic
4) Surface disturbance of vegetation and failure to meet rehabilitation requirements
5) Geological disturbance like sinkholes and seismic movements
6) The effects of acid mine drainage, including the liberating of heavy metals
7) The use of chemicals like mercury and cyanide
8) Uranium and radioactivity coming from uranium in tailings and scrap metal contaminated by uranium plants
9) Dust leading to health problems like silicosis
10) Explosions in open cast mines which leads to cracking of walls in nearby houses and excessive noise levels.
11) Environmental injustice where communities are the victims of mining through displacement, loss of land and livelihoods, political confrontations, contaminated ecosystems – especially with "indigenous communities" in remote areas.
12) Uneven gender impact, where women shoulder the burden of externalised costs through loss of natural resources, and stress on the social system, while excluded from most of the benefits.
13) The legacy of more than a century and a failure of those who profited from mining to take responsibility for the present day consequences that communities live with around abandoned and "ownerless" mines.

2.1 Water impacts

Gold mining has a radical impact on water. Great quantities of water are used, whether simply to remove water by pumping or for washing gold with chemicals such as cyanide. An account from Gold Fields entitled, A Centenary Portrait[24], gives an insight into the scale of water pumping associated with deep level mining:

> "The same year (1963) the Far West Rand Dolomitic Water Association was formed all the mining companies took part. It handles the problems arising from de-watering of the dolomites, which includes claims from farmers who lose their water. It owns a lot of

[23] Discussion with Dr Stefan Cramer, geologist.
[24] Gold Fields, A Centenary Portrait, p. 71

ground bought up as part of settlement for damage suits. The state has given permission to mines to de-water because gold recovery is much more valuable to the country than agricultural production of that area.

> "Throughout the 1960s there was something akin to panic over the dolomitic water problem and the risk of flooding. Most of West-Driefontein, Blyvooruitzicht and Western Deep Levels are below a vast underground lake called the Oberholzer Compartment. It cost these three mines over R200 million in pumping costs in the year 1968. From 1955 West Driefontein never pumped out less than seven million gallons a day. In 1962-64 it had to pump out over thirty million gallons a day, and it soon had more pumps than anywhere else in Africa, capable of handling up to sixty three million gallons daily. As (Peter) Van Rensburg put it: 'West Driefontein has to get to the surface three times the tonnage of water to rock – you could call it more of a water mine than a gold mine.' At one time enough water was pumped out of West Driefontein each day to supply a quarter of the needs of six million people living in the Witwatersrand, Pretoria, Southern Transvaal and the Orange Free State."

The movement of such large amounts of water must have drastic impacts on both above and under ground water flows. In the dolomitic areas of the West and East Rand in South Africa, sinkholes have formed.

Open cast mining has a very direct effect on the water table in the area of the mine. As soon as the pit goes below the line of the water table, the water table around the pit has to be lowered otherwise the pit would be flooded. The water around the pit is pumped out for kilometres, meaning that wells dry up and ecosystems linked to the water table (like wetlands and rivers) are seriously disturbed.

2.2 Water pollution from mine dumps and acid mine drainage

The impact of gold mining on water quality – in other words, water pollution, has been serious enough to warrant several South African studies on the effects of gold mining residues (mine heaps or tailings dams) and acid mine drainage[25]. To quote one:

> "…water pollution is an increasingly important socioeconomic issue in South Africa. Experience overseas (Europe and North America) has shown that the costs involved in the remediation of large-scale polluted areas are far too high, owing to too large quantities of contaminated material being treated. The uncontrolled release of acid mine drainage as a direct result of poor operational treatment is unequivocally the single most important impact of mining activities on the environment. AMD originates primarily from the oxidation of sulphide materials, which occur in significant quantities (30-50 kg of sulphide minerals per ton) in the primary ore. The acid drainage emanating from the gold residue material in South Africa contains, as a rule, large quantities of salts (sulphate and chloride), significant concentrations of toxic heavy metals and trace elements such as Cu, As and CN, as well as radionuclides..."

[25] A list of 19 is mentioned by Roesner et al

> "Mining has a long history in South Africa, which has resulted in large quantities of mine waste. In 1996 a total of 377 million tons of mine waste was produced, accounting for 81 per cent of the total waste stream in South Africa. The presence of these mine dumps resulted in large-scale pollution of the subsurface, affecting an area of approximately 180 km2. This poses a potential threat to the scarce water resources (surface and groundwater) of South Africa and is cause for serious concern with respect to land development of sites, where tailings dams have been reclaimed. The majority of the tailings dams (more than 200) were deposited 30-50 years ago…"[26]

The Mining, Minerals and Sustainable Development (MMSD) project, an industry initiative, acknowledges that:

> "Dealing with acid mine drainage is very difficult. There are known management methods to minimize the problem. Effective mine design can keep water away from acid-generating materials and help prevent AMD from occurring. But in many cases it is not adequate to prevent it altogether… AMD can be treated actively or passively. Active treatment involves installing a water treatment plant… The goal of passive treatment is to develop a self operating system that can treat the effluent without constant human intervention… such as an artificial wetland… So far, no one has designed a passive system that will operate indefinitely without human intervention. It is therefore not free of ongoing costs…"[27]

In the foreseeable future, Acid Mine Drainage from mine heaps and underground sources, will contribute massively to the ongoing legacy problems of the mining industry.

2.3 Cyanide

The use of hazardous chemicals – mercury in the old days but now mainly cyanide – has direct effects on water quality. While mercury is still used by small-scale miners, for example in Mozambique, it has been phased out in bigger operations.

FIAN's Campaign against Human Rights Abuse in gold mining[28] says that, "The modern gold mining is a catastrophe for people and the environment…" and quotes the spill into the Asuman river as evidence. Gold Album says the following about cyanide:

> "Cyanide is the chemical of choice for mining companies to extract gold from the crushed ore. Very low-grade ore, with minimal residues of gold, is crushed and piled on the ground, then sprayed with a cyanide solution. No mine has ever avoided leaking cyanide-laced water and waste into the ecosystem."

Exactly how big the risk is from cyanide is a matter of lively debate between mining companies and activists. Mining companies argue that cyanide in water rapidly breaks down into organic compounds. Gold Fields environmental manager Dr Andries Leuchner argues that cyanide occurs in nature since it is constituted of carbon and nitrogen. It is even present in centipede excretions!

[26] Roesner,
[27] Mining, Minerals and the Environment, chapter 10, p. 239, MMSD
[28] FIAN- Deutschland, website, accessed 22 July 2004

Measures to combat cyanide pollution (like chloride) are often worse than the cyanide itself, says Leuchner.

The Gold Album argues that cyanide does not break down when water seeps underground, under cloudy or rainy conditions, or during winter in cold countries. In February 1994, 17 people died in South Africa when a disused slimes dam at the Harmony mine burst its banks and buried a housing complex in mud that contained cyanide. In 2001, a Gold Fields mine in Wassa West district, Ghana, spilled cyanide into the Asuman River. A newspaper report[29] called it "Ghana's worst environmental disaster". "Hundreds of dead fish, crabs and birds can be seen littering the banks of the river. Others float on the surface of the river, which is the only source of drinking water for Abekoase, Huni and surrounding villages." The report quoted angry local residents and concerned medical personnel. At the time, managing director Richard Graeme told ENS that the cyanide that found its way into the river was "insignificant and could not have been injurious to aquatic life let alone human life". He said that they put in chlorine immediately, to neutralize the toxicity of the cyanide, and it was probably the chlorine that killed the fish, not the cyanide.

The MMSD reports[30] that, "at the present time, there is no economically viable, environmentally sound alternative to cyanide… in the production of gold. Cyanide is … a hazardous chemical that requires careful management." The UNEP and the International Council on Metals and the Environment (ICME) produced a cyanide Code of Practice in 2000, with principles addressing responsible production, safe transport, proper handling and storage, operations, the need for decommissioning plans, worker safety, emergency response, training, and public dialogue. At the time of publication of the MMSD report (2002), the code had not been widely adopted.

2.4 Radioactivity

Uranium can be found in the same ore as gold – in some Witwatersrand ore bodies – and therefore the bringing of uranium to the surface is an environmental concern as a side effect of gold mining. It is for this very reason – the low grade uranium could be cheaply processed from the mine heaps – that South Africa could produce uranium. "Through Fortress and Rock",[31] a history of Gencor (now part of Gold Fields), shows that the Rand became one of the largest low grade uranium fields in the world, in which the uranium could be extracted from the slimes dams (mine dumps). In 1952, South Africa's first uranium processing plant was opened. By 1960, 26 gold mines and 17 extraction plants were producing 6 200 tons of uranium oxide. This meant an additional pound sterling 50 million a year to the industry.

The Chamber of Mines set up uranium sales organisation, NUFCOR, when the commercial market emerged. The new customers were the nuclear power stations around the world, and South Africa increased its capacity by 3 times in the late 1970s. South African gold mining thus became enmeshed in the nuclear industry as a uranium supplier.[32]

[29] News report by Mike Anane, Environmental News Service, October 24, 2001
[30] MMSD, Mining Minerals and Environment, p. 237
[31] Through Fortress and Rock, p. 119
[32] For more on the results of South Africa joining the nuclear club, see Dr. David Fig, 2002: Uranium Road, Heinrich Boell Foundation, Johannesburg.

This also highlights the issue of the uranium still present in the mine heaps: since only 25 per cent of the uranium was ever processed, 75 per cent remained behind[33]. If uranium particles are inhaled as part of wind-blown dust, they could cause cancers and other malignancies. People living close to mine heaps with uranium in them are exposed to radioactive damage. One Water Research Commission (WRC) study[34] found that radioactivity in water was not too high, while two others[35] found levels exceeding permissible limits, and the deposition of uranium into the environment. In addition, the uranium wing of the gold mining industry has deposited large amounts of contaminated scrap metal from uranium plants. An estimated 10 to 15 per cent of scrap metal[36] in South Africa is contaminated with radioactivity, which poses a health risk to scrap metal and foundry workers.

Nuclear energy, because of its health threats and the difficulty (impossibility) of handling and disposing of high-level nuclear waste, is a controversial issue. The Congress of South African Trade Unions, COSATU, has expressed its opposition to nuclear energy in two consecutive congresses.[37]

2.5 Energy intensity

Gold mining is an energy intensive industry, because it moves many tons of earth, pumps water in great volumes, needs cooling systems in the hot depths of the earth, as well as in crushing and refining. As ore grades fall, more waste rock has to be moved to recover the same amount of ore. In South Africa, the source of energy for mining operations is mainly coal, so it has climate change knock-on effects. In this regard, much can be done. Energy efficiency measures – and the prospect of savings on expensive energy – have enabled Gold Fields[38], for example, to reduce its energy consumption by almost 12 per cent from 2002 to 2003.

2.6 Surface and geological disturbances

The mine heaps of Johannesburg are a clear reminder of the disturbance of surface vegetation, and the difficulties of rehabilitation or providing vegetation. Rehabilitation of mine heaps started on a voluntary basis in the 1950s because dust storms were occasionally so severe that they stopped traffic due to visibility problems[39]. Regulations passed in 1980 made re-vegetation compulsory. However, as we shall see in the next section, these were not regularly complied with. Gold mine heaps are difficult to rehabilitate. They contain heavy metals that can be toxic to plants, have poor water retention, are very salinised, lack nutrients and are highly acidic, and have very steep slopes[40].

[33] The status of radioactive waste management in South Africa – version: 15 November 2000, DME
[34] De Jesus
[35] Znatowicz , 1993, and Coetzee, 1995
[36] Dr Murray Coombs, personal communication
[37] Quote Cosatu congress resolutions,
[38] Gold Fields sustainable development report, 2003
[39] Marsden, 1985, quoted in Van Wyk, 1992
[40] See Van Wyk, S, 1992: Revegetation on areas where plant growth has been impaired or disturbed, in Integrated Environmental Management course notes, Potchefstroom University for CHE.

Open cast mining results in huge scars in the landscape. The pit disturbs the regional water table because the pit has to be kept dry. It results in huge volumes of waste and huge volumes of acid mine drainage. Because it needs so much surface land, it leads to large land-use conflicts, as opposed to underground mining. A great deal of space is required for the waste and the visual impact is dramatic. Dust and noise pollution is widespread.

When mines are sunk in dolomitic areas (some of the mines on the South African reef are in dolomitic areas) and the underground water is pumped out sinkholes[41] appear. A further cause of these sinkholes is acid mine water eating away at the dolomite rocks. Sometimes these holes can be far away from the mines themselves depending on the underground geology. These and other geologic disturbances can lead to seismic movements, threatening neighbours of the mines and the mining operations themselves.

2.7 Dust and noise

Dust blowing from mine heaps is closely linked with problems experienced by neighbouring communities', such as silicosis. The Group for Environmental Monitoring (GEM, a Johannesburg based NGO) and the Legal Resources Centre have taken up these issues as a community environmental justice issue.

People in Riverlea, Johannesburg, living next to mine dumps, go to Helen Joseph hospital with breathing problems, says Desmond Rose, an activist in Johannesburg assisting the community living next to the gold mine dump[42]. Their plight is described in an Environmental Justice Project Report, undertaken by the Legal Resources Centre[43]

> "Apartheid era planning practices placed poor, black communities towards the south of the city (Johannesburg), downwind of the tailings dams, and reserved the sheltered areas for white, middle class people. These traditionally black townships are densely populated and, in many cases, town planners have failed to allow for buffer zones between tailings dams and human settlement. Some people literally live at the foot of a mine dump. These areas experience heavy dust falls in the windy, dry months of the year. Furniture, gardens and even food tend to be covered with a thin layer of dust. This may introduce chemical irritants in the deep lung region, causing conditions such as chronic asthma and bronchitis."
>
> "For many years people affected by wind-blown dust have been fighting a losing battle against the mining companies and DME. In the past five years they have finally started to meet with success."

The LRC list of communities in their Environmental Justice Project[44] include Davidsonville, Dobsonville, Meadowlands, Kagiso and Reigerpark. These communities had to litigate to get the mining companies to rehabilitate the mine dumps.

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[41] A manual to assess and manage the impact of gold mining operations on the surface water environment, Pulles, Heath & Howard, 1996

[42] Interview with Desmond Rose, FABS, July 2004

[43] Environmental Justice Project, LRC, 2002

[44] Environmental Justice Project, LRC, 2002

2.8 Conflict with small (artisanal) miners

In his book "All Poor Together", mining consultant John Holloway argues that the vast majority of gold mines in Africa were first identified and worked by Africans. European prospectors used these small workings as a first diagnostic tool for prospecting. In this view, which is pieced together from various historical accounts, big mining companies displaced earlier, and indigenous miners, this process seems to continue, and in Tanzania, violence periodically flares up between such miners and big mining companies. The big companies argue that the artisanal miners are responsible for extensive environmental damage. The use of mercury, which accumulates in the environment, is toxic to life in the river and the health of the miners themselves.

The Third World Network, with a strong office in Accra, Ghana (second biggest gold exporting country in Africa, after South Africa), describes the process of displacement as thus:

> "In Ghana, the mining sector, specifically the mining of gold for export, has received renewed emphasis. As a result of the desire to attract investment into this sector, new mining codes have been introduced, clearly defining the rights of foreign investors. Ghana permits up to 80 per cent profit repatriation, and has removed exchange controls, provided tax and others incentives as well as removed all the obstacles in the way of total foreign ownership of concerns in the country. New policies have also extensively privatised state-owned enterprises to aid the process…. These have attracted over US $1 billion in investment, including funds from the World Bank, and have led to a quadrupling of gold production over the last six years.
>
> All these have led to a big increase in exploration for new deposits and a substantial increase in investment … The renewed gold rush in the Wassa traditional area, especially in and around Tarkwa, has brought intense competition between large and small, often unorganised operators. Following the privatisation of former state owned mines, there were massive lay offs of mine workers. Many of these retrenched workers have joined the local small-scale mining force but have very little free land to operate on. They have resorted to operating illegally on the concessions of large-scale companies. This brought increasing confrontation between the two… and renewed struggles in some areas for land rights and compensation for the use of land.
>
> Communities are brutally evicted and paid a pittance in compensation for their crops and trees as foreign firms take over previously government-owned concessions. The people of Atuabo, Mandekrom and Sofo Mensakrom in Ghana, were forcefully evicted and their houses demolished by armed soldiers and police. This was in order to compel them to move into houses built by a South African company, Gold Fields Ghana, to make way for surface mining. Over the last four years, more than 4 000 residents in the three farming communities have been stopped by the mining company from farming the lands in the areas that are said to be concessions belonging to the GFG. Mine security and state police have attacked villages that have protested.. One such community is Nkwantakrom where 52 mine security and 15 policemen demolished an entire village under the pretext that the settlement was illegal."

2.9 Impact on women

In both urban and rural areas, women suffer the impact of gold mining. At a conference to prepare for the WSSD, research from the Wassa West district in Ghana described how local women viewed the effects of mining pollution on them:[45]

> "The community assessed the environmental impact based on the purplish colour of the cassava when cooked with water from the streams they were using before surface mining, palm nut soup turning black after cooking, increase in the incidence of pelvic infection and prolonged pregnancies."

A graphic description of living within a few hundred metres from a mine dump comes from Meadowlands, Soweto, describing how the mine dust entered houses through doors and windows, onto the washing and food that had to be thrown away.[46]

The recognition of the many impacts of mining on women resulted in the consolidation of local struggles into an international "Women in Mining Network" [47]. It started under the wing of the United Kingdom based Minewatch in 1993, consolidated itself in international conferences in 1997 and 2000, and met at the World Social Forum in Brazil (2003) and India (2004). The network has identified the following issues:

- Mining has caused large-scale displacement of several communities, especially indigenous communities, whose basic life systems depend on land, forest and other natural resources.
- Women affected and displaced by mining are forced out of their social, economic and cultural environments leading to serious degradation in their quality of life.
- Discrimination of women is still a constant factor in daily life. Women have difficulties in getting jobs, they do not receive equal salaries, and they have limited access to concessions and credit. They are often ill-treated by employers and their husbands.
- Productive activities of women in their families are often unpaid and unrecognised. Women help their husbands in mining and other productive activities, such as to prepare food and take care of their homes. The model is still based on oppression and discrimination.
- The earth, rivers and air are contaminated with toxic waste, which seriously affects the health condition of miners and the rest of the population and causes malformations in children.
- Human rights are still being violated.
- Employment risks of women working in mining are high. Women in traditional, small scale, artisanal and independent mining are subject to unacceptable working conditions, affecting their health, life and human condition.
- Forced labour of children in mining due to the increasing poverty of our communities is denying them the possibilities of a fair and free life and future.

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[45] Easther Ofei-Abogaye, Report on The Social and Environmental Cost to Women and Children, Accra Report, 2001.
[46] Environmental Justice Project, LRC, 2002
[47] See www.iwam.net

- ?? The increase in domestic violence, sexual abuse and alcoholism in mining areas is alarming, as well as the growing incidence of sexually transmitted diseases such as AIDS.
- ?? Laws and international agreements related to human rights, including ancestral and cultural rights of indigenous peoples, social and economic rights and workers rights, are not complied with, and sometimes not even ratified, by our governments and transnational companies.
- ?? Some governments allow the use of their natural resources like water in an irrational manner, not guaranteeing communities access to these resources.
- ?? Increasingly, land is taken away from indigenous peoples by governments who give the land to transnational companies resulting in the loss of means of livelihood and the loss of access to the local populations – who are the legitimate owners of this richness.

2.10 Legacy issues

A major challenge for the gold mining industry is that the bad public reputation[48] will persist as long as its environmental and health legacy remains negative within surrounding communities. New legislation in South Africa[49] requires a rehabilitation plan after closure and the establishment of a trust fund to achieve this. But this legislation does not apply to old and abandoned mines.

For the communities, it does not matter who is responsible, they live within its shadows. Even legal recourse does not mean the problem is solved. The communities of Meadowlands, Kagiso and Boksburg in South Africa have reported[50] ongoing problems in getting mining companies to stick to original agreements, or to cooperate so that the environmental and health problems do not recur.

Behind these problems lurks a bigger one – the cost of the clean up in order to deal with legacy problems. Some scientists have already made a judgement on the issue: "Clean up costs for top soil only under existing tailings dams would be at least US $ 550 million… It is obvious that these rehabilitation costs cannot be afforded either by the South African government or by the mining industry"[51]. But what will happen? Local governments – for example on the West Rand – are waking up to the possibility that they will have to carry the legacy costs of the mines.

2.11 International networks and pressure groups

It should be a small wonder, then, that communities and activists have joined forces to tackle mining companies. Various mining networks have joined forces in what can be described as an international movement. The Underground project, www.moles.org, will equip activists with materials covering:

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[48] Walker J. and Howard S, 2002: Finding the Way Forward: How could voluntary action move mining towards sustainable development, IIED & WBCSD, London.
[49] Aide-Memoire
[50] GEM, 2000: Shaft 17 Conference: Community Struggles and the Mining Industry.
[51] Roesner et al, p. vii

- ✍ The global gold business
- ✍ Gold reserves and mineworkers
- ✍ Gold consumption
- ✍ Case studies, including Ghana
- ✍ Cyanide
- ✍ Mercury
- ✍ Acid mine drainage
- ✍ Statement of unity

The intentions of the International Network on Women in Mining[52] represent the framework for activism in affected communities:

> "We want to take care of life in all its aspects, primary health care for all, the cleaning of toxic substances and pollutants, substitution of the use of toxic materials, and recycling of metal products… We commit ourselves to break the silence and tell the world that, "we are angry because we are robbed. Because our poverty is increasing and we are abused, as well as our children and the environment".

Activists demand monitoring of mining companies, the rehabilitation of damaged resources, compensation for community rights that have been violated, for the diseases and accidents and loss of lives. They undertake to monitor the exclusion of mining from protected and environmentally fragile areas, and the exclusion of children from mine labour. They will work to make sure economic investments are used in sustainable alternative projects, respecting cultures and the right to self-determination of peoples, with equal opportunities for women in all productive areas, incorporating the problems of women in labour laws, just salaries and benefits for women to improve their situation, and access to credit. They will demand the establishment of environment bonds, the ratification of legal provisions of countries that have progressed in this field, establishing drastic sanctions for those who infringe these laws and supporting simultaneous actions against multinational companies. They will focus on alternative ways of living for women in mining and women affected by mining. They will raise women's technological knowledge and disseminate information on the contribution of women to the national economy, considering the development of cooperative mining and other kinds of organisations as an alternative. They will also strengthen the organization of women in communities affected by mining, through research and exchange of information as well simultaneous actions against mining companies**.**

Part 3: Gold companies, government regulations and industry standards

The South African based companies in this study seem to have chosen between 3 options, or combinations thereof:

- ??To comply with government regulations,
- ??To comply with industry internal standards,
- ??To strive for best environmental standards such as the ISO 14000 accreditation.

[52] Reference: www.iwam.net

3.1 Metorex: "Complying with government regulations"

Metorex owns two gold-producing mines: Consolidated Murchison in Limpopo Province, which also produces antimony, and Sheba and Consort near Barberton in Mpumalanga[53]. Metorex's overall philosophy is "to be technically, environmentally and socially responsible". Complying with existing government standards for mining does this, even though Metorex sees these standards as somewhat strict.

According to Mr Edward Legg, technical manager of Metorex, because legislation changed in 1991, Meteorex undertook investigations into the physical impacts of the mines – for example on groundwater and surface water balance and needs of upstream and downstream users as well as the community aspect. In the area of Cons Murch, water is in short supply. The cyanide stays in a closed water loop, based on the zero discharge philosophy. For water at mines that gets discharged onto the tailings dams there is continuous sampling for water quality. Funds are also contributed to the prescribed government decommissioning fund. Cons Murch has excellent relationships with the local population, says Legg. Most of the workers live in the mining village. There is no hostel.

Mr Legg comments that the limited experience of government (with mining) and the expectations of mining companies like Metorex do not yet align, but will come closer. But what does this somewhat reluctant compliance with government legislation mean, and is it enough? From a community and NGO point of view the answer is no.

Environmental Management Plans (EMPs) and Environmental Management Programme Reports (EMPRs) are required in terms of the Minerals Act 50 of 1991 for all new mines to acquire a mining license. An EMP must describe the "cradle to grave" impact of the mine and is authorised by the South African Department of Minerals and Energy (DME)[54]. The Guidelines require a description of the environment before the mining operation begins, a description of the infrastructure and methods to be used for ore extraction and processing, project objectives and costs, the nature and amount of waste products that will be produced, impact assessment of production methods and waste, and plans and funding for rehabilitation.

A fundamental flaw in this system is that the same agency that is charged with promoting mining – the Department of Minerals and Energy – must police the mines to see that they live up to environmental standards. However, "at present, the DME fails to monitor, enforce or audit EMP obligations. The EMP Reports are therefore seen as tools used to authorize prospective mining operations rather than vehicles used to promote genuine environmental management programmes"[55]. It is revealing that the Aide-Memoire contains no explicit requirement that local interested and affected parties have to be consulted in assessing likely impacts or drafting the EMPR[56]

53 This and following information on Metorex from interview with Mr Edward Legg, technical manager of Metorex.

54 GEM, 2001: Mining & Environmental Management in South Africa, p3.

55 GEM, 2001: p5

56 Eales, K, 1997: The Environmental Management Programme Report, in Towards a minerals Policy that people can live with, A presentation by community and NGO representatives to Dr Linda Makatini, adviser to the minister of minerals and energy.

The implementation of EMPs suffers from additional weaknesses:

?? A lack of awareness of environmental issues among the community, for example of the dangers of mining chemicals like cyanide and other environmental issues, combined with a lack of a community voice in the planning and impact assessment stages, a lack of legal support (communities are lucky when they receive NGO support for legal challenges), and ongoing feedback to the community (for example, the annual reports on EPMRs are not made available to communities).
?? Few NGOs are involved, and often only on sporadic basis,
?? Environmental management is aimed at reducing rather than preventing pollution impacts.

The two companies with operations in South Africa and the rest of Africa, Anglogold Ashanti and Gold Fields, expressed the view that they comply with industry (and financier) pressure rather than national legislation, although of course this does not remove their duty to comply with national legislation.

3.2 Anglogold Ashanti: "Following industry guidelines"

Anglogold Ashanti is the biggest gold mining company in the world. Its roots lie in the South African Reef (with a history stretching back to the diamond fields of Kimberley in the late 1800s) and the famous gold mines of Ashanti in Ghana. Anglo is infamous for its political role in Southern Africa, and the migrant labour system for ensuring cheap black labour. While its South African mines are deep level, it has an open pit mine in Tanzania – Geita. It has 19 operations in 8 different countries.

Environmental management systems (EMSs) are in place or are being developed at all operations. The Geita Mine in Tanzania has achieved ISO 14001 certification. All the South African operations operate under Environmental Management Programme Reports (EMPRs) that have been approved by the Department of Minerals and Energy in consultation with the Department of Water Affairs. Eventually this will be consolidated into an internally developed, computerised Environmental Management System, based on ISO 14001 principles.

The EMS at all operations encompasses (or will soon encompass) the following components:

?? A legal register
?? An identification of the environmental impacts and mitigation measures for the operation
?? A clearly-defined structure of responsibilities
?? Procedures for monitoring and measuring all potential impacts
?? A procedure for document control
?? Procedures and guidelines for training, awareness and competence
?? Emergency preparedness plans
?? Environmental objectives and targets
?? A regular auditing and review process
?? Non-conformity, corrective and preventative action procedures, and
?? A regular systems review cycle [57]

[57] From AngoGold's Report to Society 2003.

Andrew MacKenzie, Manager of Corporate Environmental Affairs, is happy to work for environmental improvement from within the mining company. "I used to be frustrated when I was part of a government unit. We had beautiful plans but they never got implemented." As an environmentalist within the company, he is now able to make sure that things happen, and that environmental considerations are part of every decision. There are more than 100 people in Anglogold working as environmentalists, "But," says McKenzie, "these people do not work on their own, they are part of teams from the start and integrate environmental concerns into everything that happens."

Anglogold's environmental standards follow industry guidelines – in particular those of the International Council on Mining and Metals. "The recent recommendations of the MMSD have framed the issues well," says the corporate affairs team. Among Anglogold's environmental projects are the Daggafontein surface re-treatment for rehabilitation of the mine heap, and a tree project near Geita in Tanzania.

Does Anglogold Ashanti have different standards inside and outside South Africa? "Definitely not," says Alan Fine, Public Affairs Manager. "In fact, standards outside South Africa are sometimes higher, for example in the Ashanti companies, because of their longer exposure to European investors."

3.3 Gold Fields: "The best possible standards for everything"

The 2003 Gold Fields Sustainable Development report focused its coverage of environmental reporting on the most important categories: water, energy and waste. Gold Fields has given practical shape to these principles by designing and implementing its own system. "This came about when GENCOR and Gold Fields merged, says Philip Woodhouse, Environmental Manager of the Driefontein mine. "Our new CEO insisted that we have the best possible standards for everything, including environment. We did not look for standards specifically applied to mining, but the same as for any other company, a consultants firm, for example. We registered for ISO 14001, and we designed our own system. It took over two years.

"Our counterparts in gold mining said we were mad, and complained that they would now have to do the same. But now we don't do firefighting on environmental issues, we approach it as an integrated system." And the system provides more information and compliance than the government regulations require.

Woodhouse designed the system, which looks like a website with layer upon layer of linked documentation. "Everything is known in terms of environmental risk, and everything is managed – from the slimes dumps to the light bulbs in the offices. We practise green procurement, for example. Because once you let a toxic element into your system you have to manage it throughout."

Woodhouse is very confident that the system also works in practice. "At Driefontein, everybody drinks the local water, and it's high quality – maybe a bit hard because it's from dolomite". The water is continually tested. Gold Fields sees its broader corporate responsibility extending to worrying about the local economy after they have left. That is why, says Woodhouse, they have given R70 million seed capital for a rose export project that exports 75 million roses per year. In

Ghana, there is a similar project focusing on producing essential oils. “25 years from now, we will shut down, and what will people do then?” asks Woodhouse.

Gold Fields website displays their environmental policy:

> “As a global independent precious metals company, Gold Fields Limited undertakes its activities in a manner that minimizes or eliminates negative impacts and maximizes positive impacts of an environmental or socioeconomic nature. The company is committed to responsible stewardship of natural resources and the ecological environment for present and future generations.”

To attain the overall vision, the company will strive to:

- Assess and meet the requirements of industry standards with respect to environmental management practices;
- Continually assess and improve environmental performance and implement processes, practices, materials or products that avoid, reduce or control pollution;
- Take cognisance of, and comply with, applicable environmental legislation, regulations and other requirements to which the organisation subscribes;
- Apply a transparent and constructive approach in our daily interactions with stakeholders;
- Minimise the use of consumptive resources and promote the reduction and recycling of waste products where possible;
- Integrate environmental management into management practices throughout the company;
- Exercise prudence with critical ecological resources, in particular where impacts are unknown or uncertain;
- Apply proven risk management methodologies; and
- Train and educate employees in environmental responsibilities.

Part 4: Conclusion: Pressure where it hurts

While mines do not seem to react much to community activism, they are sensitive to the views of financiers. The pressure on mining can perhaps be compared with the pressure on big dam construction, in which confrontation and piecemeal adjustments led to a logjam, and then a big, inclusive process. The participants were dam builders, financiers and activists. The release was a negotiated way forward in the World Commission on Dams Report. One of the most important principles in this report is that new dams can only be built if the people to be displaced by it agree to move – and express their free, prior and fully informed consent to move – and are genuinely better off after the move.

Mining, a centuries old industry is one of the last industries to bend as it meets the wave of environmentalism, both in the form of sustainable development and environmental justice. Mining escaped mention in Agenda 21 at Rio. But change has been taking place within the industry itself – even if slowly. There were only two voluntary initiatives for sustainable development in the mining industry before 1996, and the majority started after 1999, report two authors from within the sector[58]. They say that "public opinion of the sector as a whole is poor (because of legacy issues and because not enough companies have given serious attention to sustainable development). But …"public reputation is less important to mining companies at present than the perceptions of governments, regulators and the financial sector."[59]

Maybe this was why in May 1991 an international Round Table conference, organised by institutions with influence on availability of funds, met "to formulate international principles, guidelines and national regulatory standards regarding mining, with particular emphasis on developing countries"[60]. Interestingly, the issue of public participation in decision making around mining was missing from an agenda dominated by classical environmental and pollution concerns. In 2002, the United Nations issued Berlin II: Guidelines for Mining and Sustainable Development. This time the guidelines stated, "Community consultation, participation and development are all important"[61]

The World Bank and International Finance Corporation, 2002:[62] argue that it is worthwhile for mining operations to set up environmental management systems because mines leave behind such obvious environmental footprints "… at worst seriously limiting the ability of surrounding communities to earn and sustain their livelihood, particularly in areas where communities rely on their natural environment to provide food, shelter, transport and other opportunities".

The Global Mining Initiative, started in 1998 by eight major companies, indicates how long it took the industry to start moving. This led to the establishment of the International Council on Mining and the Environment (ICME) that changed to the ICMM (International Council on Mining and Metals). The MMSD research project – which had a Southern African component – took place from 2000 to 2002. The World Summit on Sustainable Development (WSSD), which took place in 2002 in Johannesburg, saw the culmination of these processes.

While some promising initiatives are in progress, for large parts of the mining sector these discussions are in the initial stages. In 2003, the UNEP representative at the "Mining and Sustainable Development Conference" in South Africa expressed the view that mining was at the early stages of environmental awareness that is looking for mitigation and "end-of-pipe" solutions rather than changing its methods.

While South African regulations will increasingly function within an environmental rights framework, there is still widespread disappointment and cynicism about the application of government regulation. In Ghana, there is great apprehension among communities and activists regarding the liberalisation of mining codes and undermining of the recommendations of the Extractive Industries Report.[63] Even good regulations applying to new mining ventures can do little to address the main cause for the bad reputation of the industry: the legacy issues. Who will finally pay these costs – governments, gold companies or the people with the misfortune to be their neighbours?

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58 Walker J. and Howard S, 2002: Finding the Way Forward.
59 Walker & Howard, 2002, 9 and 18.
60 UN, DSE, 1992: Berlin Guidelines
61 UN, 2002: Berlin II, 29.
62 World Bank and International Finance Corporation, 2002: An Asset for Competitiveness: Sound Environmental Management in Mining Countries.
63 African Agenda, 2004: Vol 7 no 3.

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Corporate governance in South Africa: Corporate veil for corporate domination

By LRS Researchers: Riedwaan Baboo, Rashid Bosch,
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Part 1: Introduction

It appears that South Africa has made major strides in corporate governance reform during the last ten years by adopting codes of good governance that compare well to global norms of best practice. In 1992 the King Committee was established under the leadership of judge Mervyn King to consider a range of issues dealing with corporate governance: financial reporting and accounting, responsibilities of directors, codes of ethical conduct, and others. By 1994 the first report emerged dubbed the King I and in 2002 another report was published dubbed the King II. The King committee consulted widely, soliciting comments and views from various stakeholders. King II reviewed King I in the light of developments, both nationally and internationally and included concepts like "triple bottom line" and black economic empowerment.[64] There have also been amendments to the Company Act and the requirements for listing on the JSE securities exchange that encourage transparency and fairness. In addition, numerous South African companies have adopted their own codes of good corporate governance. But, as this paper highlights, this appearance merely conceals the continued drive by South African companies, especially multinational companies based in South Africa, to make huge profits without regard to consequences.

The aim of this paper is to stimulate discussion within trade unions in Africa on how to engage multinational corporations that have operations in numerous African countries regarding their codes of corporate governance. The paper begins with defining corporate governance and analysis as to why this has become so prominent today. It then looks at codes of corporate governance, including legislation, in South Africa. Thereafter, there are case studies of the corporate governance of three South African multinational companies with operations in Africa: Anglogold Ashanti, Gold Fields and Metorex. These are mining companies listed on the JSE securities exchange. The last section draws general conclusions from these cases and points out the challenges for trade unions to engage companies on corporate governance.

Part 2: What is corporate governance?

Corporate governance is essentially a managerial approach that should consider and embrace, in its decision making and operational activities, the interests of all stakeholders, namely, shareowners, employees, customers, suppliers, government and the broader community within which it operates. A company must therefore strive to "…balance its performance with conformance…"[65], that is, it must generate an acceptable return for its owners and investors while taking into account the economic, social and environmental impact of its activities (what is called the triple bottom line approach).

For Ramani Naidoo[66], an attorney and a member on the boards of numerous companies, "Corporate governance is essentially the practice by which companies are managed and controlled" or "about the responsible leadership of companies". It therefore encompasses four key areas:

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64 Naidoo, 2002: 11-12
65 King II
66 2002: 1

1. The creation and ongoing development of a system of checks and balances to ensure that the power of various stakeholders is effective and balanced within a company
2. Putting in place a system that ensures the company complies with its legal and regulatory obligations
3. Having a system within the company to assess and identify risks to its sustainability and to ensure that these risks are managed in a broadly agreed-to manner with other stakeholders
4. The development of mechanisms that make and keep the company accountable to stakeholders outside of the company, that is, the development of mechanisms of social accountability.

The OECD, a multi lateral institution of governments from mainly developed countries, has conducted surveys on corporate governance and developed the OECD Principles on Corporate Governance. According to the OECD corporate governance,

> "involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined… Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interests of the company and its shareholders and should facilitate effective monitoring".[67]

The six principles set out in the OECD framework are that corporate governance should:

1. Promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities;
2. Protect and facilitate the exercise of shareholders' rights
3. Ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights;
4. Recognise the rights of stakeholders established by law or through mutual agreements and encourage active cooperation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises
5. Ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company;
6. Ensure that strategic guidance of the company, the effective monitoring of management by the board and the board's accountability to the company and the shareholders.

The King Report suggests that corporate governance is about balancing the interests of the company, social needs as well the sustainability of the environment – "the people, planet and profit triad".[68] The King Report highlights seven characteristics of good corporate governance:

[67] OECD, 2004: 11
[68] Naidoo, 2002: 13

1. Discipline: the commitment by senior management to adhere to correct and proper behaviour that is universally recognised and accepted;
2. Transparency: the measure to which management makes necessary information available in a candid, accurate and timely manner;
3. Interdependence: to put in place mechanisms that avoid potential conflicts of interest;
4. Accountability: mechanisms for investors to query and assess the actions of the board and its committees
5. Responsibility: While the board is accountable to the company it must behave in a manner that is responsive to all stakeholders;
6. Fairness: a system that operates on the basis of treating all stakeholders equitably, especially ensuring that minority shareholders' interests are considered;
7. Social Responsibility: policies that are non-discriminatory, non-exploitative and responsible with regard to environmental and human rights issues.

The range of principles concerned with corporate governance indicate a concern that companies need clear mechanisms and guidelines for the board and management and that people who occupy these senior roles in companies should operate within this framework rather than be left to their own discretion when making decisions.

Part 3: Why Corporate Governance Has Become So Important?

Various factors have led to corporate governance becoming an important focus for companies which has led governments, multilateral institutions and corporations to set out codes of good corporate governance. The first factor is the rise of corruption and the unscrupulous practices of CEOs, senior management and board members. The second is the disregard for human rights, especially by multinational corporations operating in less developed countries. The blatant destruction of the environment by company operations and the long and short term impact this will have on the ability of the planet to sustain life is the third factor. Underpinning all these issues is the sustainability of the world capitalist economy and the companies in control of it.

As capitalism evolved, the ownership of corporations became separated from management and subsequently direct control of corporations was transferred to chief executive officers and boards of directors. Thus corporate CEOs and board members were left to their own devices as long as acceptable returns to investors were generated. The inherent shortcoming of this ownership structure and the narrow performance criterion was that corrupt practices by individuals or groups controlling the company could take place unabated.

Recently this unscrupulous behaviour has become more pronounced throughout the world from the developed corporate America to developing countries like South Africa. The Enron scandal is a case in point where deliberate collusion between the directors of the company and its auditing firm, Anderson, to hide the company's debt in order to continue to attract investor funds. The roles of Wall Street analysts are also questionable as two months before Enron was exposed, a total of sixteen securities firms were still advising clients to buy the company's shares despite the fact that adequate signs of impropriety were evident.[69] The year Enron filed for bankruptcy, its chairman, Kenneth Lay, earned $67.4 million, the chief executive, Jeffrey Skilling, $40 million,

[69] Fortune Magazine

and the chief financial officer, Andrew Fastow, $5.6 million, which excludes the $40 million earned from items not disclosed on the company's balance sheet.[70] Thus senior management continued to line their own pockets even though the company was in financial dire straits.

Other major bankruptcies in the U.S.A. resulting from unscrupulous management practices include Global Crossing and Worldcom. With the help of his bankers and other board members, Gary Winnick, the founder and chairman of Global Crossing, treated the company as a personal cash cow by withdrawing $750.8 million in the form of share sales; salary and bonuses. If the earnings of other directors, CEO's and share sales of initial investors are included, the total earnings extracted amounts to $5.2 billion (Fortune magazine). At Worldcom, fraudulent accounting practices were used to conceal $3.8 billion of company expenditure as capital spending to hide operating losses from investors.

Major South African cases include the collapse of the Regal Treasury Bank and Leisurenet. Like Enron, Regal was guilty of gross and blatant disregard of corporate governance. It misled investors and depositors by publishing false financial information. Auditors Ernst and Young were in breach of the Banks Act, as they did not report questionable activities to the Registrar of Banks. Presiding Judge Myburgh declared Jeff Levenstein as not fit or proper enough to be a CEO and suggested 18 charges of fraud and 40 violations of the Companies Act. Levenstein, acting as chairman and CEO of Regal, chose executives and non-executives to serve on the board who would "…toe the line such as his brother-in-law, Jack Lurie …"[71]

Leisurenet, the holding company of Health and Racquet Club, also misrepresented the group's financial performance and position to bankers, creditors and shareowners. Judge Nel stated that, "…millions of Rands of Leisurenet funds have disappeared into pockets created by Gardner and Mitchell in offshore havens".[72] Rod Mitchell and Peter Gardner were the founding directors and were guilty of channelling corporate funds meant for overseas expansion into their personal trust companies.

William Frater, a senior analyst at Frater Asset Management attributes the above corporate failures to the nature and workings of equity markets.[73] He argues that pressure to continually show good financial results in order to attract investor capital leads to the adoption of short-term strategies by company executives. These strategies include, inter alia, acquisition accounting, hiding company liabilities, and misreporting of earnings.

Unlike the fights against corruption cases, which have been spearheaded by governments and shareholders, the struggle against human rights violations and environmental destruction by multinational companies has been spearheaded by civil society organisations that campaign and lobby against these detrimental practices. Research shows that it is unlikely for companies to act responsibly with regard to human rights, especially by upholding good labour standards, and in regards to environmental concerns, unless legislation is in place and their operations are monitored independently. While various campaigns have made gains by forcing some companies

[70] The Economist
[71] Finance Week
[72] Finance Week
[73] SALB – 26: 4

to change their practices there is still a long way to go for companies to subordinate their interests to social and environmental concerns.[74]

As a result of public concern around corruption, human rights abuses and environmental destruction have been a growing trend in developing corporate governance codes that bring these concerns on board. The Global Reporting Initiative notes that while the growing influence of multinational corporations in economic, environmental and social change is a feature of globalisation, "investors and other stakeholders expect the highest standards of ethics, transparency, sensitivity, and responsiveness from corporate executives and managers". It goes further to say that the "proliferation of corporate governance initiatives – the Cadbury Commission and the Turnbull Report in the United Kingdom (UK), the King Report in South Africa, Brazil's innovative New Stock Exchange, OECD's Guidelines for Multinational Enterprises and Corporate Governance Principles, and the World Bank's Corporate Governance Forum – attest to rising expectations for high standards of corporate behaviour".[75]

There is a push for corporate governance to deal with the problem of inequality and unemployment. For developing countries, especially African countries, these problems are major characteristics of their national economies. South Africa has one of the highest levels of inequality where income distribution is such that almost 65 per cent of total income goes to the richest 20 per cent of the population while the poorest 40 per cent shares less than 10 per cent of total income.[76] This is more concretely reflected in the phenomenal "wage gap". The annualized wage increase of directors and workers between 1994 and 2003 was 29 per cent and 6.5 per cent respectively. The result of this is that in 2003 the average South African worker would have to work 111 years to earn the equivalent of what a director earns in just 1 year – the 2003 average annual earnings of a director and a worker are R2.7 million and R24.4 thousand respectively.[77]

Unemployment, which compounds the problem of inequality, stands at 31.2 per cent according to the South African Reserve Bank.[78] The inability of the economy to create jobs "is worthy of being classed as a fundamental structural problem".[79] It is no surprise then that South Africa has dropped three ranks between 1999 and 2000 in the Human Development Index compiled by the United Nations Development Program.[80] It dropped 19 ranks between 1990 and 2000, revealing the growth of poverty in the past decade.[81]

Influential multilateral organisations like The Organisation for Economic Cooperation and Development (OECD), have championed the cause of corporate governance reform internationally. The OECD does so because it considers that countries can benefit from the global capital market only if they have sound corporate governance principles in place.

> "If countries are to reap the full benefits of the global capital market, and if they are to attract long-term "patient" capital, corporate governance arrangements must be credible,

[74] ALRN, 2004: 23-31
[75] Global Reporting Initiative, 2002: 2
[76] Baskin, 1996: 3
[77] Labour Research Service, 2004: 70
[78] SARB, 2003:14
[79] Natrass, 2003: 141
[80] UNDP, 2002
[81] Ibid.

well understood across borders, and adhere to internationally accepted principles. Even if corporations do not rely primarily on foreign sources of capital, adherences to good corporate governance practices will help improve the confidence of domestic investors, reduce the cost of capital, underpin the good functioning of financial markets and ultimately induce more stable sources of financing."[82]

Because corporate governance is viewed as an essential component for economic development in the world today, it is talked about in all major economic development policies and plans affecting South Africa.

The New Partnership for Africa's Development (NEPAD) is undoubtedly one of the most important documents related to Africa's development that has emerged since the Millennium Declaration was adopted by the United Nations in 2000. The South African government played a significant role in formulating NEPAD which was adopted by the African Union at its launch in 2002. NEPAD is regarded as both a "vision and strategic framework for Africa's renewal" and it regards economic and corporate governance as an essential condition for sustainable private sector-led economic growth and development[83].

The South African government's Department of Trade and Industry (DTI), which "seeks to ensure a fair, transparent and efficient regulatory business environment for all economic actors that contribute to a stable and predictable environment"[84] also recognizes corporate governance as essential. To meet the objectives set out in its Framework for an Integrated Manufacturing Strategy, the DTI will embark on a range of projects relating to "corporate law reform, the formulation of modern consumer protection legislation, improved international trade administration, the promotion of good corporate governance, the establishment of a standards-quality assurance and trade metrology institutional framework and the development and implementation of appropriate policies for regulated industries and related public interest issues."[85]

For the DTI, "Corporate governance and business practice…requires attention, in order to improve the integrity and sustainable competitiveness of South African enterprises". While department notes the King Report as an important development in corporate governance standards, it states that there are "still issues around the enforcement of corporate governance and jurisdictional issues between regulators".[86] While it accepts the concept of the triple bottom line, surprisingly it argues that corporate governance issues should be dealt with in a manner which leads to "lowering excessive compliance on enterprises, especially small businesses".[87] South African codes of corporate governance are already low, however, given that King II recommendations are not enforceable requirements. In addition, these reforms have proved to be incapable of dealing with unemployment and the tremendous wage gap. Below are reviews of the recommendations in the King Report, the South African Companies Act and the JSE securities exchange requirements.

[82] OECD, 2004: 13
[83] OAU, 2001 - paragraphs 85-92
[84] DTI, 2002: 46
[85] ibid: 19
[86] ibid: 19
[87] ibid: 46

Part 4: South African corporate governance recommendations and legislation

4.1 The King Report

The King II Report is premised on the view that governance in any environment must reflect the value system of the society in which it operates.[88] To this end, it introduces 'triple bottom line reporting', which requires companies to report on their financial performance, ethical practices which include black economic empowerment, health and transformational issues, and their environmental practices. The code, however, is not enforceable. Instead it is viewed as a list of recommendations for JSE-listed companies, banks, financial and insurance institutions and some public sector enterprises.

There are various aspects outlined in the King II code of good governance. Some of these aspects are examined in the following sections.

The Board of Directors:

King II differentiates between responsibility and accountability. While there are different levels of accountability in a company the board is ultimately responsible for the company's practices and must ensure the company's compliance to its policies as well as other pertinent policies, codes and legislations. The codes lay ultimate responsibility of compliance with the board members. It is the responsibility of the board to ensure that all codes of practices have been adhered to, and if not, reasons should be presented along with consequent measures to ensure compliance. Here the company secretary plays a vital role in providing the board with information that relates to legislation and codes of practice. King II recommends that the board develop an agreement confirming their adoption of strategic plans to fulfil these requirements. The details of this agreement should be disclosed in the Annual Report.

King II also recommends that the composition of the board should preferably contain non-executive directors, along with executive directors. Single individuals with dominant decision-making powers are discouraged from participation. The roles of the CEO and Chair should be separate, and their performance must be appraised annually. In addition, a remuneration committee made up of mostly non-executive directors should be appointed, as well as an audit committee (of whom the majority should be financially literate) consisting of at least two non-executive members.

Risk management:

The onus of assessing and ensuring that the outcomes of key risks are undertaken and reported on annually, rests with the board.

Audit functions:

The internal audit committee's responsibility should be defined. It is of paramount importance that internal and external audit functions remain independent. The internal and external audit

[88] Naidoo, 2002: 12

must cover all financial, operational, and compliance controls. The outcomes of audit reports should be widely distributed.

Non-financial reporting:

The nature and extent of socially responsible spending and programmes, health and environmental policies and ethical programmes should be reported upon annually. Stakeholder involvement in a company's ethical standards is promoted. Stakeholder contribution could include worker participation. No mechanisms are suggested, however, to encourage employees to partake in this process.

Other areas covered in the King Report:

Apart from issues relating to triple bottom line reporting, the King II code also emphasizes the important role played by the media and financial analysts in monitoring the extent of company compliance. The code also expresses concern about the continuing lack of shareholder interest in their activities surrounding the implementation of good governance codes.

It should be noted that the King code does not make specific recommendations for the operations of South African multinational companies in other African countries. Companies, it can be assumed, are expected to comply with governance standards, irrespective of whether these standards are high or low, of the country in which they operate. This is unlike the Sarbanese Oxley Act in USA, where foreign companies with operations within the USA are compelled to fulfil certain criteria that pertain to their operations outside of the USA. Mullon[89] argues that "for those companies that have been following the King II guidelines, Sarbanese Oxley holds few additional burdens".

Finally, King II is meant to serve only as a guideline rather than an enforceable instrument to ensure that companies comply with certain codes of good governance.

4.2 The South African Companies Act

The Companies Act,[90] as amended, provides numerous prescriptions for companies detailing what is required for a company to be registered in South Africa, what is required to deregister a company, and numerous obligations registered companies must fulfil while in existence. These include the need to have a registered postal address and office; to display the names of board members on the letterhead; to publish audited financial reports; to define the rights of shareholders; to hold meetings; to define the responsibilities of the board, and so on. While it can be argued that the entire act is about corporate governance, its very nature does not compel the company to develop a process of consultation with stakeholders.

The board is the custodian of the company. The structure of the board, the procedure for appointment of directors, and the intervals at which board meetings will be held are generally prescribed by the company's articles of association rather than by the act itself. The act merely

[89] 2004
[90] 61 of 1973

stipulates that the company should present articles of association for it to gain a registration certificate. There is nothing in the act that compels the company to include employees' representatives, community representatives or any stakeholder representative on the board. Nor does the act oblige the setting up of a structure through which these stakeholders can have a meaningful say in the company. In terms of a company's operations abroad, Section 288 of the Companies Act states that the subsidiaries' financial statements should be included in the annual financial statements but there is nothing in the act compelling companies to disclose financial and other information to the public in the countries where they may have these subsidiaries. Furthermore, Section 291 of the Act states that the company need not report on its subsidiaries if:

1. The directors feel that it would be misleading to include it in the group financial statements; in other words, if the inclusion of the financial situation of the subsidiary will grossly affect the materiality of the financial records of the group.
2. If the subsidiary's operations are very different to that of the company's and it cannot be treated as part of a single enterprise. In other words, the nature of the business of the subsidiary is different from the nature of the business of the holding company, therefore the exclusion of the financial situation of this subsidiary in its statements would allow for a better appraisal of the holding company.

In short, while the Companies Act of 1973[91] incorporates numerous recommendations of the King Report, especially regarding disclosure of information, including emoluments of directors, the rights of shareholders, requirements of meetings, etc. and largely applies the ethical framework of the King Code, it falls short of giving stakeholders any real power. This therefore fails to compel South African companies apply these prescribed minimum corporate governance codes in other African countries in which they have operations.

4.3 The JSE Securities Exchange listing requirements

The JSE securities exchange listing requirements adopted a number of the codes recommended in the King Report[92]:

?? The listing requirements now necessitate compliance by directors in their individual capacities.

?? Listed companies must notify the JSE, through their sponsors, of any changes to the board of directors or the company secretary as soon as practically possible and include the changes in their next shareholder reporting publication.

?? Adoption of South African Mineral Resource Committee (SAMREC) codes for mineral companies to ensure consistency with internationally accepted best practice

Penalties of up to R1 million may be imposed on directors who fail to comply with the listing requirements of the JSE.

[91] as amended
[92] www.jse.co.za

Certain requirements of King II have been made mandatory; however, the JSE is not enforcing compliance with all of the principles outlined. The Exchange does, however, require annual disclosure of how companies comply with the following recommendations in King II[93]:

?? A separate Chair and Chief Executive Officer.
?? A policy for the appointment of board members. The appointment must be formal and transparent and a matter for the board as a whole. Where appropriate, a nominations committee can assist, but should constitute only non-executive directors, of whom the majority must be independent.
?? A policy that shows a clear division of responsibilities at board level to ensure a balance of power and authority, such that no individual has the sole decision-making power.
?? That an audit committee and remuneration committee be appointed in accordance with King II and be comprised of a majority of non-executive directors of whom the majority are independent. If considered appropriate a risk and nomination committee should be appointed. The composition of such committees, their mandates and number of meetings, must be disclosed in the annual financial statements.
?? That a brief CV of directors standing for election or re-election to the board be provided to shareholders.
?? That the audit committee must set the principles for recommending the use of the external auditors for non-audit services.

In conclusion, considering the limited legislative mechanisms enforcing the codes of the King II Report, the listing requirements have at least been passed on to holding directors directly responsible for the corporation's actions. However, the assumption that the inclusion of non-executive directors in the board with more responsibility being allocated to them ensuring improved governance standards due to their independence is highly flawed. Non-executive directors often sit on boards of numerous companies and are not therefore independent. There is no guarantee that they will look at decisions of management and executive board members affecting workers, social responsibility, or issues relating to the environment critically.

Part 5: Labour Legislation and Corporate Governance

South Africa's Labour Legislative framework, as well as the statutory institutions regulating labour relations, is relatively progressive. Similarly, our corporate governance regulations and corporate governance structures are deemed to be of an international standard. Before we can assess whether any relationship exists between labour law and governance with regard to empowering workers we first need to discuss the most important legislation currently regulating labour relations in South Africa.[94]

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93 www.icsa.co.za

94 All the legislation referred to below can be obtained from the Department of Labour website: www.labour.gov.za

5.1 The Labour Relations Act

The most important legislation regulating labour relations in South Africa today is the Labour Relations Act 66 of 1995.[95] The purpose of the Act is described as follows: "To advance the economic development, social justice, labour peace and the democratization of the workplace by fulfilling the primary objectives of the Act". The major objectives of the Act are:

a. To give effect to and regulate rights conferred through Section 27 of the Constitution (Section 27 deals with rights of access to healthcare, food, water and social security);
b. To ensure South Africa meets its obligations as a member state of the International Labour Organisation (ILO);
c. To provide a framework within which employees and employers can collectively bargain on wages, terms and conditions of employment and other matters of mutual interest, and formulate industrial policy;
d. To promote orderly collective bargaining, with a specific focus on promoting sectoral bargaining, employee participation in decision making and processes for effective dispute resolution.

The Act sets out to achieve these objectives by providing a framework for regulating the relationship between employees and their unions on the one hand, and employers and their organizations on the other. At the same time, it also encourages employers and employees to regulate relations between themselves. The Act promotes the right to fair labour practices, to form and join trade unions and employers' organizations, to organize and bargain collectively, and to strike and lock out. In doing so it reflects the vision of employees' and employers' rights contained in the Constitution.

The Act also favours conciliation and negotiation as a way of settling labour disputes. It anticipates that parties will make a genuine attempt to settle disputes through conciliation before going on to the next step, which could be arbitration, adjudication or industrial action. By providing for a more simplified dispute resolution process, the Act aims to achieve a quick, effective and inexpensive resolution of disputes. It thereby intends to reduce the level of industrial unrest, and to minimize the need for costly legal advice. The Commission for Conciliation, Mediation and Arbitration (CCMA) plays a critical role in actively conciliating and arbitrating disputes.

5.2 The Employment Equity Act

The Employment Equity Act 60b of 1998 (EEA) seeks to address ongoing discrimination in the labour market and to correct the demographic imbalances in the workplace resulting from apartheid policies and practices by compelling employers to eliminate unfair workplace discrimination and by accelerating training and promotion among disadvantaged groups. Discrimination is extensively defined and incorporates race, gender, sex, pregnancy, marital status and family responsibility. The Act is designed to give effect to the Constitution in promoting the right to equality. This is done through eliminating discrimination, ensuring implementation of employment equity to redress discrimination, and achieving a workforce that

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[95] as amended

represents the diverse demographics existing within South Africa at all levels within the workplace. The Act also tries to promote economic development and efficiency as well as enforcing and supporting ILO obligations that address discrimination.

5.3 The Skills Development Act

The Skills Development Act of 1999 (SDA) is designed to support the intentions of the Employment Equity Act in providing access to training and development funds as well as qualifications that allow for mobility of labour within the labour market. It thus serves as an important mechanism to address labour market segmentation by addressing gaps and inequalities rooted in skills and/or academic qualifications. The Act is designed to facilitate an improvement in the skills profile of the workforce via cost-effective learning and high quality training.

5.4 The Basic Conditions of Employment Act

The key legislation protecting workers rights is the Basic Conditions of Employment Act 75 of 1997. The purpose of this Act is to advance economic development and social justice by fulfilling the primary objectives of the Act. These objectives include:

a. To give effect to and regulate the right to fair labour practices conferred by section 23(1) of the Constitution:
    i. by establishing and enforcing basic conditions of employment
    ii. by regulating the variation of basic conditions of employment
b. To give effect to obligations incurred by the Republic as a member state of the International Labour Organisation.

The Act achieves this by establishing minimum conditions of employment for employees working in all spheres of the labour force. It stipulates minimum conditions of service such as hours of work, leave pay, overtime rates, etc., particularly where employees are not covered by any industry agreement. Any clause in an employment agreement that breaches the provisions of the Act is considered null and void.

In terms of Sections 46 to 48, both Child Labour and Forced Labour is a criminal offence. Children under the age of 15 years may not be employed in any commercial activity. Children under 18 may not be employed to do work inappropriate for their age or that places them at risk. Causing, demanding or requiring forced labour, defined as: "All work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily", are all offences punishable by law.

Other important legislation providing a protective network to workers is the Occupational Health and Safety Act 85 of 1993 (OHSA) and the Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA). The purpose of OHSA is to provide for the health and safety of persons at work and allows for criminal sanction for breaches of the Act provisions. COIDA is to provide compensation for employees earning a specific minimum wage in the event of disability, whether temporary or permanent, arising from injuries suffered or diseases contracted in the course of employment.

5.5 The relationship between labour legislation and corporate governance

Both corporate governance codes and labour legislation attempt to empower workers by providing them with a space or leverage to engage management on issues that affect them, albeit to varying degrees and through different mechanisms. Legislation directly confers specific rights to workers that can be legally enforced – the LRA attempts to democratize the workplace, while the EEA and BCEA both attempt to protect workers from unfair labour practices and exploitation. Workers therefore have recourse to legal remedies and labour institutions to assist them in realizing their rights and to encourage the implementation of fair labour practices and standards.

Corporate governance on the other hand only makes an appeal to corporate executives to manage the enterprise in a manner that incorporates the interests of stakeholders, which also includes workers. Directors and senior management are encouraged to ensure compliance to regulatory frameworks, to identify and deal with risks and to create a transparent and accountable corporate environment that ensures the sustainability of the enterprise for the benefit of all stakeholders. By adopting this inclusive management approach, it is argued, objectives such as stable labour relations, the attraction of investment capital, the stabilization of financial markets and improved competitiveness can be attained. Good governance, therefore, is viewed as a prerequisite or conditionality for inter alia industrial democracy, which is a parallel objective of the LRA. Corporate governance frameworks include workers as stakeholders but there is no direct or specific reference to any rights to which workers are entitled nor any participative decision-making or consulting power within these structures. This is where labour legislation fundamentally differs from corporate governance codes.

Furthermore, workers are seen as identical to other stakeholders such as shareholders and ultimately linked with them. Workers must therefore use the same procedures or mechanisms that are available to other stakeholders. However, the shortcoming of this "inclusive approach" is that only shareholders, by virtue of their investment in the company, are afforded certain rights like voting at the company's AGM. Also, the need for corporate governance frameworks and structures developed to protect shareholders' interests was designed to alleviate shareholders' concerns. For example when discussing fairness as one of the seven characteristics of good corporate governance, the King II report[96] defines the term as such:

> "*Fairness:* a system that…treats all stakeholders equitably, especially ensuring that minority shareholders' interests are considered."

It appears as if the concerns and needs of shareholders are analogous to the concerns and needs of other stakeholders. Subsequently, workers' interests are only provided for in governance structures and frameworks as far as those interests correlate with shareholders' interests. This is contrary to what is provided for in the labour legislative framework governing labour relations as these seek to enforce workers rights and gains rather than dilute them within a range of other stakeholder concerns.

Workers can use corporate governance processes and mechanisms to highlight concerns, lobby management, or demand implementation of specific labour rights and standards. This machinery, however, has been created specifically with shareholders in mind. Beside shareholder voting

[96] 2002

rights there is no other stakeholder involvement or participation provided for in the decision-making, implementation and accountability structures of corporate governance. Thus, workers are compelled and confined to structure similar responses as other shareholders if they wish to build dialogue with management. The example in the Anglogold case study of trade unionists from South America buying one share of AngloAmerican to attend the company's AGM in order to highlight practices of its subsidiary, Anglogold, that were contrary to the ideals espoused in the parent company's governance policies, reflects the limited use of the existing corporate governance framework to workers.

Part 6: The case of Anglogold Ashanti

6.1 Background

On 30 March 1998, Vaal Reefs (VRE) changed to Anglogold Limited (AGD). The restructuring aimed to consolidate gold assets, including operations, mineral rights, and exploration activities, of Anglo American Corporation (AAC) into a concentrated, global gold mining company. On 5 August 1998, Anglogold listed on the New York Stock Exchange; this was added to its primary listing on the Johannesburg Stock Exchange. Part of AAC's restructuring of its gold assets involved the closure or sale of unprofitable and short-life operations. It therefore sold a number of Vaal Reef's gold shafts to African Rainbow Minerals & Exploration (Pty) Limited (ARM). By the end of 1998, Anglogold encompassed 14 operations in South Africa and joint ventures in Mali and Namibia.

In February 1999, Anglogold acquired the gold interests of Minorca. This transaction resulted in Anglogold acquiring operating interests in Argentina, Brazil and the United States. By the end of 1999, Anglogold's expansion resulted in it having 25 operations in seven countries. During 2000, Acacia Resources, an Australian gold mining company, was integrated into the company as Anglogold Australia. This gave Anglogold a listing on the Australian Stock Exchange. In December 2000, Anglogold acquired a 50 percent interest in the Geita mine in northern Tanzania from Ashanti Goldfields Limited, which held the remaining 50 per cent. Furthermore, Anglogold and Ashanti entered into a strategic alliance to seek opportunities to work together in Africa. In September 2001, Anglogold launched its takeover bid for Normandy Mining Limited (Normandy), Australia's largest listed gold mining company. By the end of 2002, Anglogold had 20 operations in eight countries, producing around 6 million ounces of gold annually.

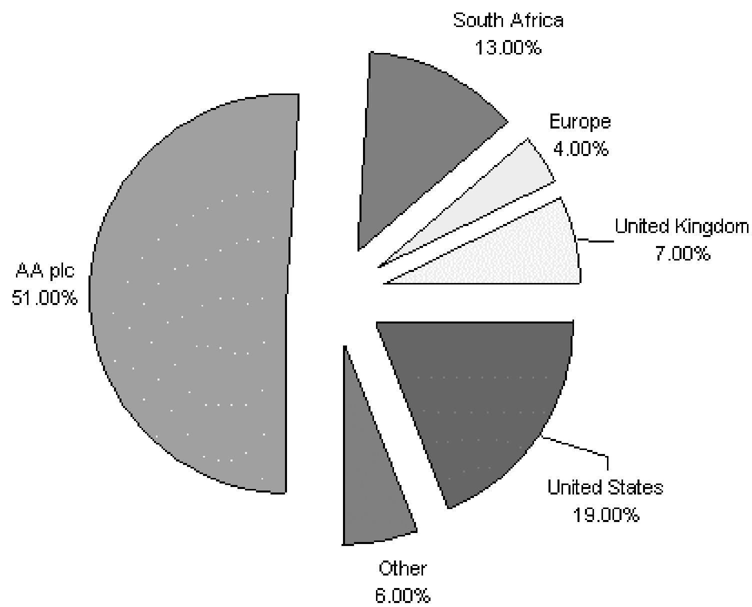
In mid-2003, Anglogold and Ghanaian-based Ashanti Goldfields Company announced a merger, which was finalised on 26 April, 2004. The new combined company was called Anglogold Ashanti.

6.2 Ownership and financial performance

As discussed, Anglogold Ashanti's primary listing is on the Johannesburg Securities Exchange in South Africa. The company is also listed on the New York Stock Exchange, the Australian Stock Exchange, the London Stock Exchange, as well as on the Paris and Brussels Euronext bourses.

According to the 2003 Anglogold Annual Report, Anglo American was the majority shareholder owning 54.45 per cent of the total ordinary share capital. The only other shareholder, with more than 5 per cent holding in Anglogold, was the Bank of New York with a 12.34 per cent share ownership. The quarterly report of Anglogold, dated 30 June 2004, provides no indication of how the merger with Ashanti Goldfields affected its ownership structure.

However, the company does provide an indication of the geographical shareholding as at 30 July 2004.



It appears that AAC's shareholding has decreased from 54.45 per cent to 51.00 per cent but it continues to be the controlling shareholder.

The Anglogold Group Financial Statements, for the year ended 31 December 2003, recorded a USD312 million (ZAR2.3 billion) net profit. Ashanti Goldfield's Group Financial Statements recorded a USD56 million (ZAR418 million) net profit for the same period.

6.3 Operations

Anglogold Ashanti is a global African gold producer with 25 operations in 11 countries with gold production nearing 7 million ounces annually. This makes it one of the largest gold producers in the world. The company also has one of the world's largest reserves and resource bases and focused exploration activities around the globe.

Anglogold directs its operations from its corporate office in Johannesburg, South Africa. It has mining and exploration operations in seven African countries: Ghana, Guinea, Mali, Namibia, South Africa, Tanzania and Zimbabwe. It also has operations in Argentina, Australia, Brazil and the United States of America.

South Africa is where Anglogold Ashanti obtains its highest gold production; the country also contributes to the greater part of its operating income. On 1July 2004, the company announced its intention to expand into Russia by acquiring a 29.9 per cent shareholding in Trans-Siberian Gold plc, the UK based holding company for the TSG Group's Russian gold business.

6.4 Employment

Anglogold Ashanti employs more than 62,500 people (including contractors) worldwide. In terms of Anglogold's Employment Equity Report for 2003, it employed 47,161 workers – 39,165 permanent workers (83.1 per cent) and 7,996 non-permanent workers (17.0 per cent).

A racial breakdown of employment reveals that Blacks constituted 87.9 per cent of the total workforce, 87.3 per cent of the permanent workforce and 90.6 per cent of the non-permanent workforce. The gender breakdown shows that females constituted 3.3 per cent of the total workforce, 3.5 per cent of the total permanent workforce and 2.3 per cent of the total non-permanent workforce.

Despite these statistics, Blacks only constituted 5.7 per cent of the senior and top management (9 of 158 positions) while females constituted 5.1 per cent of senior and top management (8 of 158 positions). Blacks constituted 97.8 per cent of the total unskilled and semi-skilled workforce (32,101 of 32,818 positions) while females constituted 2.7 per cent of the total unskilled and semi-skilled workforce (872 of a total of 32,818 positions).

6.5 Director's fees

Anglogold states in its 2003 Annual report that it uses the following principles to determine executive remuneration.

1. Annual remuneration includes a combination of base pay and short-, medium-, and long-term incentives with salary constituting 50 per cent of annual remuneration.
2. Salary is set at the median for the relevant competitive markets
3. The alignment of all incentive plans to performance targets and shareholder interests.

Currently, executive director remuneration consists of a salary; annual bonus; share option scheme; pension and medical aid benefits. The average salary of executive directors in 2003 amounted to R3.520 million per annum. The average remuneration of executive directors in 2003, after including other benefits but excluding gains from share options, amounted to R5.328 million. This average remuneration increases to R7.095 million when gains from share options are included.

Non-executive directors' average fee for 2003 amounted to R115,000 per annum. This increased to R200,900 after committee fees and travel allowances are included.

The directors' remuneration is excessive when compared to Anglogold's minimum wage. Currently, the group has four minimum wage categories within its operations. The lowest wage category is Non Staff Surface where the minimum wage is R2,048 per month or R24,576.per annum and the highest category, Staff Underground where the minimum wage is R2,540 per month or R30,480 per annum.

Table: Wage Gap between the lowest minimum wage and the average executive remuneration

	Average Salary	Average Remuneration including Benefits	Average Remuneration including Benefits and Gains from Share Options
Executive Directors (ED)	3,520,000	5,328,000	7,095,000
Non-Executive Directors (NED)	115,000	200,900	-
Lowest Minimum Wage (LMW)	24,576	24,576	24,576
Ratio of ED/LMW	**143**	**217**	**289**
Ratio of NED/LMW	**5**	**8**	**-**

The table indicates that it will take a worker earning the lowest existing minimum wage at Anglogold, 143 years to earn the average yearly salary of an executive director; 217 years to earn the average yearly salary with benefits and 289 years when gains from share options (for 2003) are included. The reader should bear in mind that the minimum wage of 2004 is being compared to executive remuneration of 2003, which means these high levels of inequality continue to grow considering the increase in directors' fees for 2004 have not been factored in. Non-executive directors of Anglogold earn an average salary which is five times more than workers in this category and earn eight times more in a single year when other fees and allowances are included.

There is no internal policy, plan or campaign by the group nor any understanding or arrangement with the trade unions to address the gross inequality between workers and directors. The fact that mining is a dangerous occupation where workers continually lose their lives, and even if they manage to escape death or injury their working conditions make them susceptible to developing terminal and/or debilitating ailments and illnesses. The meagre income workers earn, relative to those who own and manage the mines, is not sufficient to sustain a single worker let alone his or her family. Unfortunately, mention is made neither of addressing income inequality within the company's corporate governance framework nor for any space or forum to be created for workers, trade unions or civil society to discuss this important issue.

6.6 Corporate governance

The company states in its 2003 Report to Society, that where laws and regulations are non-existent or inadequate in locations where it operates, the company will maintain the highest reasonable regional standard for that location. Furthermore, its practices and policies remain in compliance with the values enshrined in the King II report and the U.S. Sarbanes-Oxley Act.

The company has a unitary board structure comprising 4 executive directors and 10 non-executive directors. Five of the non-executive directors, including the chairman and deputy chairman, are independent as defined in the JSE Securities Exchange listing requirements. Part of Anglogold's attempt to implement corporate governance codes has been to develop and adopt a code of ethics for the chief executive officer, principal financial officer and senior financial officers. Anglogold, has also been the first publicly listed company in South Africa to fully disclose its policy on political party donations.

At the time of publication there were two lawsuits being brought against Anglo American, the holding company of Anglogold. Firstly, there is the Apartheid lawsuit accusing Anglo American of complicity in human rights violations. Secondly, the Mail & Guardian (24 August 2004) reported that in August of this year, legal action was brought against Anglo American on behalf of gold miners suffering from silicosis and phthisis (a combination of silicosis and tuberculosis).

6.7 Governance and labour policy

Anglogold states in its Report to Society that: "We will comply with all laws, regulations, standards and international conventions which apply to our businesses and to our relationships with our stakeholders. Specifically, Anglogold supports the Universal Declaration of Human Rights, the Fundamental Rights and Conventions of the ILO and those principles and values referred to in the United Nations Global Compact". Furthermore, the company has a board subcommittee that facilitates the professional development of employees. It comprises three non-executive directors, as well as the chief executive and chief operating officers.

In September, 2002, Anglogold and the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) signed a global agreement on the promotion and implementation of good human and industrial relations in Anglogold operations worldwide. The National Union of Mineworkers (NUM), an affiliate of ICEM facilitated the agreement. It is the first such global agreement signed in the mining industry and the first in the developing world. These agreements are based on the principles enshrined in the Global Compact of the Secretary General of the United Nations and in the ILO conventions.

The president of a Columbian mining trade union, Sintraminercol, at the 2003 Anglo Amercian AGM asked whether the company or its subsidiary, Anglogold, were aware of the forced displacement of 22,000 local residents and the massacre of over 500 people perpetrated by Conquistador Mines between 1991 and 2001 while Anglogold was involved in a joint venture with this Columbian mining company. The Anglo American chairperson indicated that they were not aware of these practices, while the response of the CEO of Anglogold was that the company's association with Conquistador had taken the form of financing exploration teams.[97]

6.8 Governance and environmental policy

The stated aim of Anglogold's environmental policy is to seek compliance with all applicable laws, regulations and requirements (see policies on its website). Other salient features of this policy include: establishing and maintaining management systems to identify, monitor and control environmental aspects of its activities; ensuring that its employees and contractors are

[97] www.columbiasolidarity.org

aware of the company's environmental policy and their relevant responsibilities; conducting environmental audits to evaluate the effectiveness of its management systems as well as communicating and consulting with interested and affected parties on environmental aspects of its activities.

Anglogold holds a majority shareholding in the Sadiola Hill gold mines in Mali, which has come under scrutiny from Malian organisations and international partners following numerous environmental incidents during 2001 and 2002. Numerous health problems of mineworkers and community members, and negative impacts on the local animal population have been recorded and documented, Anglogold however has thus far failed to accede to civil society groups' request for a full report on social and environmental monitoring – providing them only with summaries of these reports. The 2001 summary makes reference to 24 environmental incidents and the 2002 summary to 28 incidents (www.bicusa.org).

6.9 Governance and safety and health policy

Anglogold states that its policy provides the foundation for the company's commitment to improving health and safety performance. It has an executive director dedicated to the overall management of safety, health and environmental affairs, who reports to the chief executive officer and to a subcommittee of the Board. This subcommittee is under the chair of a non-executive director. The committee is responsible for evaluating the social, economic, environmental and health impacts of the company's operations on both local and global communities.

One of the primary objectives of this committee is the elimination of all work-related accidents. The committee also conducts on-site inspections where there are matters of serious concern. The committee comprises two non-executive directors and the chief executive officer. The Board also monitors company-wide compliance as it receives regular audited reports from this subcommittee.

The company consults with employees or their representatives to gain commitment to the implementation of the policy.

Safety of mineworkers, particularly in South African gold mines characterized by deep-level mining, remains a concern. Although the statistics indicate a decline in the number of fatalities, the number of mining deaths continues to be high. Between 2000 and 2002, 530 fatalities were recorded in the gold mines and 10,211 injuries. This raises questions about the adequacy of precautionary measures taken to ensure the safety of mineworkers.

Part 7: The case of Gold Fields

7.1 Background

In 1998, there was an amalgamation of the gold assets of Gold Fields of South Africa Limited and Gencor Limited. There are currently moves under way by Harmony Gold to acquire Gold Fields but at the time of writing this report, no announcement had been made by either company confirming or denying whether this would proceed.

7.2 Ownership and financial performance

The primary listing for the company's ordinary shares is on the JSE Securities Exchange, South Africa. The company is also listed on the New York Stock Exchange (GFI), the London Stock Exchange, on Euronext in Paris and Brussels, as well as on the SWX Swiss Exchange

Anglo American plc is the majority shareholder in Gold Fields. It owns 20.9 per cent of the total ordinary share capital of the company. The only other shareholder with more than 5 per cent shareholding is the Old Mutual Group, which has a 6.1 per cent share ownership.

Gold Fields Ghana Limited is owned by Gold Fields Limited (71.1 per cent shareholding) and IAMgold, a Canadian company listed on the Toronto Stock Exchange (18.9 per cent shareholding). The Ghanaian government holds the remaining 10 per cent as "free carry" interest.

In the 2003 Annual Report the group recorded a net profit of USD339.7 million (ZAR 3.081 billion) for the year ending 30 June 2003.

7.3 Operations

Gold Fields' head office is located in Johannesburg, South Africa. The group has an annual gold production of more than 4.3 million ounces of gold and owns 84 million ounces of mineral reserves, which makes it one of the world's largest gold producers.

The South African operations comprise the wholly owned Driefontein, Kloof and Beatrix mines. The International operations include the Ghanaian and Australian mines, as well as the Arctic Platinum Partnership in Finland. The Arctic Platinum Partnership is a wholly owned exploration venture. The Australian operations comprise the wholly owned St. Ives and Agnew gold mining operations in Western Australia, acquired in December 2001.

7.4 Employment

The company employs some 48,000 people, including contractors, across its operations. There is no information on the racial and gender breakdown of employment available in the documents on its website.

7.5 Director's fees

Gold Fields states in its 2004 Annual Report that its "…remuneration philosophy is aimed at attracting and retaining motivated high calibre executives aligned with the interests of shareholders". Therefore, directors' remuneration consists of both fixed and performance based components, with fixed remuneration related to the mean of the remuneration market and performance incentives based on both company and personal performance.

Currently, executive director remuneration consists of salary; annual bonus and performance-related payments; a share option scheme; pension contributions and encashed leave pay. The average salary of executive directors in 2004 amounted to R2.856 million per annum. The average remuneration of executive directors in 2004, after including other benefits but excluding gains from share options, amounted to R4.583 million per annum. This average remuneration increases to R4.671 million per annum when gains from share options are included. The average fee of non-executive directors for 2004 amounted to R133,386 per annum. This increases to R227,595 after committee fees are included.

The directors' remuneration is excessive when compared to the minimum wage. The group has four minimum wage categories, similar to Anglogold, however the minimum amount differs between its Beatrice mining operation and the Driefontein and Kloof operations. The lowest wage category is also Non Staff Surface where the minimum wage is R1,897 per month or R22,764.per annum and the highest category, Non-Staff Underground where the minimum wage is R2,354 per month or R28,248 per annum.

Table: Wage Gap between the lowest minimum wage and average executive remuneration

	Average Salary	Average Remuneration including Benefits	Average Remuneration including Benefits and Gains from Share Options
Executive Directors (ED)	2,856,000	4,583,000	4,671,000
Non-Executive Directors (NED)	133,386	227,5950	-
Lowest Minimum Wage (LMW)	22,764	22,764	22,764
Ratio of ED/LMW	**125**	**201**	**205**
Ratio of NED/LMW	**6**	**10**	**-**

The table indicates that it will take a worker earning the lowest existing minimum wage at Gold Fields, 125 years to earn the average yearly salary of an executive director; 201 years to earn the average yearly salary with benefits and 205 years when gains from share options (for 2004) are included. Non-executive directors at Gold Fields earn an average salary that is 6 times more than workers in this category and earn 10 times more in a single year when other fees are included.

The income disparity at Gold Fields is essentially the same as with Anglogold. Notwithstanding the huge wage gap, these respective companies also produce hundreds of millions of Rands in annual profit that is distributed amongst shareholders. However, there is no mention of breaching the widening wage gap between workers and senior management. It seems that when workers are included as stakeholders within these companies' corporate governance codes, it is merely to create the impression of openness, transparency and inclusiveness. This is a logical conclusion given that issues fundamental to workers, such as continued low wage incomes, are not given the same priority and importance as other stakeholder issues.

7.6 Corporate governance

The company states in its 2003 Annual Report that it "…supports the recommendations of the 2002 King Report and complies with the code of corporate practices and conduct". Gold Fields is also registered with the Securities and Exchange Commission in the USA and therefore complies with the listing requirements of the NYSE and the Sarbanes-Oxley Act of 2002.

Gold Fields has a unitary board structure with two executive directors and ten non-executive directors. The majority of the non-executives are independent directors. The company states, "Board members are aware of the need to ensure that principles of good corporate governance are applied in all their dealings in respect, and on behalf, of the company".[98]

On 9 July 2004 a lawsuit was filed in a federal district court in New York against Gold Fields and a number of other defendants (including Anglo American) accused the company of human rights violations, property expropriation as well as violations of international law committed during the Apartheid years in South Africa.

7.7 Governance and labour policy

The Sustainable Development Report[99] of Gold Fields states that the company adopted a Human Rights Policy in 2003 that includes the following labour standards:

- The right not to be subjected to slavery, servitude and forced labour;
- The right to freedom of association;
- The right to fair labour practices;
- Prohibiting the use of child labour

7.8 Governance and environmental policy

The company has a board committee that is responsible for the health, safety and environmental policy and practices of the company. The company states that it takes cognisance of, and complies with, applicable environmental legislation and regulations. It also applies a transparent and constructive approach in its daily interactions with stakeholders.

7.9 Governance and health and safety policy

This Board committee set up to deal with these issues reviews group safety performance on a quarterly basis. The company acknowledges, in its Sustainable Development Report,[100] that improving safety is still one of the most significant challenges facing Gold Fields, particularly its deep-level operations in South Africa.

[98] 2003 Annual Report
[99] 2003
[100] 2003

Due to the poor safety performance of its South African operations during 2002, consultations occurred between management, employee representatives and representatives of the S.A. Department of Mineral Affairs and Energy. These consultations resulted in recommendations made to the Board committee in September 2002. The company has yet to ratify and implement these recommendations.

Part 8: The case of Metorex

8.1 Background

Metorex was established in October 1975 in South Africa with the objective of participating in the niche market of the small mining sector. Today it is a leading mid-tier, multi-commodity mining company in Southern Africa. The company specialises in identifying and managing mineral deposits that are unsuitable for the larger mining companies to oversee. Metorex's current mining activities are in zinc, copper, antimony, gold, coal, fluorspar and manganese dioxide. The company owns and manages mining projects on a decentralised profit-centred basis while providing technical, administrative and financial support to operational management. The company's interests range from prospect selection, ground acquisition, exploration and feasibility studies to financing and management of mining operations and mine closures. Gold mining, however, is the major source of income for the company, followed by copper and coal mining.

In February 2003, Metorex signed an agreement whereby MCI Resources, chaired by Cyril Ramaphosa, joined a consortium of investors in acquiring 26 per cent of Barberton Mines Limited, a subsidiary of Metorex. Metorex also has an agreement with Umnotho we Sizwe Investment Holdings to obtain 9.5 per cent shareholding in Wakefield Investments, Metorex's coal subsidiary.

8.2 Ownership and financial performance

Metorex is listed on the JSE Securities Exchange and the London Stock Exchange. The major shareholder is Crew Development Corporation, a public, internationally listed, development and operating company focused on identifying, acquiring and developing resource projects worldwide. Crew owns 41 per cent of Metorex's ordinary share capital. Other shareholders owning more than 5 per cent are Metallica Trust (14 per cent share holding) and Sulquisa (6.8 per cent share holding).

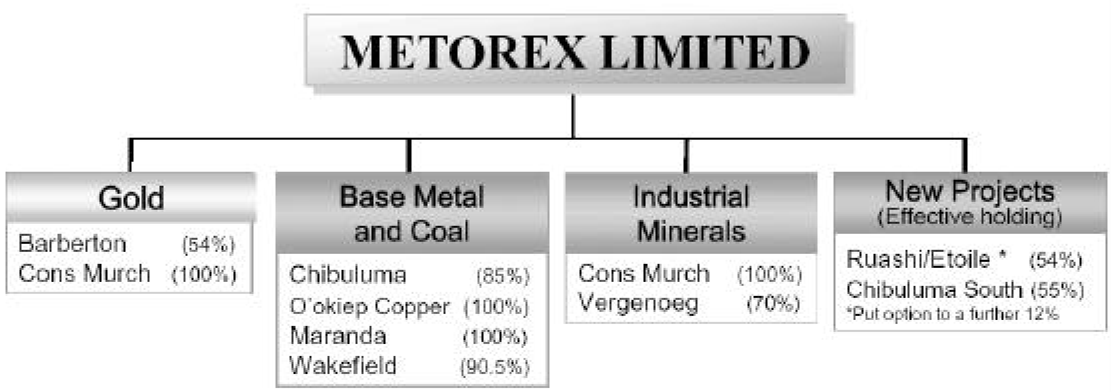
The illustration below shows the shareholder spread:

In the 2003 Annual Report, the group recorded a net profit ZAR12.8 million

8.3 Operations

The Metorex Group head office is situated in Johannesburg, South Africa. It owns and manages 8 mining companies, 7 in South Africa and 1 in Zambia. It is also currently evaluating a zinc project in Burkina Faso and has a project to mine and treat metals in the DRC.

The group's operating structure is illustrated below:



8.4 Employment

On 30 June 2003 the group had 4,674 employees across its operations. There is no gender and racial breakdown of employment in the documents on its website.

8.5 Director's fees

The company policy is to review salaries in the marketplace to ensure that the remuneration is competitive and offers a fair reward for individual contributions to the performance and wellbeing of the Group during the year under review.

Executive director remuneration consists of basic salary; bonus; share option scheme; allowances, benefits and company contributions. The average salary for the executive directors in 2003 amounted to R690,000 per annum. The average remuneration for executive directors in 2003, after including other benefits but excluding gains from share options, amounted to R1,340 million. None of the executive directors exercised their share options.

The average fee for non-executive directors in 2003 amounted to R76,000 per annum. No additional fees and/or allowances were paid to non-executive directors. The minimum wage for the company was not available on the LRS database.[101]

8.6 Corporate governance

The company states in its 2003 Annual Report that, "In the opinion of the directors, the company has complied with the code of King I throughout the current financial year and is working towards compliance with the recommendations of the King II Report". The board of directors sets overall group policy, provides input and makes decisions on matters of strategic importance The board of directors includes one independent non-executive director, four other non-executive directors and four executive directors. However, the roles of the chairperson and the chief executive officer are not separate in accordance with the King recommendations. There are no blacks or females on the Board. The company also does not have a separate nominations committee, recommended in the King report.

8.7 Governance and labour policy

Metorex's Social Responsibility policy states that all employees are entitled to fair employment practices and the right to enjoy a working environment free of discrimination.

8.8 Governance and environmental policy

Metorex has a rehabilitation trust fund that administers the rehabilitation needs of all of its mines, encompassing every aspect of the requirements of the governmental departments concerned.

8.9 Governance and safety and health policy

The Health and Safety committee, which is a subcommittee of the Board, is responsible for developing guidelines for the health and safety management of the Group.

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[101] AWARD

The company's website states that their historical safety record of all operations is excellent. This is reflected in Metorex operations achieving good records of Fatality Free Shifts and lost-time injury rates at its operations as well as receiving various safety awards.

The Group has had four fatal accidents, with two occurring at Wakefield Investments (Pty) Ltd and one each at Maranda Mining Company (Pty) Ltd and Consolidated Murchison.

Part 9: Conclusion: Corporate governance and trade unions

Before highlighting the challenges of corporate governance that can be taken up by trade unions it is useful to outline the general conclusions of the cases above as well as raise the strategic aims of trade unions when taking up these issues.

The case studies highlight that minimum wages are low in relation to minimum subsistence levels and very low when compared to the earnings of directors. The trend clearly enforces a widening wage gap. It also highlights the racial and gender blindness of corporate governance, especially in the senior positions of companies. Last, but by no means least, is that there are no mechanisms to entertain input by trade unions on corporate governance let alone allow them presence in decision-making structures of the company.

There are two major conclusions that can be drawn from the case studies:

First, corporate governance codes have not touched on the major concerns of trade unions and their members – the improvement in their conditions of work and terms of employment. Instead, these codes serve as a veil for corporate restructuring such as downsizing, outsourcing and a shift towards contract and casual labour. These negative outcomes continue to have harmful impacts on workers and general society through a reduction in benefits and a growth of unemployment.

Second, and related to these problems, is that the whole process of corporate governance reform is very top-down and exclusionary. Largely, corporate governance is merely window dressing as it leaves those in control of companies – the company board – responsible for evaluating their own actions and determining the corrective measures to be taken. While trade unions are regarded as one of the stakeholders in the corporate governance discourse, they are only consulted at the end of the process, if at all. If trade unions disagree on policy matters they have no recourse within the company to put forward the union's position and will have to resort to what is available in the industrial relations framework, which is limited when it comes to disputes on corporate strategies.

The conclusions above are not new to trade unions and, in fact, the problems highlight the need for them to engage companies on corporate governance as part of a broader strategy of shifting companies from their existing corporate strategies. This opens up the possibilities of highlighting the problems of concentrated corporate power, the terms of employment of workers, the working conditions of workers, and the lack of company contribution to broader socioeconomic development.

The challenges for unions are therefore:

- Obtaining empirical information on corporate governance policy and practice: In order to highlight the inadequacies of company policy and practice information on these issues needs to be collected and made available in an accessible form to trade unions throughout the continent;
- Shareholder activism: Although the example of the Columbian based mining trade union, Sintraminercol, shows the limits of this form of engagement, it raises the image of the union and highlights the plight of workers in a very public manner;
- Developing concrete links between trade unions across national borders: The violation of labour and social rights and environmental damage in a particular country can become an issue that trade unions in other countries can take up, thus building real forms of solidarity among trade unions internationally; and
- Developing alternative codes of governance: The challenge to create better codes than the limited ones in existence needs to be collectively taken up by unions in different countries organising within the same company so that the company is not able to divide and play on the national divisions between workers. This process can build a common vision and strategy for unions continentally.

Trade unions in Africa are generally weak due to many factors including relatively low membership (in relation the total workforce), the divisions between unions, and public perception of unions. By collectively engaging on issues of corporate governance – not only by proving that corporate governance is a veil for corporate dominance but by proving that practical alternatives exist and are possible – the sources of the weakness can be tackled over time. There is no doubt that corporate dominance will be proven to be not only corrupt but also unsustainable.

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Ashanti Goldfields:
Freda Rebecca Gold Mine, Zimbabwe

By Tendai Makwavarara

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Part 1: Introduction

1.1 Freda Rebecca Gold Mine

Freda Rebecca Gold Mine is situated near Bindura in Zimbabwe. It has the potential to process approximately 100,000 tonnes of gold-bearing ore each month. Mining operations at Freda Rebecca began in April 1988, producing only 10-15,000 ounces of gold.

Freda Rebecca Gold Mine was selected for this study mainly because:

- In the mining sector, gold remains the leading national foreign currency earner. Therefore, it was more strategic to select an international mining company that produces gold.
- Freda Rebecca Gold Mine might be the smallest gold mining operation of the Anglogold Ashanti, but is one of Zimbabwe's richest gold mines. The mine managed to produce slightly over 102,000 ounces of gold in 2001 (which was actually a decrease when compared to the year 2000).
- The mine employs slightly over 500 workers and therefore accounts for a significant number of employees working in the mining sector, especially in the gold mines.
- The regional head office for Freda Rebecca Gold Mine is based in Ghana. This provides the institute (and the ALRN) a good opportunity to compare Freda Rebecca with mines under the Anglogold Ashanti that are also in other countries. It is also practical and technically easier to lobby and advocate for better labour standards and environmental awareness activities, as the head office is based within the regional grouping.
- Freda Rebecca may be taken over by another South African-dominated mining company, Mwana Africa. It would become possible to analyse the changes that might occur in this mine as management changes from one transnational corporation to another. Since the Social Observatory Project provides that further research on the same companies may be done to evaluate changes (the impact of the project itself), this may prove to be quite practical in terms of monitoring the behaviour of transnational companies within the region, and provides a strong case for lobbying and advocacy.

1.2 The Zimbabwean mining sector

The mining sector remains one of the country's most productive sectors. Unfortunately, the sector is being negatively affected by the world's declining prices on minerals and the unstable macroeconomic environment. The mining sector is very sensitive to the dictates of free markets. The fluctuating world commodity prices have hit the sector hard with erratic variations in production and foreign exchange earnings. The sector employed more than 50,000 employees in 1989, but now employs 44,500 workers, with more than 300,000 family members dependent on the sector for survival.

The mining sector remains one of the main contributors to the economy's national output and foreign currency earnings. Approximately 40 per cent of Zimbabwe's foreign exchange is derived from the export of metals, minerals and mineral-related products.

Table 1 shows the contribution of the mining sector to employment and to Gross Domestic Product (GDP) for the period 1988 to 2002.

Table 1: Contribution of the Mining Sector to GDP and Employment[102]

	Before ESAP		**During ESAP**			**After ESAP**		
Mining Sector's Contribution	**1988**	**1990**	**1992**	**1994**	**1996**	**1998**	**2000**	**2002**
% Of GDP	5.3	4.4	5.0	5.0	1.7	1.9	1.5	1.4
% Of Employment	4.3	4.3	4.1	4.2	4.7	4.5	3.6	0.8

Since the introduction of the Economic Structural Adjustment Programme (ESAP) in 1991, the mining sector has not performed any better. The anticipated growth in the mining sector of 5 per cent under economic reforms was not achieved. This was mainly because of the low demand for minerals and low world prices for many of the minerals that Zimbabwe exports to the regional and the international market. Market liberalisation has not produced more formal producers, more competition, or higher profits, as once promised.

The contribution of the mining sector to GDP and employment has been declining since trade liberalisation. The contribution of the mining sector to GDP declined from a high of 5.3 per cent in 1988 to 5.0 per cent in 1992, two years after market liberalisation, and had declined to 1.4 per cent by the end of the year 2002. During and after the ESAP period, the sector failed to maintain its level of contribution to national output. The mining sector employed 4.3 per cent of the total formal employment in the country in 1988, but by 1992, this had declined to 4.1 per cent before falling considerably to 0.8 per cent by the year 2002. Many mining companies have ceased operations during the economic reforms and as a result, many employees have lost their jobs.

Unfortunately, the sector remains very marginalised with most of the large-scale mining activities being conducted by foreign-owned/-based companies. Few large capital-intensive foreign companies continue to own most of the large-scale mines. Companies that dominated the sector were: Anglo American Corporation, Ashanti Goldfields, Rio Tinto (Zimbabwe), Delta Gold, and Trillion Mining (Zimbabwe). There are also a few large-scale mines that are locally owned that include: Makwiro Platinum Mines (formerly known as BHP) and the Zimbabwe Mining Development Corporation, that is government owned. A few major mining groups produce the bulk of Zimbabwe's mineral output. These companies account for more than 75 per cent of the total mineral production in the country. For the foreign-based mining companies, major operational and investment decisions are made abroad as their corporate management is based in the parent country. These decisions tend to exclude local stakeholder participation and have added to the problems faced by the mining sector.

102 Calculated from the CSO and Reserve Bank annual Report Statistics; Dec 2002

1.3 Research methodology

The case study for Zimbabwe has been marked by many challenges. During this research of Freda Rebecca, the researchers were labelled as coming from the opposition political party (wanting to disrupt the 'stability' at the mine) and were often threatened and harassed by some of the workers and management. In short, research in some of the mines located around Zimbabwe, especially in areas where political tension is present, is virtually impossible. Nonetheless, the Labour and Economic Research Institute of Zimbabwe (LEDRIZ) managed to interview at least a few workers (including supervisors, union members, and health & safety officials) from Freda Rebecca. Interviews were also conducted with the local mining communities and environmental officers. Management remained adamant that the study should not be carried out and remained strongly uncooperative.

Interviews with the workers were recorded on questionnaires, whilst notes were taken down during interviews with people from the local communities, the trade union and the environmental authorities. Initially, researchers were allowed onto the company premises and underwent a health and safety training course. However, after two days, the researchers were banished from the company's premises and forbidden to undertake any further research. The reason given by the management was that the researchers had misled management about the aim of the research and they insinuated that the researchers were from the opposition political party. The rest of the research was conducted through telephone interviews, posted questionnaires, interviews with the local communities and other organisations that had contact with the mine prior to this research. Of a total of 350 questionnaires sent to the mine (on the assumption that at least 50 per cent of the workers would be able to respond to the questionnaires), only 167 questionnaires were filled in. Only 13 per cent of the total number of respondents were women. Despite this shortcoming, the filled-in questionnaires seem to give a satisfactory reflection of the workers' perception of the company and of labour standards. Unfortunately, the management denied LEDRIZ access to undertake the research; therefore most of the information that should have been supplied by management is missing. However, the alternative was to seek secondary data from the stock exchange, electronic media reports, company reports made by Ashanti Goldfields and publications made by various researchers and geologists on Freda Rebecca.

Part 2: General characteristics of Freda Rebecca Gold Mine

2.1 Company structure

Freda Rebecca Gold Mine was under the Ashanti Gold Fields Company Ltd and was listed on the Zimbabwe Stock Exchange (ZSE) in 1996. However, after the merger between Ashanti Goldfields and Anglogold Limited, the company was de-listed from the ZSE in 2003. The merger was also expected to result in Anglogold Ashanti (the name of the 'new' company after the merger) disposing of its entire investment in the Freda Rebecca Gold Mine. Although Anglogold Ashanti has many regional investments in the hotel industry, limestone products processing, fruit and nut farming (e.g. in Ghana), it only has interests in Freda Rebecca in Zimbabwe. Freda Rebecca produces only gold. Its main competitors are Independence Gold Mines (owned by South African Mzi Khumalo's Metallon Resources) and Rio Tinto.

2.2 Presence in the country

Freda Rebecca remains one the country's major gold producers in Zimbabwe. By 1994, Freda Rebecca contributed approximately 15-18 per cent of the country's annual gold output. Total output by Freda Rebecca has been fluctuating tremendously because of Zimbabwe's unpredictable economic trends. When the mine began operation in 1988, the mined ore produced 10-15,000 ounces of gold, and by 1990, the mine was producing 74, 675 ounces of gold at a cost of US$ 234 per ounce. By 2001/2002, Freda Rebecca had managed to produce just over 100,000 ounces, but by 2004 (between January and March), total output declined to 7,000 ounces of gold at a total cost of US$764 per ounce.

This drastic decline in output was attributed to difficult economic conditions in Zimbabwe. The mine was experiencing shortages in essential spares and consumables, while the exchange rate was not favourable for the gold producer. Other reasons for this general decline in production include: the company experiencing shortages of foreign currency to import explosives, fuel, technologies, cyanide, equipment and machinery that are all imperative for daily operations of the companies' mining activities. Furthermore, power supply shortages/cut-offs and high tariff charges have significantly affected productivity and increased the cost of producing the precious metal.

In addition to the internal economic crisis which is negatively impacting Freda Rebecca, world mineral prices for most of Zimbabwe's main mineral exports have continued to decline for the period 1997-2004. The decline in mineral prices, precious metals, and stones, on the international market has been largely due to reduced demand for minerals and the offloading of some precious metals/stones reserves by large producers. The 1998 economic crisis in south-east Asia (one of Zimbabwe's largest markets for mineral exports) also worsened the decline in mineral prices. In the year 2000, the announcements by the IMF, the Bank of London, the Swiss Central Bank and many other countries to offload their bullion stocks depressed world gold prices.

By the end of 2003, there was a lot of speculation that Ashanti Goldfields was going to dispose of Freda Rebecca. The reasons given were not so clear, but from this paper one can easily conclude that Ashanti Goldfields had considered that the lifespan of the mine was coming to an end by 2005 and that Freda Rebecca continued to incur escalating costs in producing gold as compared to its counterparts within Anglogold Ashanti. In this regard, Freda Rebecca has ceased to be a 'profitable' venture for Anglogold Ashanti. By prematurely disposing of Freda Rebecca to another foreign investor (the alternative being to close the mine), the gold producing giant will cut down on costs on many fronts. An example of costs that can be omitted include labour costs (i.e. retrenchment packages), foreign exchange losses, and any corporate responsibilities that its might have to deal with as result of the closure of Freda Rebecca. In disposing it to Mwana Africa, Anglogold Ashanti passes the 'burden' over to another transnational corporation.

2.3 Employment at Freda Rebecca

Freda Rebecca employed approximately 724 employees at the beginning of 2004. As a result of the 'retrenchment' of contract workers, in August 2004, the mine employed 524 employees. 15 per cent of the total current employees are either highly skilled personnel or are in the management team. 30 per cent of Freda Rebecca employees are considered to be skilled artisans and/or production personnel while the rest of the employees fall under unskilled personnel. The majority of unskilled workers form the majority of the trade union membership.

Of Freda Rebecca's total labour force, 86 per cent of the mine's workers are full-time employees and only 14 per cent are part-time workers. The number of contract workers (which used to constitute 28 per cent of the total workers at Freda Rebecca) was significantly reduced as a result of the 'retrenchment' exercise carried out earlier in 2004. Fifteen percent of the total employees are female and are found mainly in the administration posts. Female workers hold only 15 per cent of the managerial posts although this may reflect the total percentage of women that are found in the company, and in a wider picture, the total number of women that work in the formal mining sector.

Management predicts that the change in the skills profile of its employees would shift towards those that are (highly) skilled as compared to unskilled workers. The question that arises from this research is whether Freda Rebecca intends to create this shift through the training and skills development of its existing employees or whether it will resort to retrenching 'unqualified' workers and employing its required personnel base rather than training.

The mine is expecting to retrench (more) workers in the future rather than employing extra personnel. Management estimated that it would need to retrench at least 30 per cent of its existing staff in order to minimise labour costs. On the other hand, management does not view its termination of the contract workers' contracts earlier this year as a form of retrenchment.

2.4 Management Structure

There was not much detailed information gathered through the research regarding the management structure of Freda Rebecca and how it relates to the management in Ghana. This was because of the reluctance of the local management to give out any information on what was considered 'sensitive' information. Nonetheless, information was gathered from printed annual company reports and from interviews held with workers that work closely with management.

The local management team makes the decisions that more or less revolve around production, conformity to national requirements (legislation) and labour issues. The management in Ghana makes the major company decisions on investment, company expansion, exploration, environmental policies, shares, stock and equity. The majority of the Board of Directors (for the Anglogold Ashanti) consists mainly of Ghanaians and British nationals; none of these are from Zimbabwe.

After two years of insecurity and speculation, Anglogold Ashanti announced that it had agreed to conditionally dispose of Freda Rebecca (September 2004). A local newspaper (the Business Herald) reported that Freda Rebecca had been sold for a '…paltry US$2,255m to Mwana Africa…' the conditionalities that have been given by Anglogold Ashanti for Mwana Africa to successfully purchase Freda Rebecca include the acceptance of the deal by the local authorities, i.e. upon '…obtaining certain regulatory consents and approvals…'

Mwana Africa
Mwana Africa is registered in South Africa. The mining company is a consortium of business shareholders from South Africa, Democratic Republic of Congo, Zambia, Angola, Kenya and Zimbabwe. Mwana Africa already has mining interests in Zimbabwe. It owns Bindura Nickel Mine, a mining operation located close to Freda Rebecca.

The question that emerges is: will Mwana Africa show greater corporate responsibility when it takes over Freda Rebecca? Already, Mwana Africa is emerging as a mining giant within the region and seems to be taking over the mines that were previously owned by Anglogold Ashanti. Mwana Africa recently purchased Bindura Nickel Mine (the only mine that produces nickel in Zimbabwe) from the Anglo American Corporation.

Part 3: Macroeconomic Environment

The Zimbabwean economy is facing the most daunting crisis since achieving independence in 1980. The crisis is characterised by an acute shortage of foreign exchange and basic commodities, hyper-inflation, low levels of savings and investment, accumulation of external arrears, high and unsustainable budget deficits, low industrial capacity utilisation, market and state failure, collapse of real incomes and widening income differentials, high un- and under-employment, high levels of poverty and its feminisation. The political instability that marked the 2002 presidential elections and the land reform exercise negatively affected the country's macroeconomic environment. Political tensions continue to characterise many parts of the country and are expected to worsen towards the political elections that will be held in 2005.

The following is a summary revealing the current status of the country's macroeconomic environment:

3.1 GDP

The economy is on a downward spiral, which began in 1997. Economic decline is expected to stand between -10 per cent and -12 per cent by year-end. In real terms, the economy has contracted by 30 per cent since 1999. Table 2 below traces the trends in Gross Domestic Product:

Table 2: GDP Growth Rates for the period 1995-2003[103]

GDP	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**	**2003***
Real GDP (%)	0.2	9.7	1.4	0.8	-4.1	-6.8	-9.5	-14.7	-14.0

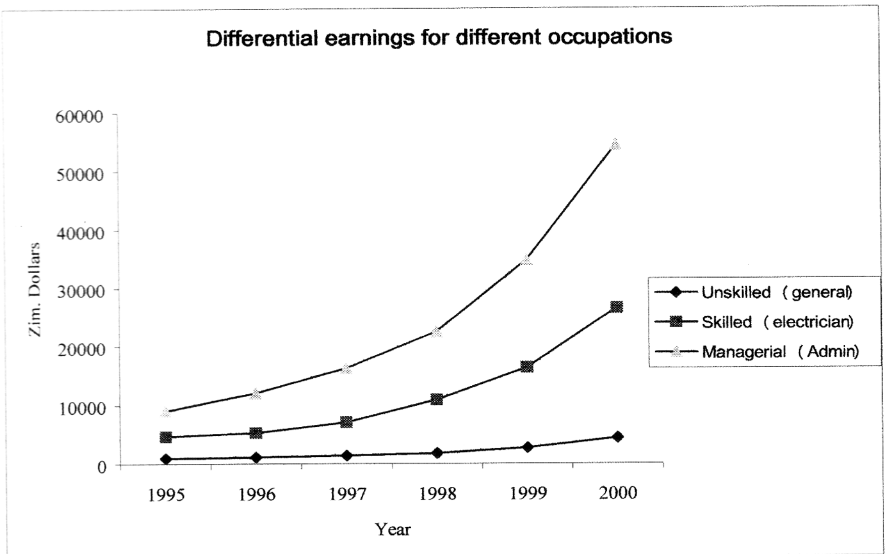
[103] Ministry of Finance 2003

From table 2, GDP (real economic growth) declined from a rate of 9.7 per cent in 1996 to –14 per cent in 2003.

3.2 Income Gaps

Chart 1 below shows the widening gap between the lowest and highest paid worker between 1995 and 2000. What this trend suggests is that the burden of adjustment is falling disproportionately on the lower echelons of the earnings structure.

Chart 1: Occupational Earnings[104]



3.3 Poverty levels

The most recent study by the Central Statistical Office (1998) suggests that the incidence of poverty in Zimbabwe increased from 40.4 per cent in 1990/91 to 63.3 per cent by 1995/96.[105] The incidence of extreme poverty (households that cannot meet basic food requirements) increased from 16.7 per cent to 35.7 per cent during the respective periods. The results were similar to those found in the Poverty Assessment Study Survey (PASS) of the Ministry of Public Service, Labour and Social Welfare.[106]

The PASS study found that 61 per cent of households lived in poverty and 45 per cent in extreme poverty. Levels of poverty are higher in rural areas (75 per cent of households) compared to

[104] Earnings Survey - Zimbabwe, 1980 - 2000, by Price Water House Coopers, Study Commissioned by the Ministry of Public Service, Labour and Social Welfare, EMCOZ and ZCTU, December 2000.
[105] Here, the incidence of poverty is measured in terms of the number of households (and not people) whose incomes cannot meet the basic requirements for living.
[106] 1995

urban areas (39 per cent of households). The incidence of poverty was found to be higher in female-, as opposed to male-headed households with levels of poverty of 72 per cent and 58 per cent respectively.

The studies identified the causes of poverty as mainly structural. In particular, lack of access to land remains a major cause of poverty. The government had planned to resettle 162,000 families during the period 1982-84 and 75,000 families during 1986-90, but by the mid-1990s, only 52,000 families had been resettled. Effectively, therefore, the land problem remains unresolved. Currently, estimations approximate that more than 80 per cent of the total population in Zimbabwe is considered to be poor and living well below the poverty datum line (PDL).

3.4 Contribution of the Mining Sector / Gold

The description of the mining sector of Zimbabwe in section 1 of this paper presents the contribution of the mining sector in the Zimbabwean economy.

In the mining sector, growth is led by gold, chrome ore, nickel and coal. Gold remains the second largest foreign exchange earner after tobacco. Gold accounts for almost 50 per cent of total foreign currency earnings from mineral and mineral related exports. The gold belts are also the source of other major mineral products such as nickel, asbestos and iron ore. Several Australian, British and Canadian companies have invested considerably into this mineral to exploit this vast resource.

Table 3 presents the list of major export commodities and their values in United States dollars for the period 1993-2002.

Table 3: Exports of Major Commodities (US$ Million) for 1993-2002[107]

Export	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Tobacco	366	423	478	702	609	524	612	549	594	492
Gold	234	525	303	298	268	236	230	216	225	169
Ferro-alloys	142	125	238	202	178	163	167	153	155	82
Textiles/Clothing	121	139	115	100	98	58	59	40	20	18

Table 3 shows that gold exports earned the economy US$169 million in 2002, which was twice the earnings from ferro-alloys and nine times more than textiles and clothing exports, (clothing and textiles is often quoted as one of the most important sectors for developing countries within the SADC region and the ACP grouping). The table also reveals that earnings from gold increased by 29 per cent between 1993 and 1995 before declining by 44 per cent during 1995 to 2002.

Chart 2 illustrates gold sales for the period 1993-2000[108]

[107] RBZ Annual Report, 2002
[108] Plotted from CSO statistics on the external sector 1993-2000; 2002

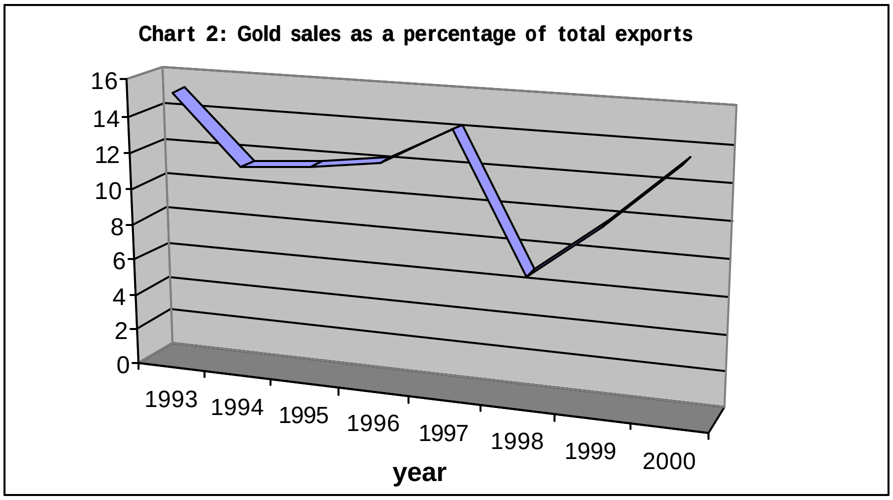


Chart 2 reveals that there was a hefty decline in gold sales between 1994 and 1995. Low productivity during this period was mainly because 1994/95 was a drought year for Zimbabwe. This resulted in low water supply, a commodity that is vital for processing minerals during production. The decrease in gold sales between 1997 and 1998 was mainly caused by the decline in world gold prices, whilst the collapse of the Zimbabwean dollar in 1997 made it more costly for local producers to mine and sell gold. Gold sales increased between 1998 and 2000. Other reasons for the general decline in the production of metals in the mining sector (especially during the period 1997-2003) were a shortage of foreign currency to import explosives, fuel, technologies, cyanide, equipment and machinery that is imperative in the daily operations of mining activities.

3.5 Employment

The rate of growth in employment collapsed from an annual growth rate of 4 per cent in 1996 to negative 8.7 per cent by the year 2000. The average rate of employment growth during the ESAP period is half the rate of growth of the labour force, implying that new jobs are not being created fast enough to absorb new entrants into the labour market.

Because of the nature of the economy, the formal sector employs approximately 1,3 million people, (1999) which is only 10 per cent of the total population. Given an economically active population of 5,9 million in 1993, the formal sector accounts for 24 per cent of this. The non-formal sector and open unemployment both account for the remainder of the labour force. Because of the lack of up-to-date statistics, it is difficult to say how many people are in the non-formal sector of the economy, as well as giving the accurate level of unemployment.

3.6 Inflation rates

Year-on-year inflation is declining. The inflation rate, which was over 620 per cent in November 2003, had declined to 209 per cent by October 2004. Economic analysts have attributed the decline to the stabilisation of price levels as a result of the tighter control of the exchange rate by the Central Bank through its monetary policy.

While it was observed that the year-on-year inflation has declined between March and October 2004, month-by-month inflation continues to soar, indicating increasing commodity prices. This continues to erode the purchasing power of workers. One of the major contributors to inflation has remained food inflation, which averaged 39.4 per cent in 1998 compared to 17.6 per cent in 1997. Much of Zimbabwe's inflation has been caused by cost-push factors associated with the devaluation of the local currency such as the following:

?? Increases in both private and public sector wages and salaries;
?? The decision by the Central Bank to tighten monetary policy; and
?? The uncertainty about the foreign exchange market caused by delayed disbursement of the crucial balance of payments support from major multilateral and bilateral donors.

High inflation has not only fostered a high cost of borrowing, but has also generated uncertainty over the country's economic prospects, contributing to the instability of the exchange rate and the prevailing low business confidence.

3.7 Interest rates

Interest rates remain negative (lower than the inflation rate) and hence discourage investment and savings. Low interest rates reflect the low cost of borrowing that unfortunately result in these borrowings being channelled into consumption expenditures rather than capital and investment expenditures.

3.8 Exchange Rates

The Zimbabwean dollar has continued to depreciate since the 1990s. This has created serious problems for the mining sector since 40 per cent of its inputs are imported. From an exchange rate of Z$9.31 to the US$ in 1995 the Zimbabwean dollar had depreciated to Z$38.14 by the end of 1999. Between 2000 and 2001, the exchange rate was fixed at Z$55 to the US$. In reality however, exporters were paying for their inputs at a conversion rate of Z$1500.00 to US$ 1. This therefore meant that exporters were incurring losses from buying foreign exchange at the parallel market price of Z$1 500.00 to US$ 1 for their imported inputs and at the same time, receiving only Z$55.00 to US$ 1 when they sold their goods out of the country. This fixed official exchange rate created supply shortages in the official reserves as most foreign transactions were forced to the parallel market. In 2002, the exchange rate further depreciated to Z$250 to the US$. However, by that time, the official coffers were almost empty as most companies were thriving from the parallel market. This further worsened the situation in the mining sector, as most companies were unable to import the most needed inputs such as equipment and chemicals. Hence, they faced serious viability problems. In the light of this situation, the Reserve Bank of Zimbabwe (RBZ) then introduced the preferential exchange rate system for exporters in 2003, whereby the conversion rate for export proceeds was increased to Z$843.00 to US$ 1 from the Z$55.00 to US$ 1 on all luxury goods and general transactions, whilst higher rates were approved for a group of specified commodities such as gold.

In 2004, the Governor of the RBZ introduced the controlled auction system where the Auction rate is Z$5.600 per US$. Under this system foreign currency is auctioned through the Currency Exchange, which is an independent body operating under the supervision of the RBZ. Under this system, gold producers will receive 50 per cent of their foreign exchange earnings and the other 50 per cent will be surrendered to the Reserve Bank. Of the 50 per cent surrendered to the Reserve Bank, 25 per cent will be bought at the auction rate. The other 25 per cent will be bought at Z$800 per US$.The Zimbabwean dollar has appreciated significantly since the introduction of the auction system. It gained more than 35 per cent against the US$ and about 40 per cent against the South African Rand. The auction system will not succeed in fully eliminating the parallel market, it can only stabilise the precarious situation.

Part 4: National legislation and Ratification of ILO Conventions

National labour legislation is the main mechanism in which labour market liberalisation is being implemented in Zimbabwe. There have been two major amendments of the labour legislation in Zimbabwe since the implementation of market liberalisation, namely: amendments made to the Labour Relations Act of 1985 in 1991 and the harmonisation of the labour bill that led to the culmination of the Labour Act of 2001 (the currently existing labour legislation for Zimbabwe).

4.1 The Labour Relations Act

Labour legislation (and other relevant national legislation, for example the Constitution of Zimbabwe), has played a critical role in driving the liberalisation process of the labour market. Legislation governing labour relations also determines the extent to which gender inequality has been addressed under issues of employment in Zimbabwe. The deregulation of labour laws was meant to make the labour market more flexible so as to encourage the employment of more people. Labour market reforms were geared towards the decentralisation of regulations pertaining to the terms and conditions of employment.[109] The major reforms made to the 1985 Labour Relations Act were meant to deal with perceived rigidity areas. Some of them were as follows:

- In terms of section 20 of the 1985 Labour Relations Act, the Minister of Labour had excessive powers to specify the payment of a minimum wage in any industry. The deregulation specified that wages should be determined by the market, and reflected in the individual contract of employment. However, the Minister still had the powers, which he could invoke if he/she found it necessary;
- The prerogative of the employer to hire and fire, which had been taken away by the Statutory Instrument 371 of 1985 and was subject to ministerial approval, was amended through the introduction of retrenchment regulations and codes of conduct. Employers could dismiss workers in accordance with provisions of the registered code. Those without registered codes still had to apply to the Minister. Generally, the process of dismissal became easier for employers under the new Act.

[109] The previous employment regulations were indeed onerous, requiring Ministerial approval for retrenchments. This had an adverse effect on employment (Fallon and Lucas, 1993). The dispute procedure was long and cumbersome, resulting in inordinate delays in dealing with grievances (see Kanyenze, 1993).

The initially cumbersome dispute resolution process was reduced. While it initially had four stages before getting to the courts, it was made possible that one could take his/her case directly from the labour officers to the tribunal, or to the courts. The two stages of the labour relations board and regional hearing officers were abolished.

4.2 The Labour Act

Why the new Labour Act?

There were various reasons why the new act needed to be established, despite the self interests of each of the relevant stakeholders. The following lists some of the reasons why there was a need to enforce a new act in the labour market:

1. The Labour Relations Act (LRA) was outdated. Some provisions had become obsolete, others had fallen into disuse and others were in conflict with each other, hence necessitating an updating;
2. Amendment acts had become too many, and with competing new acts (i.e. the Public Sector Act, the Labour Relations Act (LRA), the EPZs Act, the Urban Councils Act etc). They therefore needed to be merged into an acceptable act harmonising these laws;
3. The LRA had too many unfair labour standards principles;
4. The inefficiency of labour courts.

Amendments made to the Labour Relations Act of 1985 led to the drafting of the Labour Act, (the current labour legislation in Zimbabwe), while, the Export Processing Zones Act governs labour relations in Export Processing Zones (EPZs). Over the years, since the reform of the labour regulations to facilitate or make easier detachment in the work place, employment security has been compromised. With the introduction of policies that have encouraged competition, and with some firms failing to survive, this new type of competitive business environment has increased company closures and the labour force has found itself increasingly at the mercy of business. The issue of retrenchments and high unemployment compromises employment and income security.

While the current legislation has provisions that try to eliminate arbitrary loss of employment, the ineffectiveness of the labour administration system and information asymmetry have increased the insecurity in the labour market. Since the adoption of economic reforms, there has been a growing phenomenon of companies substituting contract labour for permanent employment. Inevitably, permanent employment is under threat and with the lack of an active labour market policy advocating for the contrary, the situation is likely to worsen. Employers are opting more for casual labour because they will not have the obligation to provide for workers' pensions and other benefits. Because of the high levels of poverty, and the majority of the workers being poorly remunerated, these policy failures will gradually result in intolerable pressure on the fragile social welfare system.

The information box below summarises the various stakeholders' reasons for lobbying for change of the Labour Relations Act[110]:

[110] G. Makings' Commentary on the Labour, 3rd Edition, 2002

Reasons for amending the act:

Government:
- ?? To ensure tighter control over trade unions;
- ?? To ensure that collective job actions (especially strikes and stay always) are made more difficult to undertake; and
- ?? To try and pass the responsibility of unlawful job actions onto unions and employers with stiff penalties. In other words, to discourage job actions.

Trade Unions:
- ?? To restrict the powers of the Ministry of Labour; and
- ?? To create a situation were trade unions become stronger in representing the needs of workers.

Employers:
- ?? To make the legislation more flexible (labour market flexibility); and
- ?? To promote ease in dispute resolution.

Part 5: Labour relations

5.1 Freedom of association

According to Section 4 of the Labour Act, an employee has the right to be a member and an active participant in a trade union and/or workers committee on condition that s/he meets the requirements of membership. Trade union membership at Freda Rebecca is divided between two trade unions, namely, the Associated Mine Workers Union of Zimbabwe (AMWUZ) and the Zimbabwe Mining, Quarrying, Iron and Steel Workers Union (ZIMQISWU), with the majority of them being members of the AMWUZ. AMWUZ is an affiliate union of the Zimbabwe Congress of Trade Unions (ZCTU) whilst ZIMQISWU is an affiliate union of the Zimbabwe Federation of Trade Unions (ZFTU). During the time the research was carried out, there were tensions regarding trade union activities at the mine due to the fact that the two unions represent different political parties. Contrary to the provisions of Section 4 of the Labour Act, members of the AMWUZ, especially those in leadership, are being victimised on political grounds. One of the trade union leaders who was working with the researchers (LEDRIZ) was accused of being politically affiliated to an opposition political party because of his involvement with other trade unionists outside the company. He was threatened and had to go into hiding for a few days. This incidence reflects the challenges and the dangers that threaten the lives of many trade unionists at Freda Rebecca. Although the Labour Act stipulates that any employee is free to join a trade union of his or her own choice, the current situation seems to denote that it would be more appropriate to join ZIMQISWU than AMWUZ so as avoid any political tensions at the mine. This has been compounded by the fact that the Freda Rebecca Mine is located in Bindura town, which has been beset by heavy political tensions. During the presidential elections in 2002, there were several reports of political violence that were recorded in Bindura.

The Labour Act states that every employer shall permit a labour officer or a representative of the appropriate trade union or employment board, if any, to have reasonable access to employees at workplaces during working hours for the purpose of addressing, assisting, and ensuring that the rights and interests of the employees are protected and advanced. However, from the research results, most employees belonging to the AMWUZ complained that their trade union representatives were being denied free access to their members, whilst representatives from the ZIMQISWU have direct and free access to liaise with workers. It is worth noting that workers are therefore indirectly forced to join a trade union chosen by the management.

The Workers Committee consists of members from both unions. Although the majority of them are from AMWUZ, those from the ZIMQISWU tend to counter decisions made. This has adversely affected the operations of the workers' committee at Freda Rebecca. However, members of AMWUZ proved to be strong and dedicated so as to always have an upper hand in protecting the rights of the workers, despite the challenges that they face.

5.2 Workplace fora

There are regular workplace fora at Freda Rebecca. These include the Health, Safety and Environmental (SHE) Committee and the Workers' Committee meetings. The Health and Safety Committee consists of representatives from all departments of the mine. This Committee deals with health-related grievances on behalf of the workers. Management has also set aside stipulated days on which the SHE Committee meets together with the workers. The Health and Safety Committee meets the workers every Wednesdays, whilst the Environmental Committee meets workers every Thursdays at the beginning of each morning's shift. One worker who was interviewed mentioned that they call them the 'Safety and Health Day' and the 'Environment Day', respectively. Although such meetings are held regularly, Freda Rebecca had become rather weak in terms of Health, Safety and Environmental practices. The research also found that Freda Rebecca was downgraded from being a five star mine by the National Occupational Safety Association (NOSA) to a four star because of incidents in 2003. The management of the mine responded by setting up a more efficient health and safety department to curb the risks of losing more lives.

5.3 Industrial Action

In April 2000, workers took part in a strike protesting against lack of safety awareness at the mine. Mining generally requires safety precautions to be observed because it involves very risky activities. Mining activity also results in the emission of toxic chemical dust such as cyanide peroxide, which is hazardous to workers' health. The workers demanded, among other things, gumboots, helmets, respirators, draggers, overalls and regular health check-ups. Meetings were held between management and the workers' committee to discuss these grievances. During these meetings, it was agreed that management would provide the required standard protective clothes and improved working conditions. However, these protests led to the suspension of 14 employees, some of whom were members of the workers' committee. They were accused of mobilising workers against management. The majority of these employees were later fired.

5.4 Disputes / grievances

In August 2000, female workers complained of sexual harassment at work. A previous human resources manager was using his position to seek sexual favours from female employees in exchange for job and income securities. Workers revealed that the human resources manager was fired from Freda Rebecca. Moreover, in 2001, another strike occurred with workers protesting against low wages. They were fighting for an interim increment, which the management was refusing to award. Although meetings were held on a number of occasions, nothing materialised for workers. The conflict continued and resulted in a work stoppage until riot police were set on workers to disperse and silence them.

In June 2004, workers went on strike demanding wage increments, backdated to January. Their request was considered and accepted. However, by the first week of September 2004, the representative of the workers' committee served notice to the general secretary, the branch secretaries, and the president of the workers' union, AMWUZ, to give a 14-days notice of the workers' (of Ashanti Goldfields) intent to strike (the notice was to be effective as from the 2nd of September 2004). The reasons cited for the intention to strike include low wages/salaries and poor working conditions.

5.5 Retrenchments / contract workers

At the time the research was conducted, Freda Rebecca employed a total of 524 employees. This is in stark contrast to a figure of 724 employees the mine used to employ before 2004. The harsh economic environment, which is currently prevailing in Zimbabwe, has had a negative impact on the performance of the mining sector and, from this, Freda Rebecca has not been spared. Consequently, the mine retrenched 120 employees who were contract workers in April 2004 as a cost-cutting measure. The retrenchees were not offered any packages except back pay, which they were entitled to as they were informed that their contracts had merely come to an end and that they would be contacted should the company need their services in the future.

5.6 Wages and salaries

The research found that employees at Freda Rebecca were earning less than employees at other mines. Due to these poor salaries, two top management officials were reported to have resigned and have since secured alternative employment elsewhere. Some among the management officials were reported to have resorted to theft in order to supplement their meagre salaries. Assets that were mainly stolen included used pipes and other materials used for mining. It was also revealed that one top management official was expelled on the grounds of misappropriation of funds. Given the fact that even those on the management side were complaining of low salaries, it was very difficult to imagine how the other mine workers had been able to survive (see the wage structures presented later in this paper).

Part 6: Labour conditions

6.1 Child Labour

The Labour Act specifies that the minimum age at which a person can be engaged in employment. The specifications of child labour are enshrined in section 11 of the Labour Act: Contracts of young persons. The act stipulates that an employer should not employ an apprentice who is under the age of thirteen, while any employment contract entered into between an employer with an employer between the ages of thirteen and fifteen should have the authority to do so from the apprentice's legal guardian, otherwise the contract will be considered null and void. In addition, the Labour Act also specifies that, "…no employer shall cause any person under the age of eighteen years to perform any work which is likely to jeopardise that person's health, safety or morals, which work shall include but not be limited to work involving such activities as may be prescribed…" the difference between these provisions in the Labour Act and those in the Labour Relations Act is that the latter specified that an employer could not enforce an employment contract with a person under the age of 16 years. However, the official minimum age for employment of 15 years seems to reflect the national need to encourage young persons to seek employment after having competed the compulsory levels of education ('O' Level).

Freda Rebecca does not employ persons below the age of 16 years, which lies comfortably within the age specified by the Labour Act. The company has maintained a strict adherence to the employment of persons of employable age. The company has also maintained that any person below the age of 18 may not work underground.

6.2 Forced labour

The section on forced labour in the Labour Act is a new section. It was incorporated into the Act to complement the ratification of the ILO Convention on Forced Labour, 1930. The Act defines what is considered *not* to be forced labour. In this regard, it fails to define what *is* considered to be forced labour, i.e. there is no definition of forced labour. Any employer found guilty of employing forced labour risks a substantial fine/imprisonment of a period not exceeding two years. The information box below presents a few elements contained in section 4A of the Labour Act on Forced Labour.

4A: Prohibition of Forced Labour

For the purposes of sub-section (1) 'forced labour' does not include –

a. Any labour required in consequence of the sentence or order of a court; or
b. Labour required of any person while he is lawfully detained which, though not required in consequence of the sentence or order of a court –
   i. is reasonably necessary in the interests of hygiene or for the maintenance or management of the place at which he is detained; or
   ii. is permitted in terms of any other enactment; or
c. Any labour required of a member of a disciplined force in pursuance of his duties as such or any labour required of any person by virtue of an enactment in pace of service as a member of any such force; or
d. Any labour required by way of parental discipline.

Freda Rebecca observes this section of the Labour Act. There have never been any incidences of forced labour reported at Freda Rebecca as provided under the Labour Act.

6.3 Discrimination

The Associated Mine Workers Union of Zimbabwe advocates that employers in the mining sector conform to section 5, on discrimination, stipulated in the Labour Act. Section 5 of the Labour Act introduces much more in terms of defining discrimination. For instance, the term 'sex' has been replaced by 'gender', a more seemly word. The conditions of service for the mining sector now contain these changes made in the national labour legislation.

The information box below presents the additions that have been made to actions that are now classified as discrimination.

Changes made to Section 5 (Protection of Employees against Discrimination) of the Labour Act:

?? Substituting the word *sex* with *gender;*
?? Adding clauses on non-discrimination of: - pregnant employees, workers with HIV/AIDS and disability;
?? Employers are required to pay equal remuneration to both male and female employees undertaking work of equal value; and
?? Inclusion of clauses against discrimination based on political affiliation, race, tribe, place of origin, colour, creed and sex.

From the workers' questionnaires, the majority of workers acknowledge that the company observes most of the clauses under section 5 of the Labour Act. In addition, workers highlighted that, despite the prevalence of the HIV/AIDS pandemic in the mining sector (mining communities), workers had never been discriminated against because of their HIV/AIDS status.

However, respondents felt that there was discrimination amongst workers depending on the trade union in which they are members, i.e. there is discrimination between workers who are members to the AMWZ (which is affiliated to the Zimbabwe Congress of Trade Unions) and those who are affiliated to the Zimbabwe Mining, Quarrying, Iron and Steel Workers Union (which is an affiliate of the Zimbabwe Federation of Trade Unions). In addition, this discrimination also borders strongly on the difference in political affiliation and/or opinions of the workers themselves and perhaps of the trade unions. Nonetheless, this discrimination is not explicitly stated and is very difficult to accurately measure or classify. In this regard, this non-explicitness has made it difficult for AMWUZ to challenge this discrimination.

38 per cent of the workers who responded to the questionnaires felt that joining either union might lead to victimisation – either by other workers affiliated to a competitive union or by management. Despite these fears, no cases have been officially reported under the discrimination category.

There is also general discrimination between men and women. Overall, mining is considered not a woman's job and many of the women employed at Freda Rebecca work in administrative positions. The reason for this discrimination is based on the load of work undertaken in the mines (especially underground), which is classified as unfit for women workers. In this case, this type of discrimination is seemingly acceptable and practiced by many mining companies in Zimbabwe.

6.4 Sexual Harassment

The Labour Relations Act did not have a clause on sexual harassment. The original assumption was that sexual harassment was captured passably under the section on unfair labour practices by the employer in Section 8 of the Labour Relations act. The new Labour Act states a better defined clause of sexual harassment.

Section 8 of the Labour Act (in Zimbabwe): Sexual Harassment

"An employer or any other person," demands from any employee or prospective employee any sexual favour as condition of;-

i. The recruitment for employment; or
ii. The creation, classification or abolition of jobs or posts; or
iii. The improvement of the remuneration or other conditions of employment of the employee; or
iv. The choice of persons for jobs or posts, training, advancement, apprenticeship, transfer, promotion or retrenchment; or
v. The provision of facilities related to or connected with employment; or
vi. Any other matter related to employment

will be considered as an unfair labour practice (sexual harassment).

There was one case that was reported by the trade union (AMWUZ) against a human resources manager at Freda Rebecca. The human resources manager was being accused of asking for sexual favours from graduate trainees in return for employment security and better employment prospects. After internal investigations were conducted, the manager was found guilty and dismissed. Many of the female workers believe that this case reflects that the company does resolve issues of sexual harassment in a satisfactory manner, more so because the company has shown that it has incorporated the clauses in the Labour Act on sexual harassment as its code of practice in dealing with sexual harassment. However, more than 56 per cent of the female employees concluded that many of the women employees did not report cases of sexual harassment.

6.5 Remuneration and Benefits

Wages:

There must be an obligation by the employer to pay the workers at least the minimum wage (Convention No. 138 of 1973). There must be a provision for income security. Workers' incomes should be protected against arbitrary reduction and there should be an uplifting of the workers' living standards. In Zimbabwe, minimum wages registered with the Ministry of Labour by NECs are legislated in collective bargaining agreements for each sector in the economy.

Freda Rebecca strictly pays the minimum wage agreed upon at the National Employment Council (from national collective bargaining processes). The following table presents the minimum wages paid to each grade:

Table 2: Minimum Wages for the period 1995-2004

Grade	1995	1996	1997	1998	1999	2000	2001	2002	2004
1	67	72	55	36	51	58	162.	75	48
2	68	74	56	36	52	59	164	76	49
3	69	75	56	37	52	60	164	76	49
4	72	78	58	38	54	62	167	77	50
5	77	83	62	41	57	66	172	80	51
6	84	91	68	45	63	71	180	83	54
7	91	99	73	48	68	77	188	87	56
8	107	115	85	56	79	90	204	94	61
9	147	159	116	77	107	122	248	115	74
10	174	189	137	91	127	146	278	128	83
11	219	237	171	113	159	182	326	150	97
12	245	265	191	126	177	203	353	163	105
13	268	290	208	137	193	220	376	174	112
PDL	**140**	**131**	**90**	**59**	**92**	**99**	**171**	**88**	**86**

Notes: Wages have been converted into US$ using values of the official exchange rate for the period 1995-2002, and the auction rate for 2004.

Table 2 presents the wages of workers in US dollars according to their grades (Grade 1 being the lowest paid employee). Overall, wages for grades 1-13 have declined drastically from 1995-2004. For Zimbabwe, the fluctuation in the exchange rate, especially after the Zimbabwe dollar crashed in 1997, makes the fluctuations in the wages more strongly related to the weakening of the local currency. In addition, it must be noted that since the official exchange rates were used in the calculation of these wages, the impact of the parallel market for foreign currency on wages in Zimbabwe is greatly undermined. For example, for the year 2004, wages were converted into US dollars using the auction exchange rate which stood at Z$5,600:US$1, while the parallel market rate stood at Z$7,200 by the 31st of August 2004.

From table 2, we see that the majority of workers in the lower grades (grade 1-8) at Freda Rebecca have been earning a wage far below the PDL. A worker in grade one earned a wage that was 48 per cent of the PDL in 1995. This increased to 95 per cent in 2001 after the Tripartite Negotiating Forum (TNF) granted a statutory instrument to match wages to the PDL. This was a result of the labour movement threatening to organise national mass stay-aways if fuel prices continued to escalate (in addition to increasing inflation) thus consequently eroding the earnings of workers. However, minimum wages for grade one workers had once again plummeted to 56 per cent of the PDL (January 2004).

In addition to the minimum wages, the miners are paid an underground allowance. This is calculated at 2-5 per cent of an employee's salary. Employees who work during the night shift are also paid a night shift allowance. Despite these incomes that may seem to reflect an increase in total allowances/wages/salaries paid to the Freda Rebecca miners, the total incomes remain far below the PDL for many of the workers. Especially, when one considers that the majority of workers that work underground or work during the night shifts are the lower grade workers.

Bonus Payments:

A new bonus payment system was established in 2001 after a meeting held during a Works Council. Bonus payments were to be made payable according to the stipulations of the Works Council Agreement No. 1 of 2001. The conditions of payment for bonuses were as follows:

- ??April weighting applied would be 20 per cent for development (horizontal length of mining shaft);
- ??That for the following months (i.e. May, June and July), the weighting would be as follows:

I.	May	30%
II.	June	40%
III.	July	50%

- ??These weighting averages would be subject to review in the month of August depending on the focus or the targets outlined by the management.

This system implied that if underground miners managed to attain their target levels (in both development and in production) for the month of, for example, May 2001, each miner would be entitled to a monthly bonus of 50 per cent of his or her monthly salary. However, should this target not be met, a sum of 30 per cent of the bonus would be deducted from his or her salary, i.e. he or she would be entitled to only 20 per cent of his or her monthly bonus. It should be noted that all relevant parties did not agree upon this system of bonus payment. Workers claim that management implemented the agreement before the worker's committee had agreed to the stipulated conditions and the margins set out as penalties.

However, this system has been changed from a monthly paid bonus to a year-end bonus payment. The system now applied is that workers accrue days during the production year (a maximum of 8 days per month). At the end of the year each accrued day earns a day's wage (for each employee) and the total value of the accrued days gives the total bonus payable to each employee. Some of the employees have mentioned that although this system may be valid in other mines, it has failed to be effective at Freda Rebecca. They argue that the productivity calculation system is seriously flawed given that the mine does not have adequate equipment for miners to productively mine for the gold. They add that that the lack of protective clothing has also made it difficult for miners to attain the set targets (set by management alone). In this regard, workers' sentiments are that the company should not penalise workers for lack of productivity when the mine is currently failing to purchase the required machinery and equipment for mining. They further argue monthly targets should be determined and agreed upon by both management and workers and not just by management, as is the current system.

Service Increments:

In addition to the minimum wages agreed upon by the union and the employers' association, the collective bargaining agreement of the mining industry also sets out the service increments that are made out to employees (Freda Rebecca also observes these). Percentage increases are set according to employees whose total length of service with the same employer exceeds various numbers of years.

Table 3: Service Increments as given in the CBA of 1999

Service years	Percentage increase (%)	Accumulated percentage increase (%)
After 2 years	2	2
After 3 years	1	3
After 4 years	1	4
After 10 years	2	6
After 15 years	2	8
After 20 years	2	10
After 25 years	2	12

From table 3, we see that employees who have worked for Freda Rebecca for more than 2 years are entitled to a minimum wage and a service increment of 2 per cent of their wage, while those who have been with the company for more than 10 years are entitled to a service increment of 6 per cent.

6.6 Working Hours

The Labour Act of Zimbabwe dictates the leave days and holidays, whilst hours of work are stipulated in collective bargaining agreements for each sector. The Labour Act specifies that workers should be given 12 days special leave for various reasons (business and compassionate reasons); a one day weekly rest; a one month vacation leave and an extension of paid sick leave days from one month to 6 months (3 months on full pay and 3 months on half pay).

The code of conduct for the mining sector stipulates that the hours of work should be 48 hours per week. In addition, the leave days for the mining sector are as follows:

Grade	Leave days
Grade 9-13	28 days after 5 years of service 25 days for less than 5 years of service
Grade 4-8	23 days after 5 years of service
Grade 1-3	20 days for less than 5 years

More than 80 per cent of the respondents said that they work at least 48 hours per week. According to the workers, Freda Rebecca does not have a limit on the number of hours that an employee can work as overtime. However, quite a substantial number of workers did not know whether the company has a policy on what is the maximum number of hours employees can/may work as overtime work during a working day/month. The research concludes that the mine does not have a minimum number of hours specified for overtime for each of the workers' grades. However, for those workers who have undertaken overtime work, the company pays them one and a half more their wages for overtime done per day and double for overtime done during the holidays. This is in line with the general conditions of service for workers in the mining sector.

6.7 Pregnancy/ Maternity Leave

The collective bargaining agreement for the mining sector specifies the conditions for maternity leave, as stipulated in the Labour Act. Freda Rebecca's permanent female employees may take maternity leave upon submission of a certified document from a registered nurse specifying that she is pregnant and the following conditions apply:

- ??She will be entitled to start her leave not earlier than the forty-fifth day and not later than the twenty-first day prior to the expected date of delivery, (the total number of maternity leave days is ninety days);
- ??She is entitled to full month's pay during the ninety days maternity leave, (only if she has served for more than one year) and is entitled to only three maternity leave periods per employer;
- ??If an employee on maternity leave should need more days than the legal ninety days, she will forfeit her wages as sick leave that may not be granted during paid maternity leave;
- ??During her maternity leave period, her normal benefits and entitlements at work continue uninterrupted; and
- ??After the maternity leave is over, the female employee is allowed an hour a day of the normal working hours per day for nursing. She may combine this nursing time with other breaks, (lunch and tea breaks) so as to constitute longer nursing periods. She is entitled to these provisions for the period required to nurse her child or for six months, whichever is lesser.

Casual female employees and permanent female employees at Freda Rebecca who have served for less than a year will be granted, at their request, ninety days for maternity leave without pay. It is important to point out that trade unions can negotiate for more favourable maternity leave conditions in the collective bargaining agreement.

6.8 Training

The most common type of training offered by the company to employees is on the job training and on health and safety issues (see subheading: Health and Safety). Not much training, if any, is given to the lower grade employees who perform 'unskilled' job responsibilities, e.g. general hands, truck drivers, sweepers, cleaners, office orderlies, etc. More than 35 per cent of the respondents did not know whether the company offered any support to employees who wished to undertake educational and skills development training. 20 per cent of the respondents had never asked for the company to assist them in undertaking training or to enrol in educational courses that could upgrade their qualifications.

Freda Rebecca offers training mainly to its skilled employees. The reasons cited for training skilled workers is that Freda Rebecca considers that the mining sector is highly technical and tends to value the productivity and efficiency of skilled personnel. Given this analysis, the company would derive higher returns by focusing on training its skilled personnel rather than training unskilled workers and/or the administration staff (who are considered circuitously linked to the company's productivity). The company supports employees who are enrolled in apprenticeship courses related to the tasks that they undertake at the mine (e.g. Geotech training, business management courses, computer literacy). Freda Rebecca fully reimburses the employees who have successfully completed the courses undertaken. If an employee fails to pass examinations, the company does not refund the employee his or her education fees.

As for employees who need to advance their own educational curriculum, which is considered to be directly linked or relevant to their employment placement, loans may be approved to undertake these courses after producing an authentic fees quotation and application. Loans granting is solely at the discretion of the relevant managerial staff. However, the success of getting a loan approved depends on the employee's position in the company, the possible benefits that the company may receive should the applicant undertake further education/training, the employee's track record with loan repayment, and on the availability of funding for educational training and skills development.

Overall, there has been very little skill and technological transfer from the parent company to Freda Rebecca over the past few years. Any training that is conducted is done without the consultation of either workers or the union. It remains at the discretion of management. Much of the training has been restricted to in-house training, and mainly on health and safety issues, operating machinery, and the handling of dangerous materials/equipment (e.g. explosives).

However, a number of senior managers have been sent overseas for various educational programmes. In this regards, not many of the Freda Rebecca employees qualify for this educational training programme. Ashanti Goldfields seems to be training more managers in its other subsidiaries, e.g. Obusi Gold Mine (where most of the initiatives of training programmes have been implemented) as compared to Freda Rebecca. This has become more so since the parent company is seriously considering disposing of its mining interest in Zimbabwe. It seems that the company policy is to give higher benefits and support to the mines that are operating profitably.

6.9 Health and Safety

The mine has a standing policy on health & safety and on the environment. Freda Rebecca is considered to be leading a good example in terms of observing issues of health and safety at the workplace within the mining sector. This is mainly in comparison to the accidents that occur in the mining industry, especially at illegal mining sites. Workers are trained upon induction and are taught about first aid, especially for the underground workers. It is a prerequisite that anyone entering the mine for any propose of business (especially the underground) has to undertake first aid, and health & safety training.

The National Occupational Safety Association (NOSA) awarded Freda Rebecca a four-star rating on health and safety in 1999. Freda Rebecca was one of the first mines under Ashanti Goldfields to be awarded such a national prestigious award (together with Bibiani Mine). In the year 2000, this (NOSA) rating was upgraded to a five-star. However, there has been an increase in the number of occupational accidents occurring at Freda Rebecca that have led to it being downgraded to a four-star rating. In 2003 alone more than 2 workers were killed and more than 10 workers had their limbs mutilated. The increased in these occupational accidents has more or less revealed the deterioration in the company's compliance to internationally-acclaimed occupational safety standards in the mining sector.

Between 1996 and 2003, more than 120 accidents have been recorded and reported with the National Social Security Authority (NSSA) at Freda Rebecca. Approximately 58 per cent of these cases are 'loss of hearing'. The consistent increase in the reports of these health impairments seems to reflect the inability of the company to prevent or to minimise the rate at which this health problem is occurring. The information below provides the approximated percentages of the type of health accidents (please note that some of the reported 'accidents' are classified as Gradual Onset (G/O) – G/O refers to health impairments that happen over a period of time and cannot be easily attributable to a specific health hazard or dangerous work-related incident.

Reported Accidents with NASSA	
Fractured fingers / legs / ribs	21
Asthma (G/O)	6
Loss of hearing (G/O)	58
Death/fatal accidents	15

Interviews with the employees revealed that workers did not have adequate protective clothing, for example, safety shoes, overalls, gloves, earplugs etc. They added that the only time that the company seems to try and make sure that workers have adequate protective clothing is when the mine is expecting a health and safety audit. For example, when the officials from NOSA were due to conduct an audit with Freda Rebecca in August, the company purchased some of the protective gear required by workers.

Freda Rebecca has a clinic located on the company's premises. It has one resident nurse and medical doctor who attends to sick and/or injured workers on specified days and hours of the week. Workers revealed that it was common to be turned away from the clinic with no medication as the clinic was experiencing severe shortages in much-needed drugs. On many occasions, the resident nurse has had to write out prescriptions and advise the sick/injured employees to request cash from the accounts department to enable the worker to fill his or her prescription. Unfortunately, on many of these occasions, workers have been turned away empty handed from the accounts department, that frequently claims that it does not have adequate funds to cover all the prescriptions made out by the nurse. To make matters worse, employees have gone without their medical aid benefits for the past six months and do not know whether they are still eligible to receive this benefit. This lack of medical aid has not only hit hard the workers who are the direct beneficiaries, but their spouses and immediate dependents who have also been subjected to lack of adequate heath care since they cannot afford to seek medical attention given the meagre incomes afforded to their partners/parents.

Compensation for Injury:

Injured workers from Freda Rebecca who need compensation have to report their injuries with the National Social Security Authority (NSSA). The main objectives of the workers' insurance scheme (referred to as the accident prevention and workers' compensation scheme) include:

?? Providing financial relief to workers and their families when a worker is injured or killed in a work related accident or disease;

- ??Creating awareness and promoting health and safety at all work places;
- ??Encouraging adoption of the health and safety legislation through factory and machinery inspection;
- ??Providing rehabilitation services to disabled workers so as to reduce their disablement and return them to their former employment or otherwise prepare them for a useful and meaningful space in society.

Unfortunately, it was beyond the scope of this study to investigate whether former workers from Freda Rebecca who had suffered severe injuries had fully benefited from the scheme. Many of the workers of Freda Rebecca who have applied for compensation from NASSA have been paid very little and the financial compensation has been almost laughable. Please note that the US$ and the South African Rand has been used, because the funds involved are so very little.

Periodical payment in respect of loss of earnings:

Provision of compensation income is only made when there is loss stoppage of work as a result of work related accidents. Payment is guaranteed for the first 30 days following an accident. The authority can only pay a maximum claim of US$ 1.25 per month (the current ceiling for maximum insurable earnings). Thereafter, the employee will earn an income according to the following percentages:

80% of the first Z$ 1050 (R1.30)	Z$ 840 (R1.05)
60% of the next Z$ 350 (R0.40)	Z$ 210 (R0.27)
50% of the next Z$ 2100 (R2.60)	Z$ 1050 (R1.30)
40% of the next Z$ 3500 (R8.75)	Z$ 1400 (R1.75)

For example, an employee who earns Z$ 8,000 (US$ 1.40) per month and is off work for the next 40 days because of an injury suffered from work will be paid as such:

I. S/he gets Z$7,000 (US$ 1.25) for the first 30 days.
II. After the first 30 days, s/he gets:
Z$ 3.500 X10/30 (days) = Z$ 1,166.67

Total compensation for the 40 days is Z$8,166.67, which is US$ 1.46 for the 40 days. However, should an employee apply for sick leave, s/he will be entitled to full pay (as provided in the Labour Act).

Lump Sum Payments:

If a worker's injury is considered severe and results in permanent disability, the worker is paid a lump sum by NSSA. The ceiling paid as the lump sum to each injured worker is US$ 89 from 31st August 2004. This ceiling is an increase from a previous maximum lump sum payment of US$ 8.60. A child's allowance is included and is paid according to the following table:

1 child	12 % of worker's pension
2 children	17 % of worker's pension
3 children	22 % of worker's pension
4 children	27 % of worker's pension

5 children	32 % of worker's pension
6th child (or more)	Compensated at a rate of 1% or that determined by the General Manager

Other benefits under this scheme include:

Medical costs:

NASSA pays for all medical fees incurred by an injured employee. This includes transportation, drugs, hospitalisation, and the provision of 'artificial medical aids', for example, a hearing aid.

Funeral Grant:

If an injured worker should die as a result of a work-related accident, NASSA pays out a maximum benefit of US$ 0.53 (R 3.75) towards funeral expenses.

6.10 Pensions

Freda Rebecca applies the compulsory national pension scheme. NSSA pays out of the pension scheme. The government introduced the compulsory pension scheme with a vision to provide for workers and their families against contingencies. It is compulsory that all employees contribute to the scheme, regardless of whether an employee is covered by a private pension scheme or not.

Each employee pays a contribution of three percent of his/her insurable earnings, up to a ceiling of US$ 89, which was determined by the minister of finance from 31st August 2004, (insurable earnings refer to an employee's wages that excludes other private pensions, payment from shares or stock under a profit-sharing scheme and other employment benefits). The employer also contributes three percent of each employee's insurable earnings not exceeding US$ 89, hence a total of six percent is paid monthly towards the scheme.

The workers' contributions are deducted directly from their wages. The benefits that should accrue from this pension scheme include a retirement grant, a retirement pension, an invalidity grant and pension, a funeral grant, a survivor's grant and a survivor's pension.

NEC for Mining Industry: Collective Bargaining Agreement: Pension Fund

Before normal retirement date. An employee shall have the option of retiring on the first day of any month, which is 5 years, or less prior to the normal retirement date:

Provided that:

i. An employee who has completed a total of 15 years' service with one or more employer shall…retire on the first day of any month which is 10 years or less prior to the normal retirement date;
ii. Where the Board is satisfied that the employee…is totally and permanently disabled, as a result of an industrial accident or pneumoconiosis or any other causes, it may at its discretion, grant the option of retiring on the first day of any month which is more than 5 years prior to normal retirement day.

In such circumstances the employee shall receive a reduced pension equal to:

i. The pension provided by the employee's contribution up to the date of retirement, multiplied by the appropriate early retirement factor as provided;
ii. The pension provided by the employer contribution up to the date of retirement, multiplied by the appropriate early retirement factor as provided.

6.11 Overall Comments on Labour Conditions

General welfare of Freda Rebecca workers:

A visit to some of the households (in Batanai, Chipadze and Chiwaridzo) of Freda Rebecca Gold Mine revealed that many of these workers were failing to survive on the meagre incomes they were earning from their formal employment. Many of these workers and their dependents have resorted to informal trading, i.e. selling of rabbits, vegetables, and fruits, while a lot more have resorted to illegal gold panning. This gold panning is being undertaken on a mine formerly operated by Freda Rebecca. An interview with some of these illegal gold panners revealed that during each week, at least 3 people are either severely injured or killed at this mining site. These gold panners dig as deep as 70 feet and begin to dig horizontally in search of gold belts. They do not have the required equipment to mine at these levels. Yet they risk their lives in search of a supplementary income. Freda Rebecca claims that it has on several occasions tried and failed to stop the illegal mining of gold at this site.

Illegal Gold Panning: An Interview with a child 'miner'

I am an 8 year old boy. My father works for the mine (Freda Rebecca). I have to come down here with my mother, an uncle, brothers and sister to look for gold. I no longer go to school because my parents told me they couldn't afford to pay my school fees. We have to wake up early so that we can rush to find a good place to dig. The older family members dig out the ore, and I have to take it to the dam (a stagnant and heavily polluted water body) to wash out the gold. I have to carry many heavy buckets (our wheel barrow no longer works). I have to carry so many buckets as everyone in our family is digging for the gold. My sister sometimes helps me, but she has to do the cooking, washing and also help my mother to dig for gold. She also has to sell some freezits (a plastic packaged beverage) to some of the other miners, to make some more money. I have been lucky in that I have never fallen down the deep holes made from the digging, but last month, I saw a man who broke his neck and died!

Source: LEDRIZ, 2004: Freda Rebecca Gold Mine

There is a lot of child labour at the site where these illegal gold panners mine for gold. The conditions are not suitable for men and women, and even less so for children. The fact that poverty is rife in the mining community at Freda Rebecca makes it difficult to successfully control these activities. The fact that the area in which the mine is located is also characterised by political tension and violence, any form of regulation by the environmental organisations/ authorities is often viewed as politically incorrect.

Overall, there is evident discrepancy between benefits paid for or awarded to the different categories of employees at Freda Rebecca (i.e. management, skilled employees, and those who are unskilled. Much of the difference lies in the wages/salaries and the opportunities offered, for example: promotion opportunities, non-wage benefits (accommodation), training and skills development. Table 4 below summarises the benefits given out by Freda Rebecca to each respective category of employees.

Table 4: Workers' benefits: Freda Rebecca[111]:

Benefit	Management/ Skilled Workers	Unskilled Workers
Childcare facilities	✍✍	***X***
Skills training	✍✍	✍✍
Pension/ provident	✍✍	✍✍
Medical aid	✍✍	✍✍
Housing	✍✍	✍✍
Transport	✍✍	✍✍
Share options/profits share	***X***	***X***

[111] Research Questionnaires and Interviews, 2004

At first glance, there seems to be very little difference in the benefits awarded to the managerial staff and to workers in the lower grades, i.e. unskilled workers, (table 4). However, the research reveals that there are differences within each of these benefits for example:

Accommodation:

Accommodation offered to managerial staff is far superior to that offered to the skilled and unskilled workers. The accommodation offered to unskilled workers is overcrowded, dirty, and heavily polluted by dust. Some of the workers residing in the 'high density' areas of the mining property complain that there is erratic water supply and that their drinking water is contaminated with unknown chemicals that may be coming from the mine's slimes dams.

Medical Aid:

Freda Rebecca employees are entitled to a non-contributory medical aid scheme. However, the company has not been contributing to the scheme for workers for the past six months. The differences in the medical aid benefits offered to employees in the managerial positions versus those workers in the lower grades lie in the benefits offered under the different medical aid schemes. Medical aid/insurance for managerial staff includes private hospitalisation, dental hygiene, optical treatment etc., while that for unskilled workers is basically primary health care. This difference in medical schemes seems to be ignorant of the fact that workers in the lower grades are more exposed to occupational health hazards/accidents, as compared to the managerial staff and/or the professional staff members at Freda Rebecca.

Many of the workers at the mine are disgruntled. The living standards of the workers have drastically deteriorated. By the beginning of September 2004, workers had already given notification for their intention to strike. During the research interviews with the employees, one of the workers summarised the working conditions at Freda Rebecca as follows:

> "…the poverty amongst the workers is bare for all to see. It seems as if everyone out there pretends that this (poverty) is not happening. It does not take much to realise that the mining industry remains one that is so similar to slavery. If one can remember the harsh working conditions and slavery in the mines during the colonial era, one has experienced what we miners at Freda Rebecca are going through…"

He was quick to add that,

> "…if researchers really want to know about the desperation of employees (here at Freda Rebecca), they must take time to go into the mining community and sit down with our wives…the ones that manage the family resources…"

The workers are given very little room to express their dissatisfaction regarding the working conditions and the labour relations at the mining company. The fact that the mine is located in an area where there is political tension has not made it any better. It seems that the management at the mine have decided to take advantage of this dilemma, which has proved to be very costly to all the employees at the mine, despite their political opinions and/or affiliation.

The workers remain excluded from decision-making processes related to working conditions, wages/salaries, training, skills development, and the restructuring processes of the company. This has been exacerbated by the fact that the local management does not have the authority to make decisions related to many of the operational issues at Freda Rebecca. Decision-making processes and powers remain confined in the parent company's head office in Ghana. In short, the parent company makes most of the instrumental/operational decisions. However, this should not completely take away the responsibility of the local management in improving working conditions and the work environment.

Part 7: Human Rights

There is a lot of speculation by people living close to Freda Rebecca that the mine intends to expand its operations and acquire the surrounding land for the mining of minerals. This has generated speculation by the local people that this move may lead to the displacement of existing homestead to accommodate the mine's expansion exercise.

Part 8: Environment

8.1 Environmental legislation in Zimbabwe

Prior to 2002, the environmental legislation in Zimbabwe was highly fragmented. There were many policies and acts on environment that were administered from different government Ministries and departments. These acts included:

- Mines and Minerals Act;
- Natural Resource Act;
- Water Act;
- Hazardous Act; and
- Mining (Management and Safety) Regulation.

In 2002, the Ministry of Mines, Environment and Tourism came up with a new initiative to formulate an environmental management policy named the Environmental Management Act (EMA). This act has repealed the acts stated above. This act of 2002 would harmonise the institutional, legal and policy framework in order to create a sustainable environmental management system in Zimbabwe. EMA was then passed in Parliament in 2003. However, the Act will start to be fully operational after the setting up of an agency that will enforce the measures that are stated in the Act. The principles underlying the Act include the prevention of pollution and environmental degradation.

From the interviews conducted, approximately 90 per cent of the respondents from Freda Rebecca said that the company had a clear policy on environmental standards. The policy document is written in both English and vernacular languages. From these interviews, only 30 per cent of the respondents were well versed with the details contained in the policy document. The research also found out that at times the union (AMWUZ) is invited to discuss with the management issues pertaining to the environment. Environmental awareness campaigns and policies at Freda Rebecca mainly focus on keeping the mine premises and the surrounding local environment clean, i.e. picking up of litter/garbage, reforestation of surrounding land and careful disposal of toxic waste produced during the mine's productive activities. Some workers mentioned that there are a substantial number of containers (huge bins) for placing litter on the mines premises. Anyone found littering the grounds is brought forward for disciplinary action. There are also pit latrines in designated areas and every employee is strictly required to use these, non-compliance may lead to instant dismissal from work. Respondents also highlighted that the mine hosts seminars and forums where they are informed about the dangers associated with the cutting down of trees and veld fires.

The mine is involved in community environmental awareness programmes, i.e. educating the locals about conservation and reforestation. For example, in 1997, Freda Rebecca conducted an environmental education programme for 300 school children. It was part of the outreach programme and reclamation work on the waste dumps with the planting of sorghum and grass seeds.

8.2 Open pit gold mining

On a large scale, Freda Rebecca uses the open pit mining method in mining for gold. Unfortunately, this technique of extraction has resulted in serious environmental degradation. The mine has a high stripping ratio, which is the ratio of the overburden and degradable waste to gold. This means that there is a high level of disposable waste; this is evidenced by huge mounds of solid waste accumulating in the surrounding areas that have encroached upon the agricultural land. From the interviews undertaken, it was revealed that there are plans to expand mining activities in the near future. This will lead to the displacement of people, consequently resulting in more environmental degradation as people try to establish new homes. Solid waste disposal has also inhibited the growth of vegetation.

8.3 Dust

Travelling through Freda Rebecca and the immediate surrounding communities, one can't help but notice the dust that covers everything. A thick layer of dust covers the rooftops, vegetation and anywhere else the dust is able to land. This dust comes from the residue of the mineral ore and the digging of the mine shafts. Not only have the workers directly involved in mining at Freda Rebecca physically suffered from inhaling the dust, but many of the workers' dependents and locals who live in close proximity to the mine have experienced health problems from inhaling the dust. Many of these people have become vulnerable to diseases such as pneumoconiosis. When asked why some of the workers continued to live in these dust covered homesteads and risk contracting dust-related diseases, they responded by explaining to the researchers that the housing allowances paid out by the company to it's employees were so little that it remained difficult for them to look for decent accommodation in the surrounding suburbs where rent is much higher. This mine dust has not only affected human lives but has also made plants unsuitable for animal and livestock consumption. Many of the mine workers also confirmed that, in addition to the dust, there are also large areas covered with tailings, or waste material from gravel after the gold has been extracted, within the mine premises. These areas are not vegetated and also contribute to a large extent the dust pollution.

8.4 Water systems

Freda Rebecca has its tailings dams situated on the mining premises. According to Section 25 (1) of the Mining Regulations (SI 109 of 1990), tailings dams need to be constructed under the supervision of a qualified person and should be inspected every seven days for any collapse or discharge of tailings. However, due to the high costs associated with inspection procedures, inadequate attention is given to inspection procedures. The tailings dams of Freda Rebecca are constructed upstream; the stream is a tributary of the Mazowe River. Should the dam's base lining become permeable to pollutants, it becomes a probable threat to the stability of the local biodiversity that depends on this tributary as a water source.

In Zimbabwe, more than 70 per cent of the rural population relies on underground water as the main source of drinking water and for other household purposes, (ZINWA, 2003). According to legislation, the responsibility of water pollution control has been shifted from the Zimbabwe National Water Authority (ZINWA) to those waste producers through self monitoring. In this case, ZINWA's role has been reduced to that of merely observing whether or not companies comply with the stipulated requirements. Freda Rebecca employs a permanent environmental officer (who at the time of the research had resigned) to monitor its compliance with the environmental Acts and to implement its EIA/ environmental management systems. However, ZINWA pays quarterly or biannual visits to the mine to assess the water quality in the catchment area, as provided for in Section 69 of the Water Act. ZINWA has monitoring boreholes which are located at 10 meters and 100 meters away from the mine's tailings dams to test whether there are any leakages. According to ZINWA's monitoring systems, the results thus far for water contamination have been negative.

Although there has been no evidence of groundwater contamination found by ZINWA's monitoring systems, there have been some informal reports made by local residents (living near the mine) that chemicals discharged from Freda Rebecca's tailings dams often contaminate their water. These claims have been reported at the Natural Resource Offices in Bindura. Local residents have called on the relevant authorities to launch a full-scale investigation into these allegations. Citizens are already advocating that local environmental organisations lobby on their behalf for the mine to accept responsibility and work towards correcting this environmental and health hazard.

The fact that the tailings dams are temporary and thus very difficult to control or stabilise makes them a possible threat when they are not adequately controlled or monitored. Unfortunately, it seems that these tailings dams at Freda Rebecca are poorly managed and have occasional leaks that contaminate the surrounding water systems. For example, the power cut experienced by the mine in 2003 led to the tailings dams leaking chemicals into a neighbouring stream. Fortunately, because the stream was not flowing, the contamination was 'naturally contained/confined'. The mine's relevant personnel were informed about the spillage and they cleaned up the water by applying an antidote, as per the requirements of the Water Act (Chp 20:24) and Section 21 (2) of the Mining Management and Safety Regulations of 1990. After the incident, the mine had to install a generator to prevent any other similar incident.

According to Section 22(1) of the Mining Management and Safety Regulations of 1990, any water containing cyanide should be securely fenced and should not be allowed to leak into either underground water or surface water without being treated. However, at the time the research was carried out, a pond that contained contaminated water with a distinct greenish hue, containing a cyanide solution remained near the employees' houses on the mine premises. This pond is not fenced and there are no security warnings to indicate that the water is contaminated. This is a possible health hazard if not treated with caution. One of the mineworkers informed the researchers that the company used to recycle the water for reuse in some of its mining activities. However, the company had stopped recycling this water (it is most likely that the company could not longer afford to recycle this water) and hence that pond continues to hold stagnant and unused water. In addition, researchers also noticed that there were streams of green water contaminated with cyanide flowing through the mine's premises. This is a violation of Section 22(2) of the Mining Management and Safety Regulations of 1990, which states that no water containing cyanide solution should seep beyond the fenced limits. The responsible authorities at Freda Rebecca have ignored the request made by workers to rectify this problem, citing that that the degree of contamination was minimal and was not a potential health and/or environmental hazard.

8.5 Environmental Impact Assessment (EIA)

The Ministry of Tourism and Environment designed the Environmental Impact Assessment (EIA) policy to prevent environmental degradation which should conform to the international standard of EIAs. The main obstacle in developing environmental legislation in Zimbabwe prior to 2002 was that EIAs were not compulsory when a project needed to be implemented. In other words, a company could produce an EIA on a 'voluntary' basis. However, Part XI of the EMA stipulates that all developmental projects with significant negative environmental impacts should be subject to full EIAs. In this regard, Freda Rebecca produced its EIAs in 1988 and 2003. In these EIAs, the mine clearly outlines its mining activities and the possible positive and negative impacts that these activities may have on the environment. During one of the interviews with senior officials from the Ministry of Natural Resources, the researchers were informed that although the EIA submitted by Freda Rebecca was yet to be completed, the Department of Natural resources was convinced that Freda Rebecca had submitted a fairly satisfactory EIA compared to other submissions made by other mining companies. In 1998, the mine was selected for the Zimbabwe Mines Environmental Conservation's "Most Improved Mine" award for its efforts in nature conservancy, the re-vegetation of waste dumps, and in carrying out environmental awareness programmes. However, the mine pulled out of the 2004 competitions, perhaps due to the fact that the mine management is no longer confident that it might win the award this time around.

8.6 ISO standards

The Standards Association of Zimbabwe (SAZ) is responsible for the issuing of ISO standards, which are voluntarily applied by the companies. ISO standards (i.e. ISO14001) are international standards set to guide companies to comply with internationally-defined environmental management systems. Freda Rebecca is not registered with the SAZ but it adheres to ISO 14001. In this regard, the mine should be acknowledged for making a commendable effort in regards to trying to adhere to internationally set environmental standards. Although the company has faced some problems in terms of managing the environment, especially in managing the leakages of contaminated water, corporate responsibility efforts have recognisable efforts in terms of observing the welfare of the community and managing the environment.

Despite these 'voluntary' attempts shown by Freda Rebecca to protect the environment and local biodiversity, the national environmental legislation is not yet enforceable. The agent responsible for environmental legislation enforcement of transnational companies, the Department of Natural Resources, has not yet been formalised. In essence the act governing the conservation of natural resources is still not able to be implemented as the enforcer is still missing! In addition, this lack of ability to put into effect the legislation has been worsened by the fact that other local environmental institutions are sidelined in the processes of enforcing these determined laws; for example, ZINWA has been sidelined in the issuing of the ISO standards although it is a major player in environmental issues.

Part 9: Social responsibility

There is not much to write about under the category of social responsibility activities that are being carried out by Freda Rebecca. However, this does not mean that the company does not have any significant activities that it is carrying out. It merely means that a lot more can be done by the mine for both its own workers and the locals:

9.1 HIV/AIDS campaigns

Freda Rebecca undertakes HIV/AIDS awareness campaigns through activities such as popular theatre and discussion forums. Many of these campaigns are also held during the health and safety talks that are held every Wednesday before each morning shift. The company also provides its employees with condoms to try and promote the use of protection in order to curb the spread of the pandemic. Some of the workers also remembered that the company used to financially support HIV-positive employees. It helped the employee access anti-retroviral drugs. However, they were quick to point out that, although the spread of the pandemic had significantly increased in the mining community, with many more of the workers likely to be living with HIV/AIDS, very few of them would actually come forward and seek any possible benefits or support from the company. They explained that this was because the stigma against HIV/AIDS was still strong in the mining community, despite the company's HIV/AIDS awareness campaigns and its pledges to support workers living with AIDS.

9.2 Sports and social events

Freda Rebecca grants time for its employees to participate in various sporting activities such as tug-of-war, football, and other activities. Freda Rebecca used to sponsor a company football club but has ceased to do so citing that the company can no longer afford to finance such a club. However, employees have taken over where the company has left off and have continued to participate in the football club via their own resources.

9.3 Support to educational institutions

Questionnaire respondents mentioned that Freda Rebecca helped in financing the construction of a durawall around Chipadze Secondary School (a local secondary school in Bindura). The mine has also assisted in the establishment of a crèche for the employees' children.

9.4 Other responsibilities

Freda Rebecca provides bus service to shuttle employees and their families between the mine and the city centre. The company promotes cultural events as well, through sponsoring dance groups.

Part 10: Conclusion

Freda Rebecca is a transnational company that is operating in one of the most important economic sectors, whilst producing the precious metal, gold. The mine is also in the process of changing ownership, from one regional mining giant to another (from Anglogold Ashanti to Mwana Africa). This change of ownership becomes of great relevance to the Social Observatory Project in that it provides a case study in which the project can observe how different transactional corporations operate the same mine. In addition, it becomes possible to investigate whether transnational companies have a traditional way in which they manage their investments or whether they learn from each other's strengths, weaknesses, successes and failures. The fact that the mine is being purchased by a South African mining company also retains the strength of the project to:

- ??Investigate the economic and social contribution of Freda Rebecca under Anglogold Ashanti (formerly, Ashanti Goldfields) and under Mwana Africa;
- ??To investigate whether the problems and challenges cited in this report (those at Freda Rebecca) will be addressed under the new ownership. For example, Will the workers' welfare improve? Will workers have a voice in the new company? And
- ??To investigate how transnational companies relate to each other.

Freda Rebecca has been operating since April 1988, producing only 10-15,000 ounces of gold. Over the years, the production capacity of the mine has been flourishing as the country's economic performance has been improving. The company's capacity to mine gold increased from 15,000 ounces of gold per annum in 1988 to more than 100,000 ounces of gold by the year 2001. The Ashanti mining group had always given credit to the mine's ability to generate lucrative profits, whilst the economic and political environment was one that offered the required support for any lucrative investment. Unfortunately, the gold mill is no longer churning out as much profit as had been anticipated. This is in addition to the obvious fact that the life span of the mine was estimated to be coming to an end in the next few years; although the life time of the mine has been extended beyond 2005, which was originally thought to be the end of the mine's life span. Unfortunately, the harsh economic environment and the political instability that has characterised Zimbabwe have led to the withdrawal of many foreign investors, including Anglo-American Corporation. However, Zimbabwe's foreign investment's portfolio has changed from British, American and Australian investment to a more regional investment. This perhaps explains the growing interest that South Africa has in investing in Zimbabwe's economic sectors. Therefore, it becomes important to analyse whether regional investors are more apt to accept corporate responsibility as compared to international foreign investors.

The following is a summary of the main findings from the research of Freda Rebecca.

10.1 Company's contribution to the mining sector

Freda Rebecca Gold Mine might be the smallest gold mining operation of the Anglogold Ashanti, but it is one of Zimbabwe's richest gold mines. It also employs a significant number of workers given that there are not more than 45,000 mineworkers in the country who are working in the formal economy. Unfortunately, the total contribution of the mine to the total national gold output has been declining. When the mine began operation, it produced not more than 15,000 ounces of gold, but by 1990, the total output had increased to 74,675 ounces of gold. This had increased to more than 100,000 by 2002. Today, the mine barely produces 7,000 ounces of gold at a total cost of US$ 764 per ounce.

The decline in Freda Rebecca's output was attributed to 'difficult economic conditions in Zimbabwe'. The mine continues to face shortages in essential spares and consumables, while the exchange rate remains unfavourable for gold producers.

10.2 National legislation and the Environment

The mine observes most national legislation. This covers labour legislation, environmental legislation (that is enforceable) and any other relevant legislation such as the Finance Act, Mines and Minerals Act and so on. As far as the environment is concerned, Freda Rebecca has shown commendable efforts, in comparison with other mining companies, in protecting the environment and undertaking environmental awareness campaigns. Under the Anglogold Ashanti, Freda Rebecca was one of the leading mines actively addressing environmental challenges. The mine has won an impressive number of awards under the various national and international environmental competitions and initiatives.

10.3 Labour Standards

Labour legislation:

Freda Rebecca observes the conditions stipulated in the Labour Act. The mine offers the bare minimum labour conditions stipulated in the Act and from the industry's collective bargaining agreement. The mine does not offer anything beyond what is contained in the agreement.

Wages and incomes:

Although the mine observes the various collective bargaining agreements and the Labour Act, the company has not done anything more for the welfare of its employees. Freda Rebecca pays strictly the minimum wage agreed upon at the National Employment Council. The majority of the workers earn a wage below the poverty datum line. It was noted that employees at Freda Rebecca were earning far less than employees at other mines. Although the managerial personnel who are expatriates are paid a lucrative wage (in US$), the managerial staff from the country are also poorly remunerated. The poverty levels amongst the workers continue to rise.

In addition to minimum wages, the miners are paid an underground allowance of 2-5 per cent of their salary. Workers who work during the night shift are also paid a night shift allowance. The nightshift workers used to also receive sugar, tea leaves and milk during their night shifts. However, because the country experienced serious food shortages during the past two to three years, this was scrapped and workers were given *maheu* (a mealie-meal [112] health drink). This beverage plan has since been abandoned with no replacement.

Pensions:

Pension payments are made by NSSA. Unfortunately, the pension schemes offer very little relief to the workers who qualify for them. The monthly payments are feeble and are far below the PDL, while the lump sum pension is not adequate to cater to the financial requirements of any retired employee. For example, the monthly maximum payment contributed towards a funeral of a deceased worker who suffered a work-related death is only US$ 0.53 (R3.75) as a contribution towards funeral expenses.

Training:

The most common type of training offered by the company to employees is on-the-job training and the subjects are usually health and safety issues (see subheading Health and Safety). Not much training, if any, is given to unskilled employees. Freda Rebecca offers training mainly to its skilled employees. Many of the workers have no knowledge about whether or not they are entitled to training or eligible to apply for educational loans and/or grants.

Overall, there has been very little skill and technological transfer from the parent company to Freda Rebecca over the past few years. Any training that is done is done without the consultation of either workers or the union. It remains at the discretion of management. Much of the training has been restricted to in-house training, and mainly on health & safety issues, operating machinery, and the handling of dangerous materials/equipment used at the mine during its mining activities (e.g. explosives). Ashanti Goldfields seems to prefer training more managers in its other subsidiaries, e.g. Obusi Gold Mine (where most of the training programme initiatives have been implemented) compared to Freda Rebecca. This has become more the case since the parent company is seriously considering disposing of its mining interests in Zimbabwe. It seems that company policy is to give higher benefits and support to the mines that are operating profitably.

Health and safety:

The mine has a standing policy on health and safety and on the environment. Freda Rebecca is considered to be leading a good example in terms of observing issues of health and safety at the workplace in the mining industry. The mine was awarded a five star NOSA rating in the year 2000 before this was downgraded to a four-star rating in 2003. There has been an increase in the number of occupational accidents occurring at Freda Rebecca. Between 1996 and 2003, more than 120 accidents have been recorded and reported with the National Social Security Authority

[112] Mealie-meal is a popular maize flour-based drink available in most southern African countries.

(NSSA). Approximately 58 per cent of these cases include 'loss of hearing'. The research also revealed that employees are not provided with all of the adequate protective clothing, for example; safety shoes, overalls, gloves, earplugs, and so on.

Freda Rebecca has a clinic located on the company's premises. It has one resident nurse and medical doctor who attend to sick and/or injured workers on specified days and hours of the week. This clinic is poorly equipped and experiences serious shortages in much-needed drugs. To make matters worse, employees of Freda Rebecca have gone without their medical aid benefits for the past six months.

Work place relations:

The company does have various workplace fora that should deal with the daily challenges of the workplace; there is a Health, Safety and Environmental (SHE) Committee and a Workers Committee. Regrettably, the fact that the mine is located in Bindura, one of the towns characterised by strong political undercurrents, many of the initiatives taken by the trade union are often viewed as politically driven or politically incorrect. However, this does not mean that the management should take advantage of this division. The management needs to engage the relevant governments' authorities and the relevant stakeholders to make sure that political affiliation and opinions do not mark the workplace and tarnish labour relations at Freda Rebecca.

The most commendable aspect of Freda Rebecca is its diligence in trying to positively contribute to the environment. The most problematic aspect is the way the workers at Freda Rebecca are suffering. The company has managed to exclude the workers from the main decision-making processes - processes that affect their daily working lives. This seems to prove that transnational companies feel that they have no social responsibility for the people who work for them.

The extra efforts made by transnational companies in Zimbabwe, especially within the mining industry, seem to be placed in areas were they realise that they might face international scorn, for example focusing on the environment. Very few, if any, of the relevant local stakeholders with any authority are making international investors accountable to the nation regarding technological transfer or corporate responsibility towards employees. It is also imperative that workers within the region fight to at least have minimum standards set across the board within the region on issues such as corporate responsibility, training and technological transfer.

Assessing labour and environmental standards, multinational companies in the mining industry in Africa: the case of the Navachab Gold Mine in Namibia

By Ntwala Mwilima

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Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
BON	Bank of Namibia
CIF	Construction Industries Federation of Namibia
EIA	Environmental Impact Assessment
EMS	Environmental Management System
GDP	Gross Domestic Product
GNP	Gross National Product
HIV	Human Immunodeficiency Virus
ILO	International Labour Organisation
KMCC	Karibib Mining Construction Company
MANWU	Metal and Allied Namibia Worker's Union
MME	Ministry of Mines and Energy
NAU	Namibia Agricultural Union
NAFWU	Namibia Farmworkers Union
NATAU	Namibia Transport and Allied Workers Union
NOSA	National Occupational Safety Association
SWAPO	South West Africa People's Organisation of Namibia

Part 1: Introduction

This research report forms part of the African Social Observatory Project that has been carried out by the members of the African Labour Researchers' Network. This project looks at the performance of multinationals in the mining Industry with regards to the labour and environmental standards. This research report is based on information provided by employees, management and union representatives.

In Namibia, we focused on the Navachab gold mining company which is owned by Anglogold. This company was selected because it is owned. The other reason is that Navachab is the only gold mine in Namibia.

Part 2: Research Methodology

This research report is a compilation of information gathered from interviews with workers, management and workers' representatives using separate questionnaires. The questions used in the workers questionnaire were highly structured whereas the management and workers' representative's questionnaire was based on open ended questions. The workers' questionnaires were highly structured to give a comparable analysis as a fairly large group of workers were interviewed.

From management's side, we interviewed the human resource manager and the projects manager. The industrial relations manager was contacted to provide additional information. A total of 40 workers were interviewed. A group of three workers' representatives were interviewed but they could not provide all the information needed because they had only recently been elected. Thus an interview was arranged with a former workers' representative to provide information that could not be provided by the current workers' representatives.

Part 3: Anglogold operations

Anglogold is the world's largest gold producer, with annual production of some 7.5 million ounces. It was formed in June 1998 through a merger of the gold interests of Anglo American and its associated companies. Anglogold is listed on the Johannesburg, London, New York and Australian stock exchanges and the Brussels and Paris bourses. Its market capitalisation as at 31 December 1999 was R33.8 billion ($5.6 billion), with some 107 million ordinary shares in issue.[113] Anglogold has many operations in Africa with the main head offices based in South Africa. Anglogold holds 100 per cent ownership of all its mines in South Africa and Namibia. Altogether, Anglogold owns 9 gold mines in South Africa exclusively. In the rest of Africa, Anglogold owns 50 per cent of the Geita mine in Tanzania and 40 per cent ownership of Morila, 38 per cent of Sadiola and 40 per cent of the Yetela mine in Mali.

[113] www.anglogold.co.za

3.1 Anglogold in Namibia

In Namibia, Anglogold has exclusive ownership of the Navachab mine, which is an open pit mine located near the town of Karibib. The Navachab gold mine is the only mine which Anglogold owns in Namibia. In Namibia, Anglogold does not have any competitors, as it is the only company mining gold in the country. The Navachad gold deposit was discovered as a result of a geochemical exploration program in 1984. An appraisal was later carried in 1986 followed by a feasibility study in 1987, which led to the decision to proceed with the development of the mine. [114]The first gold bar at the mine was poured in1989. The plant achieved full production in 1990 with the owners being Erongo Exploration and Mining Company (70 per cent), Metal and Mining Company of Canada (20 per cent) and Rand Mines Exploration Company (10 per cent).

Investments:

Anglogold acquired the gold mine in 1997. The gold reserves of the mine were expected to have been exhausted by the year 2003, but plans were set in motion to extend the mine's lifespan to 2013 and beyond as the company reported good prospects at the mine. The plans to extend the life span of the mine were temporally halted in 1999 due to factors such as low gold prices, strained relations with the mine workers union, difficulties in obtaining work permits for senior non-Namibian staff and a delay by the Ministry of Mine and Energy to declare the mine a continuous operation. However, all the mentioned issues were resolved and the mine's operations have been extended to 2013 as requested by Anglogold. After Anglogold obtained permission to extend the mine, the company decided to go the owner mining route[115], which is a process whereby Navachab would now be mining the gold instead of using sub contractors to do the mining. It was envisaged that the company would be investing more than N$ 100 million (about US$ 154 million).[116] During the extended life span, the mine is expected to continue with its current mill throughput of around 1.3 million tonnes a year and its annual production of 80,000 ounces. The gold mined is exported to South Africa where it is refined and combined with the rest of the gold from all Anglogold mines and exported to Europe and America.

Operating results and financial results[117]:

For the quarter ended June 2004, the mine sold 538 kg of gold for N$ 83,549 (US$ 12,854) per kg. Productivity at the mine exceeds the target of 405g per employees and produces at 783g per employee. Income received from the sale of gold during this period amounted to N$ 44 million (US$ 6,7million).

[114] See http://www.namibweb.com/navachab.htm
[115] A process in which the owner company performs the mining activities instead of using subcontractor to do the mining.
[116] Navachab, 2003
[117] See quarterly Report June 2004 at www.anglogoldashanti.com

Part 4: Macroeconomic Environment

[118]Namibia recorded a real Gross Domestic Product (GDP) per capita of N$ 8,351 [119](US$ 1,285) in 2002, which is a slight increase from N$ 8,292 (US$ 1,276) recorded in 2001. The Gross National Income (GNI) per capita increased slightly by 3.7 per cent to N$ 9.760 (US$ 1,502) in 2002 from N$ 9,409 (US$ 1,448) in 2001. The country's average GDP per capita is rated relatively high in Sub-Saharan Africa, thus making Namibia a middle income country (BON, 2003). The income distribution in Namibia is very skewed and this is reflected in a Gini coefficient of 0.7, rated as being among the highest in the world. This indicates that the richest 10 per cent of the population receive 65 per cent of the total income while the remaining 90 per cent share the remaining 35 per cent of the total income (BON, 2002). This points to the fact that there is significant inequality in the distribution of wealth and income in Namibia.

The economy of Namibia depends heavily on the extraction and processing of minerals for export with mining accounting for 13 per cent of GDP in 1999. Regardless of the fact that the mining sector plays a significant role in the country's economy, the sector has experienced a decline in growth over the past few years. This has been as a result of some mining ventures closing down due to diminishing ore reserves and low product prices. The growth of this sector and development is constrained by insufficient investment in mineral exploration (Minerals Policy of Namibia, undated). [120]Diamonds are the most important minerals in Namibia and dominate the mining activities in the country. The poor performance in the mining sector also resulted from a disappointing output in the diamond industry and a fall in gold production. The yield of the diamond industry is estimated to have declined by 10.9 per cent compared to an increase of 4.4 per cent in 2002.[121] Other important mineral resources are Uranium, copper, lead, and zinc. Namibia is also a source of gold, silver, tin, vanadium, semiprecious gemstones, tantalite, phosphate, sulphur and salt.

Income and expenditure[122]:

Wages and salaries make up the main source of income in Namibia. The average cash income per household was reported to be N$ 662 per month per household (US$ 102) while the average expenditure was reported as N$ 462 (US$ 71) per month per household. Thus denoting the national mean expenditure of N$ 462 (US$ 71) as a poverty line, it was concluded that approximately 75.9 per cent of the population were living below the poverty line. [123]The latest Human Development Report shows that more than half (56 per cent) of Namibians live on less than N$ 12 (US$ 2) a day while 35 per cent cannot even scrape US$ 1 together. The report further indicates that a handful of the population continues to generate huge incomes.

[118] See Bank of Namibia Annual report
[119] The Namibia dollar (N$) is pegged to the South African Rand and the exchange rate stood at around US$1=N$6.5 in September 2004.
[120] http://www.nationmaster.com/encyclopedia/Economy-of-Namibia
[121] BON, 2003
[122] See Levels of living survey (1999)
[123] See Article by Tangeni Amupadhi in The Namibian issue of 22 July 2004

Part 5: Labour Legislation in Namibia

Since independence, the government has introduced different laws to regulate labour relations in the country. [124] This includes labour, social security and affirmative action legislation to guarantee the rights of workers and promote the linkage between social progress and economic growth. Furthermore, Namibia has adopted all the ILO core conventions. [125]The SWAPO-led government in Namibia introduced a new Labour Act in 1992 with the main objective of combining labour-related legislation into a single act.

The Labour Act provides for freedom of association and collective bargaining, and prohibits bonded labour. The Labour Act covers all workers in the country and provides for trade union registration, basic conditions of employment, organizational rights, collective agreement registration and settlement of disputes. The Act does not make any provision for national minimum wages and it leaves wage determination to collective bargaining. Since the inception of the Labour Act, there are only two sectors where minimum wages exist. The sectors are:

- The Construction industry where annual negotiations take place between the construction industries Federation of Namibia (CIF) and the Metal and Allied Namibian Workers Union (MANWU);
- The agricultural sector where minimum wage was instigated in April 2003 after an agreement between the Farm workers union (NAFWU) and the Namibia Agricultural Union (NAU);
- Currently, the Namibian Transport and Allied Workers Union (NATAU) is negotiating a minimum National wage for security guards with the hope of concluding the negotiations before the end of 2004.[126]

Workers in well organised sectors have experienced a significant improvement since the inception of the Labour Act of 1992 compared to the colonial labour legislation. The workers within these sectors enjoy the basic labour and trade union rights and usually improve their conditions of employment through collective bargaining. However, workers in other poorly organized sectors still experience poor conditions of employment.

Labour Bill: Due to some shortcomings identified in the Labour Act of 1992, it was agreed that a new labour bill should be prepared. The identified shortcomings in the Labour Act were the dispute resolution mechanisms and also the fact that the labour act was drafted in a legal language that made it very difficult to understand for non-lawyers. The new Labour Bill is expected to be passed before the end of 2004.

The Social Security Act of 1994: Social security is a form of general protection for people who are employed. It protects people who are working against loss of income, if they are sick, pregnant, or injured. It also assists the families of working people if they die. The Social Security Act applies in relation to employers, including the state and every employee in

[124] See report by U.S. Department of Labour Bureau of International Labour Affairs and U.S. Embassy
[125] See Jauch, 2004
[126] Jauch, 2004

Namibia. This act provides for maternity leave, sick leave and death benefit funds. The establishment of a national pension fund is envisaged in the near future.[127]

Affirmative Action (Employment) Act of 1998: Affirmative (Employment) Action seeks to secure equal employment opportunities for all Namibians. In other words, it seeks to ensure that all Namibians have an equal chance of being appointed to a post and get promotion thereafter. The act places responsibility on employers with 50 or more employees to redress some of the effects of past discriminatory practices. In most of Namibia's workplaces, the effects of past discriminatory practices are still clearly visible and the Act provides for the preferential treatment of black Namibians, women, and people with disabilities.[128]

ILO conventions:

After independence, Namibia ratified nearly all the core ILO conventions except for Convention No. 100 on equal remuneration. The main reasons for not ratifying this convention were that some national laws are not yet in compliance with this convention and will have to be amended before the convention can be ratified. All the conventions ratified by the Namibian government are reflected in the provisions of the Labour Act and are also expressed in several other areas of policies that have been introduced by government

Table on ILO conventions ratified by Namibia

ILO core convention	Year of ratification
Forced Labour Convention (C.29 of 1930)	15/11/2000
Freedom of association and protection of the right to organize Convention (C. 87 of 1948)	03/07/96
Right to organize and collective bargaining (C.98 of 1949)	3/1/95
Abolition of forced labour Convention (C.105 of 1957	15/11/2000
Discrimination (Employment and Occupation) Convention (C. 111 of 1958)	13/11/2001
Minimum age convention (C. 138 of 1973)	15/11/2000
Tripartite Consultation (International Labour Standards) Convention (C. 144 of 1976)	3/1/95
Labour Administration Convention (C. 150 of 1978)	28/08/96
Termination of employment Convention (. 158 of 1982)	28.06/96
Worst Forms of Child Labour Convention (C. 182 of 1999)	15.11.2000

See ILO lists of ratifications by convention and by country

Part 6: Minerals legislation overview[129]

The Minerals (Prospecting and Mining) Act of 1992 regulates the mining industry in the country. The policy is intended to facilitate and encourage the private sector to evaluate and develop mineral resources in the country. All mineral rights are vested in the state in Namibia. The Mining Rights and Mineral Resources division in the Directorate of Mining handle all

[127] Jauch, 2004
[128] Jauch, 2004
[129] See http://www.economist.com.na/2001/200701/story21.htm

applications for, and allocation of, mineral rights in Namibia. There are different types of mining and prospecting licenses that are issued in Namibia.

?? The Non Exclusive Prospecting License is valid for 12 months and permits prospecting non-exclusively in any open ground not restricted by other mineral rights;
?? The Reconnaissance License allows regional remote sensing techniques, and is valid for 6 months and can only be renewed under special circumstances;
?? Exclusive Prospecting License – Individual EPLs can cover areas not exceeding 1000 square kilometres and are valid for three years, with two renewals of two years each. Two or more of the EPLs can be issued for more than one mineral in the same year; and
?? Mineral Deposit Retention Licenses (MDRL) – Such licenses allow successful prospectors to retain rights to mineral deposits that are uneconomical to exploit immediately. These licenses are valid up to five years and can be renewed subject to incomplete work and expenditure obligations. Mining Licenses can be awarded to Namibian citizens and companies registered in Namibia. They are valid for the life of mine or an initial 25 years and can be renewable up to 15 years at a time. All applicants are required to complete an environmental contract with the Department of Environment and Tourism. Environmental impact assessments must be made with respect to air pollution, dust degeneration, water supply, drainage/waste water disposal, land disturbance and protection of flora and fauna.

Part 7: Employment trends

The labour force participation rate for Namibia is 54 per cent. The rate is higher for males (62 per cent) compared to that of females (47 per cent). During 2000, the unemployment rate was estimated to be 33.8 per cent (LFS, 2000). Most Namibians seeking jobs in the formal sector are held back due to a lack of necessary skills or training.

Employment comparison by industry[130]

Industry	**1997**	**2000**	**percentage change**
Agriculture	146,899	126,459	-14%
Fishing	6,771	7,800	15%
Mining & Quarrying	6,592	3,868	- 41%
Manufacturing	25,983	22,922	- 12%
Elect, gas & water supply	4,576	4,193	- 8%
Construction	19,801	21,788	10%
Wholesale & retail trade, repair of motor vehicle	33,815	38,902	15%
Hotels and restaurants	2,988	7,677	157%
Transport, storage & communication	13,480	14,308	6%
Financial intermediation	7,817	4,933	- 37%
Real estate, renting and business activities	20,244	39,318	94%
Public administration, Defence and social security	22,029	24,419	11%
Education	24,023	30,538	27%
Health & social work	10,922	13,135	20%

130 Labour Force Survey: 1997 & 2000

Other community, social & personal services	24,518	46,289	89%
Private households with employed persons	28,547	22,209	- 22%
Extra-territorial organisations & bodies	229	327	43%

The mining sector experienced severe contraction in employment over the years. During the periods of 1997 and 2000 the mining sector reduced its workforce by over 40 per cent (from 6592 in 1997 to 3868 in 2000) (Labour Force Survey 1997 & 2000). However due to the plans to extend the life span of the Navachab mine and the mine starting with "owner mining", permanent employment has increased at the mine. During the time of the study (July 2004) there were many employees being recruited as permanent staff to begin work at the mine; the whole recruitment process started at the beginning of 2004. The company reported that there would be 120 vacancies created. All of the vacancies created were advertised internally and Navachab mine employees and Karibib Mining Construction Company (KMCC) employees were given first consideration.

The statistics obtained from the HR manager indicated that in 2004 the company employed 225 permanent workers, 56 casual workers and only 5 subcontract workers. More than half (56 per cent) of the employees at the mine are production personnel, followed by professionals (10 per cent). Only about 7 per cent of the employees are highly skilled, in management and skilled artisans, while 5 per cent are unskilled personnel. The whole process of owner mining has resulted in a shift in employment. The company now employed more people on as permanent staff compared to subcontractors. As can be observed from the low number of people employed, the mining industry is capital intensive, thus employing less people while machines do the rest of the work.

Total number of people employed[131]

Job categories	Total number of people employed
Senior management	16
Middle management	26
Specialised/skilled/senior supervisory	34
Skilled	98
Semi-skilled	39
Unskilled	12
Casual	56
Subcontracted	5
Total	286

Restructuring and Subcontractors:

Prior to the extension of the mine's life span, the mine relied heavily on subcontractors to carry out the mining activities at the Navachab. The company used the Karibib Mining and Construction Company (KMCC) (Pty) Ltd, subcontractors to do the mining. Under the contract, the subcontractors mined about 3,6 million tonnes per year. From the beginning, the company had

[131] Human Resources statistics

plans to go to owner mining at some point. After the decision was taken to extend the mine's life span, the company conducted an in-depth feasibility study that included technical, financial, human resources aspects and a lengthy process, and also resulted in the formation of a mining department. The owner mining process began at the end of 2003 after the contract with the Karibib Mining Subcontractors came to an end. The maintenance of the equipment will be outsourced and the suppliers of the equipment will run the maintenance system.[132]

Part 8: Child labour

As reported earlier, Namibia has ratified all ILO conventions including convention 138 concerning the minimum age. In addition, Namibian law prohibits the employment of children under the age of 14 years old. This age restriction is higher for night work and certain sectors, including the mining and construction industry. The Namibia Child Activities survey in 1999 reported that there were 444,751 children aged between 6 to 18 in the country, of whom 72,405 worked. The investigations at the Navachab mine revealed that the company did not employ any children and neither did the company engage in forced labour.

Part 9: Unionisation, labour relations and workers' rights

The Namibian Constitution provides for freedom of association which includes freedom to form and join a trade union. All industries in Namibia are unionised; but some industries have higher unionisation rates than other. The mining industry has the highest union densities in the country. The table below on estimated unionisation rates indicates that 83 per cent of all mineworkers were unionised during the time of the survey. The table below shows the union densities of the mining industry and other industries in economy.

Estimated unionization Rates (Based on figures provided by trade unions)[133]

Industry	**Approximate numbers of employees**	**Estimated unionisation rate** (signed up members)
Agriculture	29 200	9 000 (31%)
Manufacturing, Building and Construction	28 900	10 500 (36%)
Mining & Energy	4 800	4 000 (83%)
Food, Fishing, Wholesale, Retail and Hospitality	34 000	22 000 (65%)
Textile	9 000	6000 (67%)
Public Service, parastatals and Municipalities (excluding army, police and teachers)	80 000	60 000 (75%)
Teachers	15 000	12 000 (80%)
Domestic Work (private household)	17 900	3 500 (20%)
Banking, insurance, Real Estate and Business Services	24 000	4 500 (19%)
Transport, Communication and Security	12 000	3 000 (25%)
Other	22 700	6 000 (26%)

[132] Navacab mine, 2003
[133] LaRRI 1999; Labour Force Survey 1997 & 2000; Updates from trade unions

Total	**277 500**	**140 700 (50.7%)**

Freedom of association:

The majority of the workers (more than 70 per cent) at the mine belong to a trade union and the Mineworkers Union of Namibia (MUN) is the sole union at the mine. MUN is an affiliate of the National Union of Namibian Workers (NUNW). Currently, the mineworkers' union is the only union organising within the mining industry. This explains why all the workers at the mine are members of MUN. MUN has had a recognition agreement with the company since 1990, before Anglogold obtained ownership of the mine. The majority of all workers in unskilled to specialised skills job category are members of the union.

Workers at the mine indicated that they are free to join the union without fear of any discouragement and discrimination from management. The union and the mine entered into an agreement that allowed the workers to elect a permanent union representative at the mine. The conditions under which the union representative was to be elected required that he/she had been in the employment of the company for at least three years and that such person has been a member of the union for at least a period of one year. The company deducts union fees directly from the union members' salaries and pays it in to the union account. At the mine, workers' representatives meet with the workers once a month. Likewise, they meet management on a monthly basis. Current issues that affect both parties are discussed at these meetings. After these meetings, the workers' representatives also meet with the workers to report back and also to give workers a chance to raise new issues affecting them. The union representatives have access to the mine and have the freedom to distribute information to the workers. At the mine, union representatives have the freedom to distribute information to their members as long as they have informed management prior to doing so. The union representatives reported that they did not have access to information needed for negotiations when this information was requested from the company. Both management and the workers' representatives reported having a good relationship and understanding that they had created over the last couple of years.

Industrial strikes:

In Namibia almost all workers enjoy the right to strike once conciliation procedures have been exhausted and 48-hour notice has been given to the employer and labour commissioner. However, workers providing essential services such as jobs related to public health and safety may not strike. The labour laws protect workers from dismissal while they are engaged in a legal strike. The industrial relations at the mine has improved quite remarkably compared to 1999 when the company halted plans to extend the mine's activities due to sour relations between the company and the union.

One of the two issues that contributed to the sour relations between the two parties was the ongoing dispute between the union and the company to allow the workers to work on Sundays, public holidays and night shifts. The other contention issues were unhealthy working conditions at the mill. The union objected to the mine being declared a continuous operation unless Anglogold ensured that employees required to work on Sunday or on a public holiday were remunerated as stipulated in the Labour Act.

The respondents were asked different questions with regards to industrial strikes at the mine since 1999. Most of the workers indicated that there had been strikes. The human resources manager confirmed that there had been two strikes at the mine and the main reasons for the strikes were differences on substantive issues. In 1999, the workers at the gold mine occupied the control room at the ore mill and shut down production to protest against extreme heat and shortage of oxygen in the plant. The strike broke out after a meeting was held about the safety at the mine, but the results failed to satisfy the workers. They felt that their health was at risk by performing maintenance work in the mill.

The mine management objected to the shutting down of the mill, disregarding an agreement between the mine and the union. The agreement gave the workers the right to leave the workplace if they believed that their safety was threatened. This dispute was finally resolved when workers reached a compromise with management as workers were allowed to set up an independent panel of experts to investigate whether there were unacceptable risks at the mill. [134]The strike led to Navachab losing 42 Kg of gold production valued at N$ 2,8 million.

Part 10: Wages, benefits and working conditions

The mining industry in Namibia does not have a minimum wage, thus wages within the industry are negotiated at company level. According to the union representatives, there are no differences with regards to salaries for the workers doing the same kind of job depending on the basis of employment. Casual workers earn N$ 6.00 per hour while temporal workers earn the same rate as the permanent employees would earn in that particular job. The subcontractors are covered by an agreement between Karibib Mining & Construction Company and MUN. This agreement covers the terms of employment for all subcontractors.

Wages and benefits for all permanent employees who are covered by the substantive agreement are negotiated on an annual basis. During the periods of 2002 – 2004 the annual increase negotiated was ten per cent for 2003 and nine per cent for 2004. The ten per cent increase is the highest increase negotiated since1999 at the mine. The table below shows the salaries of all employees at the mine in the different job grades.

Basic monthly rate of pay for 2003[135]

Job grade	Percentage Increase	Pay with effect from 01/07/04 (N$)	Pay with effect from 01/07/04 in US dollars
A1	10	2833	436
A2	10	3216	495
A3	10	3580	551
B1	10	4040	622
B2	10	4831	743
B3	10	5686	875
B4	10	6839	1052
C1	10	8056	1240

[134] See Namibian, April 23 1999
[135] Substantive agreement of 2003 & 04

Benefits:

All the permanent employees of the mine enjoy a variety of fringe benefits. These Include:

- Provident/pension fund;
- Medical aid;
- Interest-free loans;
- Employee assistance fund;
- Transportation;
- Subsidy for school fees for employee's children;
- Paid annual leave;
- Paid sick leave;
- Housing subsidy or housing allowance;
- Incentives bonus;
- Severance pay; and
- Paid maternity leave.

The company has a staff loan scheme from which the workers can borrow an amount of N$ 550 (US$ 85) per month. The workers can also access money from their pension fund. The company has an employee assistance fund which the permanent employees can use to study any course of their choice. Upon completion of the course, and if the course is passed, the employee gets 87.5 per cent of the costs back. The company offers boarding assistance to all their employees' children amounting to N$ 240 (US$ 37) per month per child which is limited to N$ 3000 (US$ 462) per family per annum. The respondents were asked whether there were any differences in the benefits received by employees based on the employment status. The majority of the respondents (65 per cent) indicated that there were indeed differences in benefits received by full-time permanent employees and casual employees. Temporal workers who work more than 2 days do not receive medical aid or receive benefits such as pension fund, transportation or housing allowances. Casual workers receive their pension fund money directly from the company. Below is a table on the housing allowance received by workers who do not live in company houses.

Housing allowance for 2004[136]

Job grade	Marital status	Allowance in N$	Allowance in US$
A Band	Single	826	127
A Band	Married	964	148
B1 - B2 Band	Single	1037	160
B1 - B2 Band	Married	1101	169
B3 - B4 Band	Single	1480	228
B3 - B4 Band	Married	1546	238
C Band		1792	276

During the study (July 2004) the company was building more houses for its employees.

[136] Substantive agreements of 2003 & 04

Working hours:

All working conditions are covered by the collective agreement signed between the union and the company. The law specifies 45 hours as the legal maximum regular working time per week. If a company requires its workers to perform work on Sundays, then the company has to apply to the Ministry of Labour to be granted permission and the workers should be in agreement as well. The law allows for no more than 10 hours per week of overtime. The study revealed that the company adhered to the labour law with regards to keeping the prescribed working hours. Office workers worked from eight in the morning to five in the afternoon and some of the shift workers worked a nine-hour shift whilst others worked eight-hour shifts over a period of eight weeks. Workers at the mine from A2-C1job grades get 34 calendar leave days whereas employees from C1 and above get 39 calendar leave days. All workers could work no more than 10 hours of overtime per week and the overtime had to be authorized by the company. Overtime at the mine was performed on a voluntary basis.

Training:

The company has a training policy. Most of the employees at the mine had received some kind of training since they had started working. Workers, management and the shop stewards indicated that the company offered training to all workers in their respective fields. Training on safety and health was given to all workers. The company either decided on training or the workers could apply for training. The company's decision with regards to training was based on training assessments findings from the different heads of departments.

Part 11: Occupational health and safety

Under the Labour Act of 1992, employers have a duty to take all precautions to ensure the safety, health and welfare of employees at work. This includes having a safety plan, proper training in safety procedures and information on how to protect oneself. The company regards health and safety as very important. A health and safety policy was formulated to act as a guideline for the health and safety activities of the company. The policy makes provision for the establishment of a health and safety committee with members from the different departments. [137]The projects manager stated that training was provided to all employees at the mine on health and safety issues. The company conducts an induction training for all employees on an annual basis. When an employee has been on annual leave, the company makes sure that this specific employee receives an induction session before he/she returns to work. All workers are required by the company to put on protective clothing on the mining site which is provided by the company. In an interview with the mine's projects manager, it was confirmed that the mine has a company policy on health and safety and a copy of the policy was made available. It sets out the following objectives:

[137] Interview with Ralf Schommarz, Navachab's project manager on Health and safety and environmental issues at the mine.

Navachab Gold Mine Health and Safety Policy Statement

?? Provide a working environment that is conducive to health and safety
?? Place manage of occupational safety and health as a prime responsibility of line management through to the first line supervisory level
?? Obtain employee involvement in the implementation of the policy
?? Provide all necessary resources to enable compliance with this policy
?? Comply with all relevant laws, regulations and standards. In the absence of appropriate legislation NOSA standards will be adopted.
?? Adopt a zero tolerance approach to the implementation of standards and procedures
?? Implement the NOSA health and safety management system
?? Conduct the necessary risk assessments to minimise and control occupational hazards
?? Promote initiatives to continuously reduce the safety and health risks associated with the operational activities
?? Maintain the objectives of zero lost time injuries and measure the company's performance against this
?? Monitor the effects of the company's operational activities on the safety and health of employees
?? Provide the necessary personal protective equipment
?? Establish and maintain a system of medical surveillance for all employees
?? Communicate openly on safety and health issues with employees and other stakeholders
?? Ensure that employees at all levels receive appropriate training and are competent to carry out duties and responsibilities
?? Requires contractors to comply with this policy
?? Run as in-house safety competition to promote safety awareness and to monitor and enable continuous improvements in safety[138]

Work-related accidents:

The projects manager reported that there had been accidents at the mine in the past three years. During 2004, there had only been two "lost time "incidents at the mine compared to 6 incidents from the previous year. Lost time means that a worker injured at work could not come to work due to the injury. All minor injuries are treated at the mine site where there is a clinic with a registered nurse attending to the employees.

Part 12: Environmental Impact of Gold mining

The Minerals (Prospecting and Mining) Act of 1992 specifies that any application for a mining license must be accompanied by an environmental impact study and management plan or programme. On completion of prospecting and at the closure of operations, the government requires mining companies to rehabilitate the environment to an acceptable state. The law pays

[138] Navachab's Health and Safety policy

special attention to re-vegetation and control and protection of mined-out areas and materials dumps. Special care is also taken to avoid any contamination of ground water on both site and off site.[139]

The Navachab gold mine is an open pit mine that is located ten kilometers from the town itself. According to the projects manager, the most visible impact of the mine on the environment is the hole that has been made in the mine. The less visible impacts of the mine are the waste rock dumps, which the mine rehabilitates. During the process of extracting the gold, the residue is pumped for a distance of 3,5 kilometres to a slimes dam. A floating return water station is employed at the mine to recover up to 50 per cent of the water to the treatment plant.

Environmental awareness at the mine is addressed from an employer and subcontractors perspective by both parties giving reports of all environmental incidents using the Navachab Mine initial incident report. All incidents in [140]category 1 are reported immediately (within eight hours) to the head of the East and West African region and the environmental manager. [141]Category 2 incidents are reported as soon as possible, as is practically possible (within 24 hours) to the environmental manager – East and West African regions. Currently, there are no legal requirements on this value-adding industry for the submission and approval of Environmental Impact Assessment (EISs) and Environmental Management Programme Reports (EMPRs). (MME; Undated).

The use of cyanide at the mine:

The mine uses cyanide to extract gold from the rocks. This chemical is dangerous and thus proper handling is required. Due to the nature of the chemical, the company has very stringent measures and compliance rules that it must adhere to. Navachab subscribes to the international Cyanide Management code whose objectives are to "protect workers, communities and the environment from adverse effects of cyanide". The code requires that this is done through development and implementation of decommissioning plans from cyanide facilities. The projects manager reported that the company just recently underwent an international cyanide audit for compliance. The audit covered areas with regards to where the mine bought the cyanide, how the cyanide was transported to the site, how the mine stores the cyanide and the preparation of cyanide in the plant.

Effects of cyanide:

If a person inhales cyanide fumes the result is suffocation. If cyanide leaks into the underground water, the effects can be devastating. According to the project manager, the mine has taken certain precautions with regards to cyanide and the effects it has on both the environment and on people. The mine offers training on cyanide to all employees who must work with the chemical. The employees are trained on how to diagnose the signs of a cyanide poisoned victim and how to

[139] Shekarchi, undated

[140] An incident resulting in a breach of license or environmental regulations or standards, or which is reportable to the government by law or other statute because it is caused or has the potential to cause significant environmental harm or injury to people or animals.

[141] An incidence with potential to breach license conditions or environmental regulations or standards and which is not reportable to the government and/or does not have potential to cause significant environmental harm to injury to people or animals.

help such a person. There is also a clinic at the mine run by a registered nurse who can handle more severe cases. Water at the mine is sampled regularly. The mine, through its environmental policy has made provision for annual impact environmental assessments to monitor the impact of the mine. In brief, the EIA is an evaluation of the effects any change in activities will have on the environment.

Navachab's Environmental policy[142]:

The company policy is guided by the company's eagerness to preserve the natural environment while at the same time increasing the wealth of its employees in the region and the country at large. To achieve this, Navachab aims to:

- Obtain a return on their investment in such a way that they disturb the environment as little as possible
- Make use of the generally accepted and proven technology, where possible, throughout the life of the mine
- Give priority to their standard of safety and good housekeeping in all their operations
- Give due considerations to the needs of the community
- Use resources effectively and minimise waste
- Implement a responsive Environmental Management System
- Ensure that all their contractors comply with the requirements of their Environmental Management System
- Comply with all relevant legislation
- Deal with redundant infrastructure in a manner prescribed by law

Outlined below are activities carried out by the company with regards to maintaining the environment at and around the mine.

Community: Since 1995, nine meetings have been convened to which interested and affected parties were invited. Parties were informed on policies, activities and monitoring programmes and comments and criticism were invited.

Open pit: The Company carries out regular planned safety related task observations that are done on different activities. The slope stability monitoring is done at regular intervals. Full survey cycles that include the surveying of all monitoring beacons and points are done on a six monthly basis and the surveying of critical points is done weekly on the eastern wall and monthly on the western wall. After each blast survey monitoring is done prior to entering the pit again.

Rock dumps: Rock waste dumps are monitored continuously. As faces reach their final positions the slopes are covered with soft soil material and are graded to a slope of less than 18 degrees to facilitate the growth of natural vegetation and minimise erosion.

Treatment plant: The consumption of energy, water and reagents is monitored continuously as optimal consumption makes environmental as well as economic sense. The regular content of the slime is monitored with special emphasis on cyanide.

[142] Annual Environmental report 2003 of Navachab Gold mine

Slimes and disposal system: The slimes dam is managed and monitored continuously in respect of deposition, return water, dam maintenance and stability. An audit of the dam is done on a six monthly basis by head office consultants. To date, no serious problems have been identified.

The mine is currently not ISO 1400 accredited but it was reported that the current EMS system (Environmental Management System) established by the mine is based on these standards. Each site activity manager is assigned a list of individual policies and procedures that includes management policies, monitoring policies, activity procedures, mining department, ore processing department and mineral resources department. The last external environmental audit was conducted in June 2002, and no other audit has been conducted since with the change to owner mining

Part 13: Corporate social responsibility of mining companies

The Ministry of Mines and Energy recognises that there is an unequal and unfair distribution of income and benefits in the mineral sector between communities and the mining companies. Thus the Ministry incorporated an opportunity for engagement in the minerals policy that promotes the social responsibility of mining companies to their communities. This process encourages the formation of joint ventures; preference being given to locals when it comes to job allocation and tenders; and the disadvantaged people being assisted by a transparent and enabling environment (MME, Undated). Navachab has shown commitment to improving both the community and the lives of the people in Karibib. According to the company it has built constructive relationships with the local communities and has undertaken community projects in conjunction with the Karibib municipality. In 2001, the Anglogold Fund sponsored the construction of five fully-equipped classrooms at the Ebenhaeser primary school. The mine also gives donations to the youth groups, soup kitchens, churches and supports community projects. The mine has plans to have a gardening project for both Usakos and Karibib which will involve buying seeds, shade nets, equipment, and provide relevant agricultural training to the people who will be involved in the project.

Part 14: Affirmative action

The company has been identified as a 'relevant employer'[143] according to the Affirmative Action (Employment) Act of 1998. So far, the company has developed an Affirmative Action policy and submitted reports to the Employment Equity commission. The latest report shows that the senior management category is still dominated by white males compared to only four black males, middle management is dominated by black males (7), followed by white males (3) and black females (2) and only 1 white female. This indicates that company has not made much progress in achieving the objectives of Affirmative Action. Mining is a male dominated industry, thus there are very few females employed in the industry compared to males. This trend is very visible at the mine as there are very few females employed, especially in the technical areas. The company employs two expatriates and has also appointed two national understudies who are receiving training to take over from the non-Namibians in the future.

[143] The Namibian Law defines a "Relevant employer as an employer who employ 50 or more employees".

Part 15: HIV/AIDS

In Namibia, there is a general awareness and openness about HIV/AIDS issues. Large companies like Navachab Gold mine are addressing this issue in the workplace. At present, there is no overall national policy on HIV/AIDS. The Minister of Labour issued the guidelines for the implementation of the National Code on HIV/AIDS in Employment under the Labour Act in 1998. It was hoped that the code would address most of the issues relating to HIV/AIDS in the workplace and to prevent new infections while providing the best care and support for people in the workforce.[144]

Navachab Gold mine has a policy on HIV/AIDS. The company is dedicated to improving and maintaining the health of its workforce. The company's commitment towards the health of its workers can be observed in its provision of 100 per cent medical aid to all its permanent employees. The company provides anti-retroviral drugs to all HIV-infected employees. The company has a clinic at the mining site with a registered nurse who has received training in treating HIV-infected people. Furthermore, the respondents indicated that the policy protected infected people by:

- Discouraging and prohibiting any form of discrimination against infected people;
- Promoting confidentiality of HIV/AIDS status;
- Making provision for setting up vocational and counselling and testing centres at the mine; and
- Providing Anti-retroviral drugs to infected workers

Navachab Gold mine became the second mining company in Namibia to provide anti-retroviral drugs to its employees. This effort prompted the Namibian mining industry to negotiate with Anglogold to help the other mining companies to import cheap drugs for their employees as well.

Part 16: Mine closure plan [145]

Regardless of the fact that the mine has made plans to extend the lifespan of the mine for much longer, the mine has prepared a closure plan of the mine should the mine close. The closure plan is updated on a regular basis because the longer the mine stays operational, the more issues need to be incorporated into the report. The social aspects of the mine take cognisance of the fact that the mine is a major employer in the area and the opening of the mine led to many businesses developing in the area, all of which depend on the patronage of the mine. It is on this premise that the mine realises that the closure of the mine would lead to major impacts upon viability of those businesses if appropriate planning and alternative development were not developed and implemented by the relevant stakeholders. Some of the existing commitments made by the mine are:

- To assist the Karibib Private school in establishing itself as an independent financial institution by the year 2005;

[144] Aids Law Unit, 2004

[145] Navachab mine Closure Plan, version 2a, May 2003

- ?? To assist employee with practical training or tertiary education to obtain the necessary skills to compete on the open job market;
- ?? To establish a home ownership scheme or sell mine houses before closure; and
- ?? To make the sports club financially independent of the mine so that it can be sold off to a private enterprise.

Some of the ideas that the company has for creating new job opportunities and businesses are the provision of "seed capital" and skills training with the development of date and nut farms using some of the infrastructure that will be left by the mine. As the mine closure is still not yet finalized, these ideas will still need to be explored along with the checking of possible mine markets to which goods produced by these initiatives can be sold. The company realises that the positive contribution of the mine to the local economy and social infrastructure since its inception has brought about "an air of complacency and refusal" to believe that the mine will close. It is anticipated that this comfort zone will however change once closure of the mine becomes a reality. The mine has formed committees that will be involved in the discussions and negotiations of the mine closure with the relevant stakeholders. A final main closure plan will only be possible once the mine has made a decision as to when the mine should be closed. At the moment, the mine extended its lifespan until 2013, but there are plans to still extend the mine's lifespan beyond this period.

Part 17: Conclusion

This report is based on information obtained from management, shop stewards and the workers at Navachab. The main aim of the research was to find out the working conditions, health and safety issues and the impact of the mine on the environment, thus all this is outlined in the report. From the research findings, it can be concluded that Navachab workers enjoy basic working conditions as stipulated in the Labour Act of 1992. The company also appears to adhere to adequate health and safety and environmental standards at the mine.

The research could not find any hostility or antagonism between management and the union. According to both management and union representatives the peaceful state of affairs at the mine was a result of good communication between the parties involved. Communication between workers and management is facilitated by shop stewards who meet with management every month. The meetings between management and the workers' representatives play a big role in facilitating communication and avoiding disputes at the mine as there is a platform to discuss problems that affect the parties.

However, the knowledge of workers and union representatives on the contents of the company's policies was disappointing, as most of them appear unfamiliar with the specifics in the policies. This could disadvantage workers as the company could get away with violating their own policies and the workers would not even know or be able to challenge the company. Nonetheless, in short, the company needs to be commended for providing better working conditions for its workers and be used as an example in the mining industry.

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Assessing labour and environmental standards in South African multinational companies in the mining industry in Africa: the case study of Geita Gold Mining Company Ltd

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Editor's Notes

This paper is controversial as Anglogold disputed both the research methodology and the validity of the findings. The research methodology (section 1.3 below) confirms the methodology used to collect primary data and raises the concerns that workers had in participating in the study.

As with all the papers in this book, a draft of this paper was sent to Anglogold Ashanti corporate office in South Africa to allow management the opportunity to comment on the findings. Management complied and their response (annexure 1) was sent to the researcher who did further follow up and requested more information. A meeting was then held with Anglogold in South Africa where discussion was held that included, amongst others, the validity of some of the research findings and management's response to these findings. It was agreed that the final onus of evidence would lie with management where they disputed certain issues raised in the paper. This could be done for example, through the provision of copies of contracts, environmental test results, sections of the legislation that they believed were not considered by the researcher, etc. The second response (attached as annexure 2) was also taken into consideration when finalising this paper.

Abbreviations

ILO	International Labour Organisation
GGM	Geita Gold Mine
RAM	Rapid Assessment Methodology
TAMICO	Tanzania Mining and Construction Workers Union
GDP	Gross Domestic Product
US$	United States Dollar
ERP	Economic Recovery Programme
WB	World Bank
T.shs	Tanzania Shillings
TFL	Tanzania Federation Labour
NUTA	National Union of Tanganyika Workers
OTTU	Organisation of Tanzania Trade Union
JUWATA	Jumuiya ya Wafanyakazi Tanzania (Organisation of Tanzania Trade Union)
NEMC	National Environmental Management Council
TUCTA	Trade Union Congress of Tanzania
WRC	Workers Representative Committee
AMREF	African Medical Research Foundation
HIV	Human Immunodeficiency Virus
AIDS	Acquired Immune Deficiency Syndrome
NSSF	National Social Security Fund
Oz	Ounces
M	Millions

Part 1: Introduction

1.1 Why Geita Gold Mining Ltd (GGM) was chosen

GGM is one of many private foreign investors that have demonstrated new patterns of work arrangements with most of its operations being subcontracted to small companies. This makes the recruitment of workers by trade unions difficult, hence it is perceived by the union as having an anti-trade union attitude. This is evident from the code of conduct and access agreement signed with the union, conduct of the local HR management, and more generally the difficulties experience by the union.

1.2 The sector of the economy in which Geita Gold Mining Ltd operates

The mining sector is one of Tanzania's major economic sectors. The country depends on the sector to earn foreign currency and for more general economic development. The mining sector in Tanzania offers many opportunities for employment and is expected, within the next twenty five to thirty years, to grow and contribute at least 10 per cent to the GDP.[146]

Mining of gold, gemstones, coal, and base materials provides huge opportunities for Tanzania. For many years small outputs of alluvial gold were mined unofficially and then smuggled out of the country. This is changing, as the country is fast becoming a significant gold producer.

Large-scale investment in gold has already begun. The first of these mines began producing gold in November 1998 and is operated by Resolute of Australia and Ashanti Goldfields (that took over the interest of SAMAX). In mid 2000, Suttom Resources opened its gold mine at Bulyanhulu (the largest in East Africa). Ashanti Goldfields' mine at Geita started its operation in 1999. Soon thereafter another mine in Musoma started gold production. By the end of 2002, Tanzania was expected to produce more than 900,000 ounces of gold a year, contributing over US$ 200 million to Tanzania's exports. It is likely that Tanzania will be producing more than 1,500,000 ounces by the middle of the decade. More recently, international mining groups have been exploring a greenstone belt near Lake Victoria and have discovered substantial deposits.

Other than gold, the largest mining potential in Tanzania includes the Kabanga nickel deposit, large coal reserves in the Ruhuhu area, and the iron reserves in nearby Liganga. These deposits are attracting some of the largest mining houses from around the world. Other major investors in the mining sector include Barrick Gold Corporation (USA), Pangea Goldfields (Canada) and Anglogold Ashanti (SA) for gold; De Beers (SA) for diamonds; and Anglo American (SA) for nickel and cobalt.

The Tanzanian government, having realized the huge potential of the mining industry, has taken a number of measures to encourage mining activities. These include the passing of the new Mining Act in April 1998, the revising of tax structures, the adoption of a new mining policy, and adding emphasis on the marketing of Tanzania's mineral potential.

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[146] National Mining Policy 1997

The main aim of the new policy adopted in 1997 was to clearly define the roles of the Government, large-scale and small-scale miners in the industry, and to attract investments in the mining sector.

Since the implementation of this policy, Tanzania has received much attention. The industry grew by 27 per cent in 1999, a major increase from the previous year's 17 per cent. The country has also received up to 15 per cent of Africa's exploration expenditure. While diamonds, gold, nickel and gemstones are major contributors to Tanzania's growing minerals industry, nearly all major developments have been in the gold mining sector. A conservative estimate of Tanzania's gold reserves is about 25 million ounces.

In respect of the contributions in the gold mining sector by Geita Gold Mining (GGM), history started during colonial period. In 1898, during the colonial period, Gold was discovered in the Geita District. The old Geita Mine produced about 1 million ounces during the period 1938-1966. Tanganyika (now Tanzania) achieved independence in 1961. Five years after independence, in 1966, the old Geita Mine was closed due to the fall in gold price and political changes in the country. Democratisation and political pluralism in 1990 paved the way for the development of a free market economy in Tanzania. The Cliff Resources, Ashanti Goldfield, and Samax companies started gold exploration in Geita in 1994, 1996, and 1998 respectively. Ashanti Goldfield started gold production through open pit mining in August 1998 at Nyankanga village in the Geita District.

The Geita Gold Mine produced 176,836 oz. in 2000; 545,561 oz. in 2001; and 570,043 oz. in 2002, and is forecasted to produce approximately 650,000 oz. in 2003, or 43 per cent of Tanzania's annual Gold Production. To date, almost 51 million cubic meters has been mined. The yearly target is in excess of 23 million cubic meters. The open pit has more than 11 years left and will produce more than 70 million tons of gold-bearing ore and 600 million tons of waste. It is proposed that the waste from the pits will be flattened off and rehabilitated using indigenous flora.

1.3 Research Methodology

Rapid Assessment Methodology (RAM) was used with different data/information collection methods and sampling procedures. The data and information collection methods used included documentary analysis, direct interviews with the respondents (individually or through focus group discussions), questionnaires to workers and management, and through observation.

In terms of the workers surveyed for the paper, random and purposeful sampling procedures were used to select the respondents for direct interview, and to fill out the questionnaires. Direct interview and focus group discussions were held outside the company premises so as to not disrupt production. The questionnaires were distributed through two arrangements: GGM management agreed to distribute 50 per cent (250) of the questionnaires to GGM workers and contracted workers at the mine while the other 50 per cent (250) were distributed by the union (TAMICO) and the researcher randomly to workers outside the work places. Both unionised and non-unionised workers were interviewed by the researcher.

One problem experienced by the researcher was the reluctance of some workers to provide information. They fear victimisation by management as they claim many workers had already been dismissed due to their involvement in trade union activity at the site.
The 250 questionnaires distributed by management was not collected. The analysis, that follows in this paper, was from the questionnaires distributed by the researcher. The draft report was sent to both the local and corporate management, with the latter replying. Many of their comments are included in this final paper.

Part 2: General characteristics and management structure

Anglogold Ashanti is one of the world's leading gold producers. The company has 22 operations in 10 countries.

Before the merger with Anglogold in 2004, Ashanti Goldfields owned the Ashanti Gold Mines in Geita (which is now known as Geita Gold Mining Ltd). In 1999 Ashanti Goldfield sold 50 per cent of its shares in the mines to Anglogold. The two companies formed Geita Gold Mining Ltd (GGM).

Geita Gold Mining Ltd. was registered locally in Tanzania in May 1999 as a private company owned by Anglogold Ashanti Ltd. The official inauguration of GGM was in August 2000. The company is responsible to both the head offices of Anglogold in Johannesburg and Ashanti Gold Field Company in Accra, Ghana. There are sub head offices in both South Africa and Ghana to deal with different issues.

Geita Gold Mining Ltd. is located 20km west of Lake Victoria in Tanzania.
The company employs 2,200 workers (900 employees by GGM and 1,300 by contractors), of which 90 per cent are Tanzanians and 10 per cent expatriates.

Table 1: List of Contracted Companies at Geita Gold Mining Ltd.

S/n	**Name of the contractor**	**Main function**	**Estimated number of employees**
1.	D.T.P. Terrassement	Mining	900
2.	KASCCO Construction Ltd.	Haulage/road maintenance	100
3.	FFT	Clearing and forwarding Agent	20
4.	Geita Power	Power supply	20
5.	STANLEY	Exploration	50
6.	African Explosive (AEL)	Explosion	50
7.	ATS	Catering and camp management	100
8.	ANALABS (SGS)	Laboratory	25
9.	Shell	Petroleum supply	
10.	Pan African	Equipment servicing	15
11.	DF Mistry & Co.	Civil contractors	50
	TOTAL WORKERS		**1,275**

2.1 Management structure

The chief executive officer of GGM is the overall supervisor of the company. There is a board of directors comprised of five members, two of which are Tanzanians. There are eight department managers, of whom, three are Tanzanians, including one woman. The managers respectively head the corporate affairs, mining, health and safety and environment, process, security, finance, human resources and exploration departments.

All operational decisions are made at the national level by the management of GGM. Decisions on policy and corporate directions are made by the parent company.

Part 3: Macroeconomic environment

For more than a decade beginning in the mid-1980s, Tanzania embarked on a reform programme to liberalise virtually all aspects of the economy, to phase out the pervasive controls, and to reverse the economic decline. The Government's initial reforms were formulated under the National Economic Survival Program (1981 – 82) and the Structural Adjustment Program (1982 – 85). An Economic Recovery Program (ERP) in 1986 and the Economic and Social Action Program in 1989 strengthened these efforts. The latter programmes received significant donor support.

Tanzania has continued on its programme of liberalising its economy. Controls on agricultural markets have effectively been abolished and industrial investments have been deregulated. Restrictions on trade, foreign exchange rates, and private investments, interest rates and private banking, have been lifted. Parastatal reforms are being implemented.

The Tanzanian economy performed relatively well during 2002 as it recorded a substantially higher real Gross Domestic Product (GDP) growth rate of 6.2 per cent, which was above the growth rate of 5.7 per cent predicted for the year. This performance compares positively with the average economic growth rate of 5.6 per cent per annum over the last three years and with previous growth rates, and the average of 3.4 per cent achieved by African countries, However, this growth is still too low to meet the needs of a population growing at 2.9 per cent per annum or to have a significant impact on poverty eradication and unemployment. Real GDP growth was slightly lower in 2003, mainly due to disappointing performance in the agricultural sector, arising from inadequate rain in most parts of the country.

Table 2: Major economic indicators[147]

UPDATE FOR 2002-3	1999	2000	2001	2002	2003
GDP US$ million	8,024.8	8.377.2	8,711.4	8,927.1	9,300.0
Real GDP growth (%)	4.7	4.9	5.7	6.2	5.2
Consumer Price Inflation (average %)	7.9	5.9	5.1	4.6	4.6
Population (M)	32.9	33.8	34.7	33.6	34.5
Exports of goods fob US$ million	543.3	663.3	776.4	902.5	1,073.8
Imports of goods fob US$ million	1,415.4	1,367.6	1,560.3	1,511.3	1,873.9
Current account balance US$ million	-829.5	-498.6	-480.0	-251.1	-476

[147] Bank of Tanzania (Monthly Economic Review, November 2003) and EIU estimates

Forex reserves excluding gold (US$ million chk)	775.5	974.2	1,156.6	1,529.0	n.a
Total external debt (KA-unit-) million US$	7,669.7	7,624.8	7,464.0	7,268.1	7,648.2
Debt-service ratio (1)%	16.2	16.2	12.8	7.7	7.7
Exchange rate (average) T.shs:US$	744.8	800.4	876.4	966.6	1,045.7

The inflation rate remained more or less the same at 4.6 percent in October 2003, which is only 0.1 percent higher than October 2002. The decline in the inflation rate from 30 percent in 1995 to 4.6 percent has been of great benefit. The economy has stabilised, which among other things, is a prerequisite for its growth and sustainability – as well as an important factor in potentially attracting investments. Declining inflation is attributed to improvement in food availability and distribution, coupled with deliberate government policies to control expenditure as well as money supply in the country.

The Tanzanian shilling was devalued from T.shs 17 per US$ to T.shs 40 per US$ in June 1986 and has continued to fall to T.shs 1,110 per US$ in 2005. The continued devaluation of the Tanzanian shilling has made imported goods very expensive. This has an impact on the balance of payments because imported goods prices continue to rise in comparison with the exports. The cost of production of local goods and services also became very high, making them non-competitive in the global market.

Tanzania is still ranked amongst the world's poorest countries. Recent studies have shown that while macroeconomic gains have been significant, income poverty has not changed. Although the proportion of those living in poverty has decreased from 39 percent (13.5 million) to 36 percent (12.4 million) out of 34.5 million people in 2003, with a population growth rate of about 2.9 per cent, it is likely poverty levels will soon be on the rise again. The economic growth has been more beneficial to the urban population, particularly in Dar es Salaam, where poverty has declined from 7.5 percent to 4.1 percent, compared to a marginal decline in rural areas from 12.7 percent to 11.5 percent.

It is estimated that between 15 million to 18 million Tanzanians (about half of the population) live below the poverty line of US$ 0.65 a day. Of these, about 12.5 million (36 per cent) live in abject poverty spending less than US$ 0.50 on consumption a day. Poverty remains predominantly a rural phenomenon with 61 per cent of rural inhabitants categorized as poor. In urban areas 39 per cent of dwellers are categorised as poor.

The wealthiest 20 per cent of Tanzanians earn 45 per cent of total national income while the poorest 20 per cent of Tanzanians receive only 6.8 per cent. The per capita income of Tanzanian has been in fast decline since 1980 compared to Sub-Saharan Africa.

Table 3: Percentage of total income accruing to each quintile[148]

	All Tanzania	**Rural**	**Urban**	**Dar es salaam**
Poorest 1	6.8	7.7	7.3	7.4

[148] World Bank 1995

2	11	12	11.4	11
3	15.1	16.3	15.6	14.9
4	21.6	22.4	21.2	21.4
Richest 5	45.4	41.6	44.5	45.4
	100.0	100.0	100.0	100.00

3.1 Employment situation

The 2000/01 Integrated Labour Force Survey revealed that the country had about 17,827,578 currently economically active population, an increase of 6,563,593 or 58.3 per cent from the 1990/91 survey. The number of males was about 8,739,709 and females 9,087,869. According to the National definition of employment, 87.1 percent of the economically active population were employed, 2,306,348 or (12.9 per cent) were unemployed out of 17.8 million economically active population, 13 million were employed in the Agriculture sector, 0.9 million in the informal economy, 0.6 in the private sector, 0.5 million domestic workers, 0.4 million worked in the government, and 0.1 million in the public organisation sector. Out of 2.3 million of the active population that is unemployed 1.3 million people are men and 1.0 million are women (Labour Force Survey 1990/91). Employment in the formal wage sector in Tanzania is low at only about 8.6 per cent of total employment. Between 1982 and 1992, new jobs created in the formal sector fell from 31,713 to 2,882 per annum while the number of job seekers during the same period was estimated at 700,000 (ILO 2004).

In the formal economy, women constitute a tiny minority of the working population and are employed in low-status occupations that pay poorly. The proportion of women to men in formal employment, according to the labour force survey, rose from 6 per cent in 1976 to 12 per cent in 1978, to 15.5 per cent in 1981, and to 24.7 per cent in 1990/1991. In general women dominated the low- or less-skilled employment category. A large number of women were employed in unskilled jobs and stereotypical female occupations such as nursing, primary teaching and secretarial work.

3.2 Contribution of the mining sector to GDP

The contribution of the mineral sector to the Gross Domestic Product (GDP) in Tanzania fell from 4 per cent in the early 1960s to less than 0.4 per cent in 1980. The value of mineral export earnings fell from US$ 35.13 million in 1967 to US$ 16.75 million in 1989. The expenditure for mineral exploration and development fell from US$ 11.3 million in 1980 to US$ 4.0 million in 1985.

Subsequent to the restructuring of the mining industry, contribution to the GDP grew by 46 per cent between 1990 and 1992. The value of mineral export earnings rose from US$ 16.75 million in 1989 to US$ 53.23 million in 1992. On average, the mineral export earnings represent 8.5 per cent of the total export earnings. From 1993 there has been a substantial slump in mineral export earnings.

In this sector, parallel economy activities are found mainly in the gold and gemstone subsectors. With regards to gold, the trend of official purchases shows that between 1990 and 1995 over 16 metric tons of gold was purchased from Tanzania. In 1994 about 4.5 tons was sold (current worth is about US$ 64 million), while in 1995 there was very sharp decline with a mere 131 kgs. being sold (current worth is about US$ 1.8 million).

Estimates of current actual production of gold in Tanzania range from 13 metric tons per annum, whose current worth is US$ 177 million, to a likely case estimate of 30 metric tons per annum with current worth US$ 423 million (Tanzania's precious mineral boom: paper number 68 March 2001).

3.3 Mining Act

The intention of The Mining Act, No. 5, 1998, was to liberalise the mining sector and facilitate the government's withdrawal from the sector. The Act is geared towards assisting in the transition from small-scale artisanal mining to modern industrial-scale operations.

Although the mining industry is governed by this one piece of legislation, there is other equally important legislation that impacts on this sector that need to be harmonised. This legislation includes The Land Act, No 4 of 1999, The Village Land Act, Act No 5 of 1999, The National Parks Ordinance Cap 412, The Ngorongoro Conservation Ordinance Cap 413, and The Forest Ordinance Cap 389, The NEMC Act No 19 of 1983, The Wildlife Conservation Act No 12 of 1974, The Maritime Park Act No 29 of 1994, and The Game Park Laws Act No 14 of 1975.

While the government has adequate policies and legislation in place to protect the environment against the negative effects of mining (section 64 and 95), there is a lack of efficient monitoring and supervision, making the policies and legislation ineffective.

The implementation of mining policy, which basically embodies more liberalisation of the industry, is in practice confusing support to the mineral sector by selling off of mineral rights and the facilitation of illegal dealing.

Part 4: National legislation and ratifications of ILO conventions

After independence in 1964, workers' organisations in Tanzania were placed under the control of the government that sought to curb what it thought was the obstinacy of the Tanganyika Federation of Labour (TFL).

The government resorted to the same authoritarian methods employed by the colonial state that ensured trade unions were under the firm grip of the state. Four pieces of legislation that had significant impact on labour were put into place. These were:

- The 'Trade Union Disputes (settlement) Act. 1962', which virtually abolished strikes by setting up a complex procedure for compulsory arbitration and settlement of labour disputes.
- The Trade Union Ordinance (amendment) Act. 1962:2. This legislation made it compulsory for a trade union to be affiliated to a federation. The TFL was so designated. The law empowered the registrar of trade unions to cancel the registration of any trade union, which, within three months of its registration failed to become a member of the designated

federation. TFL itself was placed under the supervision and control of the state through the minister responsible for labour matters, who was also appointed the Secretary General of the designated federation.

- The Civil Service Negotiating Machinery Act. 1962:3. The Act excluded all civil servants from becoming members of any trade union. This law essentially aimed at undermining the leadership of the trade unions as most of the literate and articulate leaders came from the civil servant sector.
- And finally on the heel of the above legislation came the Preventive Detention Act, 1962, that empowered the president of the country to order the detection of any person who, in his opinion, is conducting himself in a manner prejudicial to the state.

The first victims of the detention law were the leaders of TFL. Through legislative measures, the state assumed increasing control over the trade union movement.

Within the context of the army mutiny of 1964, the state was given a pretext to kill whatever autonomy was left within the Trade Union Movement. The TFL was banned and its leaders were placed in detention. The National Union of Tanganyika Workers (NUTA) establishment Act of1964:4 abolished the TFL. Similar acts followed that created in TFL's place various workers' unions, beginning with NUTA 1964 – 1978, JUWATA 1978 – 1991 and then OTTU 1995 – 2000. The Free Sectoral Independent Trade Unions and the National Centre (TUCTA) were formed in 2001. The establishment of the Parliamentary Labour Tribunal in 1967 prevented NUTA, JUWATA and OTTU from performing their core functions, namely that of collective bargaining.

The enactment of the Trade Unions Act No. 10 of 1998 was an attempt by the government to implement ILO Convention No. 87 concerning Freedom of Association and Convention No. 98 on the Right to Organise and the Right to Collective Bargaining. The government has ratified ILO Conventions No.87 and 98. While this positive situation exists, there is difficulty in implementation and practice.

In a review of labour legislation two new Acts, namely, the Employment and Labour Relations Act and the Labour Institutions Act have been implemented.[149]

The main objectives of the legislation are:

- To guarantee core rights, and establish minimum employment standards;
  - Prohibit the use of child labour;
  - Prohibit the use of any form of forced labour;
- To regulate the registration of trade unions;
- To provide framework for collective bargaining and, industrial action;
- To introduce a new dispute resolution system that focuses on mediation and arbitration.

The legislation requires every employer, trade union, association, or federation to promote equal opportunities in employment and to eliminate discrimination in employment policy or practice.

[149] 2003

It further provides that every employee has the right to form and join a trade union and gives employers the opportunity to form and join any employers' association. However, magistrates, prosecutors, and senior management are restricted from joining ordinary trade unions or associations. They can, however, form a trade union that restricts its membership – such as judicial officers or court officials only.

The Act is not applicable to employees in the following sectors: Defence Force, Police Force, Prisons Service, Intelligence Service, and National Service, mainly due to the nature of their jobs and the fact that they are subject to other dedicated legislation.

Tanzania has ratified seven ILO Core Conventions namely: Freedom of Association and Protection of the right to organize, 1948 (Convention No. 87), right to organise and Collective Bargaining, 1949 (Convention No. 98), Forced Labour, 1930 (Convention No. 29), Abolition of Forced Labour 1957 (Convention 105), Equal Remuneration, 1951 (Convention No. 100), Discrimination (employment and occupation), 1958 (Convention No. 111), Minimum Age, 1973 (Convention 138), Worst Forms of Child Labour, 1999 (Convention No. 182).

The provisions of these Conventions are embodied in the above national labour laws but problems exist with their application. The powers granted to the registrar of trade unions, for example, pave the way for the refusal of registration in contravention of convention 87 on the right to organise, although it has never happened that the registrar of trade unions has declined the registration of a trade union that meets all legislative requirements.

There have been examples of violations of workers' rights in the country[150]. Employers have used several union-busting tactics to frustrate workers in their efforts to exercise their right to form or join trade unions of their choice. There have been incidents of forced labour in some of work places through compulsory overtime working. The neo-liberal orientation of the government and poor enforcement of the labour laws have encouraged some employers to blatantly violate workers' rights, either delaying the implementation of collective agreements or by refusing to implement some provisions of such agreements.

Part 5: Labour relations

This section of the paper specifically looks at the working environment at GGM. The company (GGM) and TAMICO signed a Code of Conduct and Access Agreement in 2003.

The objective of the Code of Conduct is:

- To eliminate and or to minimise work place conflicts and to enhance mutual understanding to protect the rights of all parties; and
- Not to force or prohibit employees from joining the trade union – giving meaning to the principals of freedom of association and the right to organise.

[150] www.ilo.org, Danish Trade Union Council for International Development Co-operation – Profile of the Labour Market and Trade Unions in Tanzania (April 2003).

The Access Agreement facilitates and establishes rules and procedures for the union to access the company and its employees. The agreement aims to improve the communication and working relationship between the union and the company to avoid unnecessary conflicts.

In summary the Access Agreement states that:

- Written application must be made to the mine manager by the national, regional, or district office bearer of the union at least 3 days prior to an intended visit. If not convenient another date will be set that is mutually acceptable to both parties.
- The company acknowledges the rights of the union as stipulated in the relevant Tanzanian Labour Legislation and current agreement.
- The General Secretary of the union undertakes to furnish the company with a list of names of union officials from the district level and above, and shall inform the company of any changes to this list.
- The union acknowledges that it will comply with the company's security access control requirements.
- Union officials access shall be responsible for:
  - Orderly and proper conduct during their presence on the mine property.
  - Non-interference with normal employment related duties with any mine employee.
  - No disruptions of normal operations on the Mine.
  - Not entering any work area without the prior explicit consent from the chief executive officer.

These agreements make it very difficult for workers to exercise their right to freedom of association and to collective bargaining rights. They also impede on ILO conventions. For example, the agreement does not allow the union to organise workers at the work place nor display any trade union information or awareness material without it first being scrutinised and approved by management. Further according to the union management uses the agreements to supersede national labour laws.

Due to worker frustration industrial conflicts have begun. On 27th July 2004 the TAMICO branch at DTP Terrassment issued a letter to management with the following demands:

- Recognition of TAMICO without any condition, as indicated in the code of conducts and access agreement.
- Pay increase from the current minimum of T.shs 126,000 (US$ 126) per month to coincide with salaries paid with other Anglogold subsidiary companies in other countries.
- Management (Human Resources Manager) to refrain from harassing, abusing, and intimidating workers who wish to join trade unions.
- Dispute settlement procedures should involve worker representatives from the trade union and not worker representatives from the Workers Representative Committee (WRC).

From the 2nd August 2004 about 900 workers went on strike after management refused to sit down with TAMICO to discuss the issues. In their letter to management, TAMICO demanded that by the end of July 2004 the issues should be resolved. The following timeline shows the events that transpired shortly thereafter.

?? 3rd August 2004 the employer locked out all workers.

?? 4th August 2004 the employer dismissed the workers on halfpay. The dismissal letters required those workers who wanted to be reinstated to report to the company for an interview. Some of the workers were reinstated under new agreements.

?? TAMICO wrote to the labour commissioner in the Ministry of Labour about the strike and requested the labour commissioner order the employer to reinstate the workers. The labour commissioner instructed the employer to reinstate the workers as demanded by the union but the company refused to respect the order.

?? The labour commissioner appointed a reconciliation committee that comprised the acting assistant commissioner, the trade union, the employer's registrar, and the principal labour officer cum lawyer representatives. The reconciliation committee had its first meeting on the 8th of August 2004 where the employer and unions presented their demands.

?? The case was referred to the industrial court on 18th August 2004

?? By the conclusion of this final report about 160 workers were still dismissed, including all trade union leaders at the branch level, and the rest have been reinstated.

The company claims the strike was the result of TAMICO's demand to be recognised even though the union does not meet the legislative requirements for recognition.
The Tanzania Mining and Construction Workers Union (TAMICO) is the only active union in the mining and construction sector. The union is one of the affiliates of the Trade Union Congress of Tanzania (TUCTA) that was formed as the independent sectoral union after the democratisation process of trade union movement in the country.

The union started to organise and recruit members at Geita Gold Mining Ltd. in 2003 after signing the code of conduct and access agreements with the company.

Although GGM subcontracted some of its operations to companies that fall into other sectors of the economy, all employees at GGM, whether contract or full time employees of the company, were left to TAMICO for recruitment to avoid fragmentation of unions within one company. For example the Research, Academicians, and Allied Workers Union (RAAWU) could have organised workers employed by ANALABS, providing laboratory services, and STANLEY, providing exploration services.

The research could not conclude whether the company demands that its contractors adhere to the national labour laws and core ILO conventions on freedom of association, the right to collective bargaining, forced labour, equal opportunity and non discrimination, child labour, etc. The research did find though that the company instructs its contractors not to discuss or enter into any agreement with any workers' organisation without prior approval of the company. At the same time GGM requires the contractors to be responsible for industrial relations with its own employees. These are confusing and contradictory instructions. Anglogold denies this, stating "It is a pre-condition when a contract is awarded to a contracting company that they abide fully with legislation, Anglogold Ashanti company rules and standards". Although proof of this pre-condition was requested from the company it was not made available.

The following clauses from section 3.4 on industrial relations are extracted from the agreement for contract laboratory services between Ashanti Goldfields Tanzania Ltd. and African Assay Laboratories Ltd. of Tanzania for the period between 1st July 1999 and 30th June 2004.

?? The contractor shall be responsible for industrial relations with its own employees;
?? The principal reserves the right to intervene in and/or advice on all industrial and personnel policies, including safety, that concern the contractor and at any time during the term of this agreement and accordingly instruct the contractor on the aforesaid policies.
?? The contractor shall promptly implement any instruction issued by the principal to the contractor concerning industrial, personnel and safety policies.
?? The contractor shall not discuss or enter into any industrial agreement with respect to the site with any workers' representative body without prior approval of the principals' representative body without being unreasonably withheld or delayed.

The section below outlines certain areas observed at the site.

5.1 Labour conditions

Freedom of Association:

It was noted that there is direct interference by GGM management in trade union activities at the mine. This sort of interference was reported by the majority of the workers and is reflected in the code of conduct and access agreements signed by the trade union organisation (TAMICO) and GGM management. The union signed the Code of Conduct and Access Agreements because, at that time, labour laws were under review and secondly, the trade union didn't realise the future implications of signing. The new revised labour laws (section 60) on access to employer's premises, states that any authorised representative of a registered trade union shall be entitled to enter the employer's premises in order to recruit members, communicate with members, hold meetings with employees on the premises, and vote in any ballot under the union constitution. The law further states that a registered trade union may establish a branch at any workplace where ten or more of its members are employed. The employer is required to provide reasonable facilities to the recognised union to conduct its activities at the work place. However, section 60 (4) of the new revised labour law gives the employer powers to set conditions as stated in the code of conduct and access agreement signed by GGM and TAMICO. This section of the new revised labour rights for access to employer's premises shall be subject to any conditions as to time and place that are reasonable and necessary to safeguard life and property or to prevent undue disruption of work. In the code of conduct and access agreements signed between GGM and TAMICO, a trade union official has to apply for access to conduct trade union activities. The members are required to meet outside the company premises.

While the company claims to be in full compliance with the law, according to TAMICO, the union does not have a field branch at the workplace – it has established a branch outside the company premises. In this regard the company is not in full compliance with legislation as legislation permits a union with more than 10 members to establish a field branch at the workplace.
Deduction of trade union dues:

According to the revised labour law (Section 61), an employer is required to deduct dues of a registered trade union from an employee's wage if that employee has authorised the employer to do so in a prescribed form. The employer is required to remit the deductions to the trade union within seven days after the end of the month in which the deductions are made. Where the employer fails to remit the union dues within the specified time, the employer shall be liable to pay the union the equivalent of five per cent of the total amount due for each day the dues remain unremitted.

About 82.7 per cent of workers interviewed complained of difficulties in getting their union (TAMICO) to be recognised by management. During the strike by DTP Terrassment workers, one of their demands was for the company to recognise the union.

Table 4: Are there difficulties in getting a union recognised

	Number	**Percentage**
YES	192	82.7
NO	36	15.5
DON'T KNOW	4	1.7
TOTAL	**232**	**100**

Also about 84.8 per cent of the workers reported that management discourages and dismisses workers who join the trade union.

Table 5: Does management exercise pressure to discourage workers from joining trade union

	Number	**Percentage**
YES	200	84.8
NO	32	13.65
DON'T KNOW	4	1.6
TOTAL	**236**	**100.0**

In the Code of Conduct and Access Agreement signed between TAMICO and GGM, workers are not allowed to conduct any trade union activity at the work place, including meetings. It is also difficult for trade union representatives to access workers because they must get access permission from management.

Table 6: Does the trade union representative have access to workers at the workplaces

	Number	**Percentage**
YES	40	17.2
NO	180	77.6
DON'T KNOW	12	5.2
TOTAL	**232**	**100.0**

In the Code of Conduct and Access Agreement, it is stated that the union can only distribute information to workers at the workplace only after it receives permission from management.

Other workers such as heads of departments and supervisors are not allowed to join trade unions. This was also reported by 72.9 per cent of all interviewed workers (see table 7 below). The new revised Labour Laws section 9 (2) (c) states that a senior management employee may not belong to a trade union that represents the non-senior management employees of the employer. According to section 9 (6) (b), a senior management employee means an employee who, by virtue of that employee's position, (i) Makes policy on behalf of the employer, and, (ii) Is authorised to conclude collective agreements on behalf of the employer.

Table 7: Is there discrimination and discouraging of other workers to join trade unions?

	Number	**Percentage**
YES	172	72.9
NO	40	16.9
DON'T KNOW	24	10.2
TOTAL	**236**	**100.0**

Trade union recognition:

According to the code of conduct and access agreement signed between the union and GGM, the trade union has to recruit at least 50 per cent of the work force in order to be recognised by the company. Due to management tactics this target of recruiting 50 per cent of the work force at the company is difficult to achieve. According to the union, when it recruits workers and submits the deduction form to the company, management prepares a similar form and summons workers individually to the human resource development manager to sign management's form. Workers allege that when signing management's form they are told to choose between being employed or joining the union. Many workers have opted to remain employed. Although management state that this practice is untrue, table 7 above, demonstrates that 73 per cent of the workers interviewed felt that management discriminates and discourages workers from joining the trade union.

Collective bargaining:

There is no collective bargaining between TAMICO and GGM management. This is because GGM management does not recognise TAMICO as a trade union. Only when the union has recruited 50 per cent of all workers will it be given a recognition agreement.

The employer does not see the need for collective bargaining as they argue they have their own system of establishing wages and working conditions based on international labour markets. It was further argued that workers are represented through three WRCs representing unskilled, skilled, and expatriate workers respectively. Workers do not like being represented through the WRC as the representatives are chosen by management to safeguard the interests of management. Therefore, there are no real worker representatives at the workplace. Workers also argue that workers' representatives are there to undermine the role of the real workers' representative organisation (TAMICO). Management states that WRC are elected by employees but failed to provide details of the election process even though this information was requested. The absence of such information makes it difficult to ascertain the extent to which the elections of the WRC is free and fair. According to the company, 7 of the 29 WRC representatives are members of TAMICO.

Child labour:

While child labour is common in other sectors of the economy such as agriculture, domestic works, informal sector, etc., no child labour was found at GGM.

Forced Labour:

Although there is no visible evidence of forced labour at the company the working hours and shift system adopted may warrant judgement that there is invisible forced labour at GGM and within its contractors. However, workers have no choice but to work overtime on a regular basis, due to the shift structure.

Discrimination:

Workers at the GGM and its contractors complained of discriminatory practices. The discrimination mentioned included discrimination based on wages/salaries and living and working conditions between unskilled, skilled and professional/expatriates. About 62.9 per cent of all interviewed workers confirmed that there was discrimination based on different issues. (See Table 9 below)

Table 9: Have there been any problems related to discrimination at workplace in respect of race, nationality, gender, religion, disability, etc.?

	Number	**Percentage**
YES	136	62.9
NO	56	18.5
DON'T KNOW	40	18.5
TOTAL	**232**	**100.00**

Other workers such as supervisors, superintendents, management staff, etc. are not allowed to join trade unions. This was also raised as an issue by 72.9 per cent of all interviewed workers (See Table 10 below).

Table 10: Does the company discourage other workers from joining trade unions?

	Number	**Percentage**
YES	167	72.9
NO	39	16.9
DON'T KNOW	23	10.2
TOTAL	**229**	**100.00**

Below are actual examples of trade union victimisation, strongly suggesting that the company discriminates against trade union representatives. This mainly takes the form through subcontracted companies.

ANALABS

ANALABS is the contracted company that provides laboratory services for GGM. ANALABS management victimised trade union branch leaders immediately after the formation of the union branch at the work place. On the 10th of December 2003 five branch leaders were elected. Twelve days after the formation of the trade union branch, the chairperson, Mr. Simon Martin, was transferred to Mara region at Nyamongo site. When he reported to his new workstation on 3 January 2004 he was summarily dismissed on the allegation that he stole company uniforms at ANALABS in Geita. At the industrial court, management failed to provide evidence and was ordered by the court to reinstate the worker; management has refused to implement the order to date. In addition two other union leaders, Mr. Rajab Suleman and Mr. Yamlinga Lapyule (both elected union leaders), were also dismissed by ANALABS. The company claims the Mr. Rajab Suleman was dismissed for misappropriating company property while Mr. Lapyule's contract had come to an end. The industrial court ruled in favour of both Mr. Suleman and Lapyula, but the company has refused to reinstate them.

DF Mistry and Company

This company provides GGM with construction works (buildings and roads, drainages, etc.). DF Mistry dismissed twelve workers after joining the trade union. The company has resorted to employing casual labourers in order to avoid trade union demands. After being dismissed, the workers were not paid their terminal benefits. Moreover while following up on their demands to the district commission's office they were arrested by the police and charged for illegal demonstration.

FFT Company

FFT Company is subcontracted by GGM to provide forwarding and clearing services. Six days after the trade union branch was formed the chairperson Mr. J. Kasola and Secretary Mr. Kulwa Miraji were dismissed and taken to the police station on the allegation that they accused and threatened the life of one of the workers. The police responded immediately by arresting the trade union leaders. Later the issue was resolved and the two leaders were found not guilty, but were not reinstated. The company claims the Mr. Kasola was not dismissed and is still in the employ of the company. Mr. Miraji was dismissed for theft.

DTP Terrassement

DTP Terrassement is also subcontracted by GGM to undertake mining activities. At this company two branch leaders, the secretary, Mr. Daniel Kasera, and the committee member, Ms. Lydia Deus, were dismissed. The company claims Ms. Deus was never dismissed and is still in the employ of the company while Mr. Kasera was dismissed for engaging in industrial action.

Working hours:

The maximum number of ordinary days or hours that an employee is required to work by law is:

a. Six days in any week;
b. 45 hours in any week; and
c. Nine hours in any day.

An employer shall not permit an employee to work overtime:

a. Except in accordance with an agreement; and/or
b. For more than 50 overtime hours in any four-week cycle.

Section 24 (4) of the revised labour laws stipulates that an employee may only work during the weekly rest period if the employee has agreed to do so and provided that the employer shall pay the employee double the employee's hourly basic wage for each hour worked during the period or during a public holiday.

Section 25 (1) states that an employer shall not require an employee to work on a public holiday unless the employee agrees to do so and the employee must be paid double the employee's basic wage for each hour worked on that day.

It was noted that workers were not consulted on overtime work and didn't know whether the employer pays the required rates for weekends, public holidays, and night shifts.

At GGM employees work 3 day and 3 night shifts per week with each shift being 12 hours. Thereafter they get 3 days off. In this regard the company once again claims that it is in full compliance with the Tanzanian labour laws. It further states that the "shift arrangements have been with the lawyers and a letter has also been written (to) the Ministry of Labour to confirm that they are in compliance"[151].

Having stated the ordinary and overtime working hours earlier, it is evident that the company does not comply with these hours of work. The company does however comply with section 19(1) of the Employment and Labour Relations Bill, 2003 (henceforth referred to as the Bill), which states, an employer may not require an employee to work more than 12 hours per day. The Bill therefore allows for a 12-hour day shift. Further, section 21(1) states that an agreement is required that would permit an employee to work a 12 hour day without receiving overtime. Bearing in mind there is no recognition agreement with a union, it implies that such an agreement will and must be signed with each employee and is in all probability built into the contract employment[152]. Considering the high levels of unemployment and the low level of employment opportunity in Tanzania, logic dictates that workers will be compelled to sign such a contract in order to secure employment.

However of grave concern is section 21(2) which states:
An agreement under subsection (1) shall not require or permit an employee to work –

(a) more than 5 days in a week;
(b) more than 45 hours in a week;
(c) more than 10 hours overtime in a week.

The above shift cycle demonstrates that the company violates section 21(2) as the workers work a 6-day week and 72 hours per week. It further suggests that the shift cycle has built in overtime of 27 hours per week, for which workers are not paid accordingly. It also suggest de facto forced labour as workers are compelled to work the shifts or be unemployed.

Wages:

The law demands an employer to pay employee's one and a half times the employee's basic wage for overtime work. For nightshifts an employer must pay an employee at least an additional 5 per

[151] See companies response to this research paper attached as an annexure.
[152] The researcher could not confirm the content of the contract. Therefore the company is given the benefit of the doubt that it would comply with this legislative requirement.

cent of that employee's basic wage and if overtime is worked, the 5 per cent shall be calculated on the employee's overtime rate.

In 2003 trade unions in Tanzania conducted a minimum wage survey and established that the minimum wage for an ordinary worker (with a family size of six) should be T.shs 250,000 (US$ 250) per month.

GGM management refused to provide any details on wage (including overtime paid) stating that this is confidential information, for both the company and the workers. However, it was highlighted by the human resource development manager that an ordinary worker's minimum wage at GGM is T.shs 150,000 (US$ 150) per month, for middle class workers it is T.shs 750,000 (US$ 750) and senior workers, including expatriates, were not mentioned. Tanzanian minimum statutory wage is T.shs 50,000 (US$ 50).

The absence of collective bargaining at GGM leaves workers at the mercy of the company to determine wages. Many contract workers at the company earn less than T.shs 150,000 (US$ 150).

Leave pay:

On top of the normal leave of 28 days a worker is given one month's salary extra pay to cover transport expenses for the worker and his/her family to and from the place where he/she takes leave.

Employees are entitled to 3 months of sick leave with full pay and a further 3 months on half pay. After the 6 months, if a multi disciplinary team still finds the employee medically incapacitated, the employment is terminated with full salary but no further medical assistance.

Health and safety:

Although GGM has a health and safety policy that is implemented by the health and safety committee, it does not involve worker representatives (from the union). The company does provide uniforms and protective gear to its workers. Workers have complained of non-transparency and the lack of workers' representatives in the planning, implementation, monitoring and evaluation of the health and safety programmes.

Table 11: Is health and safety education / training adequate?

	Number	**Percentage**
YES	164	69.5
NO	72	30.5
TOTAL	**236**	**100.00**

Although health and safety problems are absent from the company reports, the information and evidence provided by workers suggests some problems do exist. The following cases were reported:

ANALABS

The laboratory testing process involves mixing of the sample (mined soil and sand/gravel) with FLUX (red oxide) in high temperature chambers. This process produces thick smoke that damages the lungs if the dust collectors are not working properly. It is said that when red oxide enters the blood tissues blood clots develop – damaging lungs and the spinal cord. Policy states that the employer is to take employees for a medical check-up every three months and to provide employees with milk daily. Workers complained that no milk is given to them and no report on their health status is given to them when they are checked at the clinic.

Mr. Victor Mtandu, who fell victim to the above physical issues, had his employment terminated without any compensation. The company claims his illness was not work related.

DTP Terrassement

At this company, workers reported two cases of health and safety problems. The first case involved the plant operator Mr. Anthony Pascal. This worker developed breathing problems after working for long time in dusty and cold conditions. After a medical check up in 2003, the doctor found that his health problems were due to working in these poor conditions. What surprised the workers was that the victim was terminated from employment without any compensation. The reason for the termination was recorded as health problems caused by him smoking. The company claims that Mr. Pascal's condition was diagnosed by a medical professional as not being work related. The company states it has paid compensation.

The second case involved the Fork Lift operator, Mr. Abdallah Moshi, who worked for five years with DTP Terrassement Company. This worker developed spinal cord problems due to the frictions caused by operating the forklift on rough terrain. It was argued that the fork lift he was operating was designed to run in smooth areas. After a medical check up, the doctor advised the process manager to terminate the employee on occupational-related health problems. Management terminated the employee from work on health problems, giving other reasons related to an accident that occurred before he was employed. At his termination he was paid only three month's salary as compensation.

Social security:

GGM contributes to National Social Security Fund (NSSF) in which workers contribute 10 per cent of their salary and the employer matches the 10 per cent. There is no pension scheme for workers because it is applicable only for public organisation workers in Tanzania.

Housing facilities:

Workers are provided with housing allowances equivalent to 15 per cent of their salaries.

Pregnancy/maternity leave:

A three month maternity leave is given to women workers.

Childcare facilities:

The company does not provide childcare facilities. Workers use public and private childcare centres at their own expense.

Transport facilities:

The company provides workers with free transport to and from work everyday.

Medical insurance and benefits:

Heritage Insurance Company insures all workers. All employees, their spouses, and children have access to the GGM clinic. This applies to contracted employees as well. The company also covers the cost of dependents of employees when they access services from the Geita Government Hospital (including referrals). When an employee is deemed medically incapacitate, the affected employee policy is supposed to be implemented. According to the above-reported cases, the ill workers are not compensated.

Training:

It was reported by management that workers are trained on hazards identification, supervision, management, first aid, and plant operations. Some workers are sent for training in South Africa, Ghana, and Australia at the expense of the company. This is also questionable due to no workers' representative organisation involvement in the process.

Under the Income Tax Act of 2004, the employer is required to contribute 6 per cent of the wage bill to a Skills Development Fund. However, trade unions lack the capacity to influence its implementation. Two percent of these contributions go to meet Vocation Training Expenses and the rest remain with the government for other expenditure programmes.

Bonuses:

Bonuses are based on production and on health and safety performances. However, workers are not involved in setting the production targets. There is no profit-sharing scheme between the company and the workers.

Other benefits include:

- Two months' salary allowances are provided to the worker as relocation allowances upon confirmation of employment after a six month probation period.
- The company incurs all burial costs whenever a worker, their spouse or child dies. Apart from burial cost extra cash to cover contingency costs during the burial ceremony is given to the family. T.shs 500,000 (US$ 500) when a worker dies, T.shs 300,000 (US$ 300) when the wife or husband, of the worker dies and T.shs 100,000 (US$ 100) when a worker's child dies.
- When an employee retires, he/she receives the following termination benefits:
  - One month salary;

- ?? Six months basic salary;
- ?? Contributions to the National Social Security Fund for the duration of employment;
- ?? Transport costs for personal effects (luggage) back to her/his place of domicile – a two month basic salary is used as a formula; and
- ?? Paid leaves (if there are any).

Part 6: Reorganisation, restructuring and relocation

There has been no major restructuring of the company operations, with the exceptions being in 2000 where two workers were retrenched, and in 2001 where only one was retrenched.
It was reported that when restructuring takes place, the affected workers are relocated to other departments. Those who do not wish to be relocated can opt for redundancy. The workers who were retrenched in 2000 belonged to the metrological department; they opted to be retrenched rather than be relocated. Of grave concern is that when restructuring occurs, no trade union organisation is involved.

Part 7: Human rights

Anglogold Ashanti claims to aim for a positive impact on the people, culture and communities in which it operates. The company's policy states that the company will respect local and indigenous people, their values, traditions, culture, and the environment.

Although there is no clear evidence of violation of human rights at GGM, people within the local communities have complained about non-compensation for their land since 1998. These people are from the Nyakabale, Katoma and Nyamalembo villages. The company blames the government's inefficiency and cumbersome procedures to undertake the revaluation process. The government, on the other hand, has stated that the company has been uncooperative on this matter. The local communities from these villages who have not yet been compensated argued that they have been affected socially, culturally, psychologically, and economically because they cannot participate in any developmental, social, and cultural activities due to having not known their future for the last seven years; they cannot undertake any community developmental activities. They are waiting for compensation whose currency value is already outdated. They are not sure whether the government or investors will take care of this or whether they will be forced to accept any offer submitted to them.

The company states that all compensation due by GGM was paid over the local government and it is the local government that has not paid the compensation to the community.

Part 8: Environment

A comprehensive environmental impact assessment was prepared before mining commenced to provide the government and the community with the facts about the proposed project.

GGM achieved the international certification for environmental excellence by attaining the ISO14001 International Standard for Environmental Management. The basis for GGM's certification is its established Environmental Management Systems. GGM regularly monitors the quality of air and water within the licensed area as well as testing noise and vibration levels from blasting and other related mining activities.

Domestic waste and other types of waste are collected separately for recycling or for controlled placement in a designated landfill site for encapsulation within the waste rock dump. As part of the mining process, GGM tests for and delineates waste rock that could potentially form 'acid rock drainage'. This waste rock is taken separately to the waste rock dump and encapsulated beneath waste rocks.

GGM has rehabilitated over 70 hectares of disturbed land around the mine. Several hundred kilograms of local tree species seeds have been collected and planted to rehabilitate the large waste rock dumps. Topsoil is then spread back over the rock, in which the plants can successfully grow. Some grasses grow immediately from seed already in the topsoil. Ultimately GGM aims to reintroduce native fauna and flora that once inhabited the area.

The local community in the Geita Township have complained of air pollution caused by heavy GGM traffic. The roofs of their houses at the township are covered with red coloured dust. People have started to experience problems with their lungs and have chest pains. The company responded to the issue by stating that it is not GGM's responsibility as the company pays taxes to the government and the government is to care for its people.

8.1 Socially responsible investment

The company has a number of SRI initiatives that benefit the community. One such project is the Nyakabale Agriculture Project, which is a partnership involving the community, GGM, and All Terrain Services (ATS), the catering contractor to the mine. The project entails using the cash crop, moringa olefera, to extract oil from its seeds and vitamin supplements from its leaves. About US$ 55,000 has been spent on this project since 2001. The beneficiaries of the project, 60 cooperative farmers, have already generated US$ 80,000.

GGM has also established a nursery that produces indigenous trees for transplanting. In the first year about 20,000 saplings were produced. About T.shs 5,000,000 (US$ 5,000) was allocated by GGM for the yearly district tree planting campaign.

In 2001 the company started funding an HIV/AIDS awareness and prevention programme for the community and its employees through a partnership with African Medical Research Foundation. Elements of the programme include:

- ??Training 60 community educators in the three villages surrounding the mine. The educators distribute health materials and demonstrate the use of condoms;
- ??Focused interventions for high-risk women. About 22 women were trained in various life skills; and
- ??Other forms of training that include sexual and reproductive health, voluntary counselling, and HIV/AIDS testing.

The company further donated about 240 million T.shs through the Kilimanjaro Climb Challenge and an operating budget in the campaign against HIV/AIDS. The other support provided by the company to the health sector includes:

?? The building of two outpatient buildings at different health centres in the Geita District;
?? The building of two operating theatres, one at Geita government hospital and one at Kharumwa;
?? The building of one maternity ward at Geita hospital;
?? The building of four secondary school administration blocks, at Katero, Bukwimba, Kamena and Kamhanga; fifteen classrooms, four teacher's houses, one staff room, and four chairs and one table;
?? The building of one grade II ward with power and water supplies at the Geita Government Hospital;
?? The rehabilitation of the Public Nursing Schools facilities at the cost of T.shs 5,000,000;
?? A supply of 100 litres of fuel each month to Geita Government Hospital, with about 4,200 litres worth T.shs 3,360,000 donated to date (petrol/diesel);
?? The rehabilitation of the mortuary at a cost of T.shs 1,900,000 at Geita hospital; and
?? The equipping of the new operating theatre at Geita Government hospital at a cost T.shs 20,000,000.

The company also provided water supply along its 25 km water pipelines that cost the company T.shs 2 billion. Four holes were drilled to supply water in Geita town but only one pump proved successful. A hand pump was installed at the cost of T.shs 2,736,000.

GGM constructed a 56km road from Geita Town to Illogi village in Kahama District at the cost of T.shs 1,600,000 (US$ 1.6 million). The company also incurs the cost of T.shs 1,000,000,000 (US$ 1 Million) annually for all roads it maintains.

Through a partnership with Poverty Africa, GGM donated about T.shs 72,000,000 (US$ 7200) to provide credit access to 98 groups engaged in different small income-generating activities. Loans are provided to the groups after compulsory training in entrepreneurship skills.

Other donations:

Ad hoc donations have been allocated to different organisations such as:

?? Orphans of AIDS Victims, (T.shs 9,937,500 (approx. US$ 6,000);
?? The University of Dar es Salaam for tech mining software and computers to the value of T.shs 25,000,000 (US$ 25,000);
?? Institute of Engineers – T. shs 2,800,000 (US$ 2,800);
?? Funding opportunities to NGOs – T.shs 16,000,000 (US $ 1900);
?? Victims of floods in Mwanza city (clothes, blankets and mattresses) T.shs 2,375,000 (approx. US$ 2,400);
?? Mine office; and
?? GGM also donated 4 computers to the Mine Office, VAT, Income Tax and Customs in Geita District worth T.shs 2,400,000 (US$ 2,400).

Part 9: Conclusion and recommendations

9.1 Conclusion

As can be noted from this report, there is limited compliance to the ILO Core Conventions and National Labour Laws, and other International Standards and Laws in regard to Freedom of Association, Right to Collective Bargaining, Forced Labour, Discrimination, Environment and Healthy and Safety Issues within the company.

There is poor enforcement of these laws by the government and non-compliance by investors in Tanzania. Recommendations are given in the following section.

9.2 Recommendations

- Improve Industrial Relations through effective implementation of the ILO Convention No. 87 on Freedom of Association and ILO Convention No. 98 on the right to collective bargaining and adherence to National Labour Laws.

The Industrial Relations between the employers (GGM and contractors) on one hand and employees on the other hand is very poor at Geita Gold Mining Company. This is because there are limits to freedom of association and the right to collective bargaining as is outlined in this report. Through collective bargaining the workers are empowered to negotiate with their employer on benefit sharing within the company to improve their living and working conditions. There is no venue for such dialogue established at the company. Workers at DTP Terrassment Company (one of the contractors at GGM) collectively demanded better wages/salaries and working conditions by striking in August 2004 due to a lack of a collective bargaining process. GGM does not recognise TAMICO (the popular union in the mining sector) as a workers' representative organisation at the company.

Therefore, in order to improve the industrial relations at the work place there is a need for the government and other stakeholders, especially the trade unions, to work together to enforce the implementation of the ILO Conventions No. 87 and 98 and national Labour Laws.

- Subcontracting (outsourcing)

GGM has resorted to subcontracting, (outsourcing), and by engaging workers through temporary employment contracts as an attempt to reduce their overall use of labour. This has allowed GGM to cut labour costs by avoiding responsibility for most benefits such as medical and pensions, retrenchment costs, etc.

Tanzanian labour law does not include independent contractors in the definition of employees, which paves the way for GGM to utilise so-called independent contractors instead of employing workers with full rights and benefits. This loophole has deprived casual and contract workers of their rights.

It has been noted that GGM does not instruct the contractors to observe and respect national labour laws and international labour standards in their agreements.

It is recommended that, before the government enters into investment agreements with investors, this process should be conducted transparently and with the involvement of trade unions. Also, the agreements between the main company and contractors should be open to workers' representative organisations on the question of Industrial Labour Relations.

- Remuneration discrimination

Geita Gold Mining Company Ltd. should ensure equality of opportunities and treatment as reflected in relevant international instruments and national legislation to eliminate discrimination based on race, colour, sex, language, religion, political opinion, national or social origin, social status, indigenous status, disability, age, (except for children), or other statuses of the individual unrelated to the inherent requirements to perform the job, are observed and respected.

Contrary to the ILO Convention No. 100 on equal remuneration and national Labour Laws, it is becoming a trend in Tanzania for expatriate workers to be paid higher than local workers with the same qualifications and responsibilities. At GGM expatriate workers are treated different to national workers in terms of wages and working conditions. A single month's salary of an expatriate worker is equivalent to one month's salaries of 34 Tanzanian workers.

Collective agreements processes, if strengthened in all work places at GGM and its contractors, will enable the workers to bargain collectively and reduce industrial conflicts. It is also recommended that the company conducts a detailed survey to document all remuneration discrimination in all worksites and recommend appropriate measures.

- Forced labour

Following privatisation and economic reforms in Tanzania many private foreign investors have been attracted to Tanzania where they may exploit the cheap labour. Workers in private companies, including EPZs, work long hours and regular compulsory overtimes. At GGM and its contractors, employees work for 12 hours each shift, which suggests that compulsory and regular overtime is built into the job, which can be considered as forced labour. In this regard the company must comply with national labour legislation.

- Socially responsible investment

Many foreign investors in the country do not consult local communities on their investments once they conclude agreements with the central government. The local communities follow what the government and investors agree. In this respect the investors are not obliged to contribute to any development initiatives at the local community levels. The Geita Gold Mining Company supports some local development initiatives, as indicated in this report through ad hoc arrangements but not as an obligation of the company to the local community.

It is recommended that agreements with foreign investors should pass through bottom-up channels from local governments to the central government. At the moment, foreign investors do not respect local authorities because the investors deal directly with the central government.

The local communities remain poor and face negative environmental effects whilst they live amongst resource-rich land and surroundings. They have no control over the investors in their local areas.

GGM should respect the rights of local community in Geita who are affected by their activities, and ensure the rights of the indigenous people and communities consistent with international human rights standards. These companies are particularly required to respect the rights of indigenous people for similar control, protection, and use of their land, and other natural resources and cultural and intellectual properly. They are required to respect the principal of free prior and informed consent of the indigenous people and communities to be affected by their development projects. Indigenous people and communities should not be deprived of their own means of subsistence nor shall they be removed from lands. The companies are required to avoid endangering the health, environment, culture and institutions of indigenous people and communities within the context of their mining projects.

- Environmental health and safety issues

The local communities at Geita town complain of air pollution caused by heavy traffic of the Geita Gold Mining Company. For twenty four hours a day GGM trucks drive along the dusty roads of Geita Township, causing heavy air pollution. Wear and tear on the roads is also very high, leading to frequent road maintenance by the district local authority.

It is also recommended that the air pollution problem at Geita town, caused by the company trucks, should be dealt very urgently to avoid health problems in local residents.

GGM should carry out its activities in accordance with the national laws, regulations, administrative practices and policies relating to the preservation of the country's environment, in accordance with relevant international agreements, principles, objectives, responsibilities and standards, and in regards to environmental and human rights, and public health and safety. It should respect the right to a clean and healthy environment in light of the relationship between environment and human rights in regards to air pollution, water pollution, land use, biodiversity and hazardous wastes, and the wide goal of sustainable development, that is development that meets the needs of the present people without comprising the ability of future generation to meet their own needs. In order to ensure that investors abide to these conditions an inspection system needs to be strengthened at the national and international levels. At Geita Gold Mining there is no transparent inspection mechanism that involves different stakeholders, including trade union representation.

- Establish international solidarity and forums to face the hostile MNCs and step up pressure from all levels and angles to respect National Labour Laws and international instruments guiding MNCs.

- Build the capacity and strengthen the role of trade unions to collect data and information on the operations of MNCs in their countries and disseminate the information to national stakeholders and the international community. With concrete data and information, the trade unions will be able to lobby for better working conditions with MNCs. They can use the data and information to inform and pressure the government to enforce National Labour Laws and ILO Conventions and report on violations to the ILO governing body.

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Assessing labour and environmental standards in South African multinational companies in the mining industry in Africa: the case of Gold Fields Ghana

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THE UNITED BROTHERHOOD OF WORKERS
BY HAND AND BY BRAIN ALL OVER GAHAN

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Anthony Baah

Part 1: Introduction

This study is the second in the series of case studies being conducted by the African Labour Research Network (ALRN)[153] with the objective of assessing the application of labour and environmental standards in multinational companies that operate in Africa[154]. In the present study, six network members are assessing the performance of South African multinationals in the mining industry in five African countries – Ghana, Namibia, South Africa, Zambia and Zimbabwe.

In Ghana, the study focuses on Gold Fields Ghana, a gold mining company jointly owned by Goldfields (South Africa), Iamgold (a Canadian-based exploration and development company), and the Ghanaian government. Gold Fields was selected for this study for a number of reasons. Apart from being a South African multinational company (which allows for comparison of findings across the five countries mentioned above), the company is the second largest in Ghana's mining industry and contributes significantly to Ghana's foreign exchange earnings and to its GDP. Moreover, the company has a huge potential for growth in terms of employment.

1.1 The purpose of the study

The specific objective of this case study is to assess the performance of Gold Fields Ghana in terms of the observance of occupational health and safety, environmental standards and working conditions. This study is important for Ghana and particularly for the Ghanaian trade unions for two main reasons. First, we need to monitor the activities of mining companies closely to ensure that their activities do not pose any threat to the environment, livelihood and health of the people in the communities where mining activities are taking place. Mining has become the most important sector in terms of foreign direct investment in Ghana and it is expected that investment in the mining sector will continue to increase. Until recently, mining activities were concentrated in only two regions (Ashanti and Western regions) of the ten administrative regions. Currently, mining activities have spread to other regions in the country (including Brong-Ahfo and Eastern regions) as a result of an extensive exploration in the country by giant multinational mining companies including Newmont, Anglogold, and Goldfields. Mineral resources in Ghana are now being exploited at an unprecedented scale. If the recent trend of shifting from underground mining to surface mining continues, the implications of such large scale mining on the environment can be overwhelming hence the need for regular monitoring of the activities of mining companies in the country. Second, it is important that companies operating in the sector are monitored to ensure that employees work under safe conditions as the extensive exploration for minerals continues the mining sector can become a more important source of employment across the country.

These are some of the reasons why this study is timely especially during this period when the government of Ghana is doing everything to attract foreign investors into the mining sector. It is

[153] The African Labour Research Network (ALRN) brings together trade union-linked researchers from all over Africa to undertake joint research and publications in an attempt to develop alternatives to the neo-liberal development path. Currently, members of the network are from Angola, Benin, Ghana, Kenya, Malawi, Namibia, Nigeria, South Africa, Tanzania, Uganda, Zambia, and Zimbabwe.

[154] The first study assessed the application of labour and environmental standards by Woolworths Ghana (a South African multinational retail company in Ghana).

expected that this report will be a useful source of information for the Ghanaian trade unions in their campaign for the ratification of the ILO Convention 176[155] concerning occupational health and safety in mines. Environmental NGOs in the country and those concerned with the welfare of the people in the mining communities may also find the information provided in this study useful for their campaigns.

1.2 Importance of mining in the economy of Ghana

Mining has played a very important role in Ghana's socioeconomic development since the colonial period. Wage employment was introduced in the mining sector in Gold Coast (now Ghana) as far back as 1894. In that year the number of workers employed in the mining sector was 2400. Employment in the sector grew rapidly to over 40,000 employees in 1950 and gold output in the Gold Coast increased from approximately 18,000 ounces in 1894 to over 400,000 ounces in 1915.[156] The economy of Ghana still depends on the mining sector for a significant proportion of its foreign exchange earnings. Between 1999 and 2003, for example, the mining sector contributed over a third of Ghana's total foreign exchange earnings from merchandise exports.

The rapid growth in the mining sector and the prominent role it plays in the economy of Ghana is the result of the government's relentless efforts to attract foreign direct investment into the country. Following the severe recession in Ghana from the late 1960s to the early 1980s, the government of Ghana launched an economic reform programme with the aim of reversing the declining trend. As part of the programme, the government adopted a new investment code in 1994 with very generous concessions to foreign investors. For example, foreign companies are allowed to retain between 30 per cent and 80 per cent of their foreign exchange earnings in offshore accounts.[157] Mining companies around the world responded positively to the incentives and invested heavily in the sector. Between 1990 and 2004, for example, the mining industry in Ghana has attracted over US$ 5 billion. This figure represents over half of the total FDI to Ghana.[158]

The result was the reversal of the declining trend in the output of the mining sector. For example, between 1981 and 1983, output in the mining industry declined by over 30 per cent. However, since 1984 (after the economic reform programme was launched) the sector has recorded positive growth rates. In 1988 alone the mining sector recorded a growth rate of approximately 18 per cent (see Figure 1 below). The share of the mining sector in real GDP increased from an average of 2 per cent between 1981 and 1994 to approximately 5 per cent between 1995 and 2002. Between 1996 and 2003, the share of the mining sector in total industrial output averaged approximately 21 per cent. Export earnings from minerals totalled US$ 242.37 million in 1990. By 2002 export earnings had increased to US$757 million representing approximately 37 percent of Ghana's total merchandise export earnings (see Table 1).

[155] 1995
[156] see Damachi, 1979
[157] ISSER, 2004
[158] ISSER, 2004

Figure 1[159]:

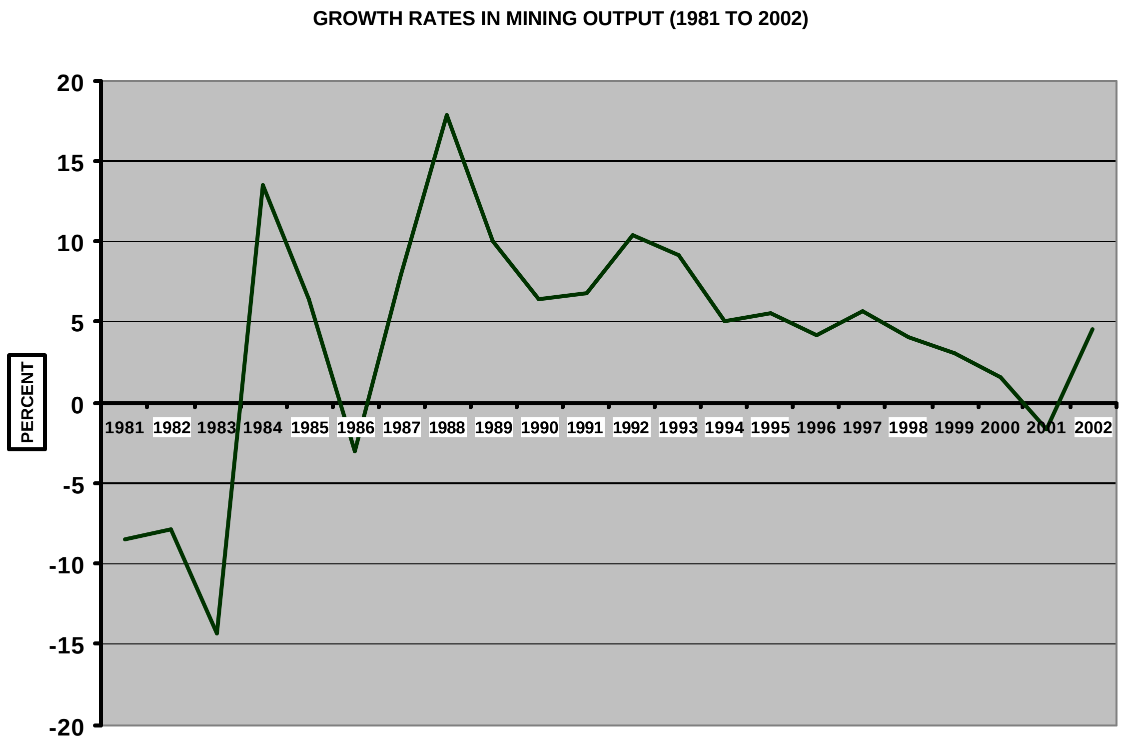

Table 1: Minerals Production, Export Earnings and Share of Mining in Total Export Earnings (1995 – 2002)[160]

Year	Gold (000 kg)	Diamond (000 carats)	Bauxite (000 tonnes)	Manganese (000 tonnes)	Export Earnings (US$ million)	Share in Total Export Earnings
1995	51.3	294.2	426.1	269.2	679	47
1996	42	714.7	383.4	266.4	641	41
1997	46.5	770.5	506.6	436.9	613	41
1998	66.1	823.1	442.5	536.9	718	34
1999	79.2	681.8	355.3	638.9	749	37
2000	73.6	878.3	503.8	895.7	756	39
2001	70.4	1091.6	692.6	1076.7	691	37
2002	65.5	967.6	683.7	1135.8	757	37

Despite the rapid growth in investment and output in the mining sector in the past 15 years, its relative share in the GDP has remained low compared to the shares of other sectors such as manufacturing and construction. Between 1995 and 2002, for example, the average share of

159 ISSER, 1999 & 2002
160 ISSER, 2000 & 2003

mining in GDP was 5.5 per cent compared to 9 per cent share for manufacturing and 8 per cent for the construction sector. The mining sector continues to be the chief foreign exchange earner but its share in total merchandise export earnings has been falling. Between 1995 and 2002, for example, the share of minerals in the total merchandise export earnings fell by 10 percentage points from 47 per cent in 1995 to 37 per cent in 2002 (see table 1 above). The foreign mining companies have recently been criticised for misusing the permission granted them to retain between 30 per cent and 80 per cent of their foreign exchange earnings in offshore accounts (ISSER, 2004).

Moreover, the share of the mining sector in corporate taxes has remained less than 2 per cent compared to 29 per cent share for the financial sector, 10 per cent for commerce and 16 per cent for manufacturing. The relatively low corporate tax revenue from mining has been attributed to the generous tax concessions the government has offered the mining companies as part of the measures for attracting foreign direct investment into the sector. The mining sector has also performed poorly in terms of employment. Currently it ranks among the least important sectors in terms of employment. According to the latest Ghana Living Standard Survey conducted in 1999, the share of the mining sector in total employment of the working age population (aged between 15 and 64 years) was only 0.7 percent compared with the shares for agriculture (55 per cent), trade (18 per cent) and manufacturing (12 per cent). In other words, the mining sector (both formal and informal) provides employment for less than 50,000 workers[161]. According to the Ghana Chamber of Mines, the total employment in the formal mining sector (including expatriates and workers in mine support services) was 19,053 in 2001 compared to 22,703 in 1994 and 40,000 in 1950(see tables 2 & 3 below).

Table 2: Employment in mining and other industries[162]

Main Industry	**Male**	**Female**	**All**
Mining	1.4	0.1	0.7
Agriculture	59.8	51.1	55.0
Manufacturing	8.9	13.9	11.7
Utilities	0.4	0.1	0.2
Construction	2.8	0.2	1.4
Trading	7.4	27.4	18.3
Transport & Communication	4.6	0.1	2.2
Community/Social Services	13.0	7.1	9.8
Total	100	100	100

Table 3: Employment in the formal mining sector[163]

Mineral	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Gold	18,049	19,557	18,674	18,028	19,422	16,129	15,120	14,954	12,901

[161] In 1999, the working age population (15 to 64 years) in Ghana was estimated at 6.9 million. The proportion of the working age population in the mining sector was 0.7 percent. This implies that the total employment was 48,300. This figure includes all those in both the formal and informal sectors as well as expatriates.
[162] GSS (2000) Ghana Living Standard Survey Report, Table 4.7, page 32
[163] Ghana Chamber of Mines, Accra, Ghana

Bauxite	1,137	1,083	539	527	482	491	337	330	328
Manganese	815	810	752	719	429	367	345	333	339
Diamond	1,271	1,069	1,065	1,069	928	871	735	723	743
Subtotal	21,272	22,519	21,030	20,343	21,261	17,858	16,537	16,340	14,311
Of which									
Expatriates	224	234	229	221	261	242	233	205	242
% of Expatriates to total employment	1.05	1.04	1.09	1.09	1.23	1.36	1.41	1.25	1.69
Employment in Mine Support Services									
Subtotal	NA	NA	1,431	2,076	2,598	3,110	3,093	2,713	NA
Of which									
Expatriates	NA	NA	150	204	246	208	162	115	NA
% of Expatriates to total employment	NA	NA	10.4	9.8	9.5	6.7	5.2	4.2	NA
Grand total	**21,272**	**22,519**	**22,461**	**22,419**	**23,859**	**20,968**	**19,630**	**19,053**	**14,311**

The poor performance of the mining sector in employment generation, as shown in the tables above, has been attributed to the weak linkage between the mining sector and the rest of the economy. The shift from labour-intensive underground mining to capital-intensive surface mining has also contributed to a loss of jobs in the sector.[164]

Nevertheless, the mining sector will continue to be one of the most important sectors in terms of foreign direct investment in Ghana because of the huge reserves of minerals in the country and the relatively long lives of some of the mining companies. In 2003, the world's largest mining company, Newmont, invested US$ 450 million in Ghana. In the same year Anglogold and Ashanti Gold Fields merged. It is estimated that Anglogold Ashanti, has a total reserve of about 12 million fine ounces of gold and that the life of the mine is over 20 years. Together, the nine biggest gold producing companies in Ghana hold an estimated reserve of almost 20 million ounces of gold. The estimated mine lives for Ghana Manganese company and Ghana Bauxite Company, for example, are 20 and 30 years respectively.

The foregoing indicates the importance of mining in the Ghanaian economy. But it is also common knowledge that mining activities can have very negative side effects on the environment and that if mining activities are not properly monitored the negative social and environmental effects can outweigh the positive economic effects. It is expected that this study will open up new areas for a more detailed and comprehensive research needed for the reassessment of the activities of mining companies in Ghana.

[164] ISSER, 2004

1.3 Research Methodology

Information contained in this report was gathered through structured personal interviews with management and workers' representatives based on separate questionnaires.

Interviews were first conducted with the top management at the company's head office to gather basic information about the company and its operations in Ghana. Another objective of the meeting at the head office was to brief the top management on the objectives of the African Social Observatory Project and to seek their cooperation in the study. We then proceeded to the two mines in Ghana (Tarkwa and Damang) to interview management and workers' representatives. In each mine, separate interviews were held with management and workers' representatives. On the management side, the officials interviewed included human resources managers, personnel officers, environmental superintendents, and occupational safety and health managers. Each management representative focused on areas of his/her expertise. On the workers' side, group interviews were held with union officials at both the local and national levels. At the Tarkwa site, three union leaders (including one woman) were interviewed and at the Damang site eight local unions leaders (including one woman) were interviewed.

The interviews focused on key issues such as: freedom of association, collective bargaining, working conditions, wages, restructuring, training, discrimination, occupational health and safety, and the environment. In addition to the above issues raised with union leaders, other issues were raised in the interviews with management representatives. These included profits and investments, technology, and future plans and prospects of the company. Additional (secondary) information was gathered from publications obtained from Ghana Chamber of Mines, Gold Fields Ghana, Ghana Mineworkers Union, Institute for Statistical, Social and Economic Research (ISSER) of the University of Ghana, and Ghana Statistical Service.

1.4 Organisation of the report

The report is organised under ten sections. In section 2, we present the profile of Gold Fields and provide information on its operation in Ghana. In section 3, we discuss issues related to the macroeconomic environment in Ghana. This is followed by a brief discussion of the legal framework of labour relations in Ghana in section 4. Section 5 discusses unionisation and labour relations. In section 6 we focus on wages and benefits. This is followed by a discussion of working conditions at Gold Fields in section 7. Environmental standard in the company is the subject in section 8. Section 9 deals with corporate responsibility. Summary and conclusions are in section 10.

Part 2: Gold Fields and its operations in Ghana

Gold Fields is a South African multinational mining company. It produces approximately 4.3 million ounces of gold annually and ranks fourth in the world in terms of gold production. The company has been investing in Ghana since 1993. Currently, Gold Fields Ghana is jointly owned by Gold Fields (71.1 per cent), Iamgold (18.9 per cent) and the government of Ghana (10 per cent).

2.1 Gold Fields Investments in Ghana

As mentioned above, Gold Fields started its investment in Ghana in the early 1990s when the government of Ghana decided to privatise state enterprises as part of its economic reform programme. Gold Fields first acquired the underground mine at Tarkwa in 1993. At the time the remaining life of the mine was only three years but the company managed to operate it for six years. The underground mine was closed in 1999 and the company shifted to surface mining. This has increased the life of the mine by about 20 years. In 2000, Gold Fields acquired a portion of another mining company (Teberebe mine) and in 2002 it acquired Abosso Goldfields at Damang.

The factors that attracted Gold Fields to Ghana include the relatively good mining infrastructure, good prospects, favourable investment conditions (including generous tax concessions), and the unique nature of what is known as the "Tarkwaian" rocks in the area[165]. Other factors that influenced the company's decision to invest in Ghana include the relatively stable political climate compared to Ghana's neighbours, a liberalised economic environment, the potential for expansion due to the large mineral reserves, and the good human resource base in Ghana. Since 1993, the company has invested over US$500 million in Ghana. Between 2002/03, for example, the company's capital investment tripled from about US$ 9 million to US$ 28 million.

When asked to rank the importance of macroeconomic factors that influence their investment decisions, management mentioned inflation and average wage levels as the two most important factors. Exchange rate, interest rates, the labour relations atmosphere, infrastructure (e.g. reliable supply of water and electricity), as well as the overall stability/predictability of the economy and political risk factors are other important factors that influence investment decisions. Factors that influence decisions on the company's investment in technology include (ranked according to importance attached by management): (1) innovation by competing firms and improved quality of product, (2) need to reduce labour cost, and (3) need to increase productivity and to keep pace with international industry standards.

2.2 Gold Fields production, exports and contribution to the national economy

The company uses two mining methods – heap leach and carbon-in-leach (CIL) to produce gold and silver. The total annual production of gold from its operations at Tarkwa and Damang is over 800,000 ounces. In 2002, for example, Gold Fields ranked first in the production of silver and second in the production of gold in Ghana. As shown in table 4 below, the company produced 830,326 ounces of gold at the Tarkwa and Damang mines in 2002. This figure represented over a third of the total gold production in the country that year. Its silver production was 39,323, which constituted more than half of the total production of silver in Ghana in 2002.

[165] The rocks are named after the town where the mine is sited.

Table 4: Annual Gold Production in producing mining companies (2002)[166]

Company	Gold	Share of Total (%)	Silver	Share of Total (%)
Ashanti	964,750	43.13	6,956	10.16
Goldfields (Daamang & Tarkwa)	830,326	37.12	39,323	57.44
Billiton Bogosu Gold	124,393	5.56	2,770	4.05
Bonte Gold Mines	46,055	2.06	2,909	4.25
Ghana Consolidated Diamond	139	0.01	-	-
Prestea Sankofa Gold	3,561	0.16	330	0.48
Resolute Amansie	102,455	4.58	13,535	19.77
Satellite Gold	4,276	0.19	-	-
Small Scale Gold Mine	160,878	7.19	-	-
Miramex	-	-	2,633	3.85
Total	**2,236,833**	**100**	**68,456**	**100**

Between 2001 and 2003, the value of the company's total exports was US$770 million. During the same period it paid US$22 million in mining royalties. The company's total contribution to direct taxes in Ghana between 2001 and 2003 was equivalent to US$52 million, which represented about five percent of the total direct tax revenue. Gold Fields contributes about 12 percent of the total foreign exchange earnings into the country. The table below shows the company's contribution to the economy of Ghana in terms of foreign exchange earnings, taxes, and payment of royalties between 2000 and 2003.

Table 5: Some selected variables showing Goldfields contribution to the national economy (2000-2003) (in US$000)[167]

Item	2000	2001	2002	2003
Total Exports	199 520	228 016	258 500	283 521
Capital Investment	22 032	21 418	9 329	28 472
Royalties Paid	5 358	6 285	7 394	8 196
PAYE	1075	1 106	834	882
Total Direct Taxes paid	9 777	12 200	18 025	21 370
Contribution as a percentage of selected indicators				
Revenue and capital expenditure as percent of GDP	4.3	4.6	4.2	4.6
Foreign Exchange generation as percentage of total in Ghana	10.3	12.0	12.7	12.3
Foreign Exchange generation as percentage of total earnings from gold export	28.3	35.2	38.1	34.2
Taxes paid as a percent of total direct taxes in Ghana	3.7	4.0	5.2	4.4

166 Ghana Chamber of Mines, Accra
167 Goldfields Ghana, Head office, Accra

2.3 Employment at Gold Fields Ghana

In 1999, the company declared a number of workers redundant when it closed its underground operations at the Tarkwa mine and shifted to surface mining. However, since then, due to the rapid expansion of the company's operations, employment has been increasing. By June 2004, the total number of workers (including junior, senior, and expatriate staff) directly employed by Gold Fields at Tarkwa was 875. According to management of the Tarkwa mine, about six percent of the employees are expatriate staff, 24 percent are highly skilled professionals and 70 percent are junior staff. All the workers (96 per cent of whom are men) are employed full-time.

The company recruited a new workforce in 2002 in the Damang mine after the former employees were laid off following an industrial action at the end of 2001. At the time of the study (June, 2004), the total employment in the Damang mine (including expatriate, senior and junior staff) was 266. Eight percent of this number was expatriate staff, 21 percent was professional/senior staff, and 71 percent was junior staff. In terms of the gender composition of the workforce, women constituted approximately 11 percent of the senior/professional staff. The corresponding figure for the women in the junior staff was 8 percent. Thus, men constitute 89 percent of the senior staff and 92 percent of the junior staff. As in the Tarkwa mine, all the workers are employed full time. Management at Damang does not foresee any significant changes in employment in the near future. They do, however, expect a reduction in the proportion of expatriate staff as local staff is being trained under what they termed the "nationalisation" programme.

Table 6: Distribution of employment at Gold Fields by position and gender

Mine	**Senior Staff**			**Junior staff**			**Overall Total**
	Men	Women	Total	Men	Women	Total	
Tarkwa	252	10	262	601	12	613	875
Damang	70	9	79	172	15	187	266
Total	322	19	341	773	27	800	1,141

Source: Goldfields (Tarkwa and Damang mines)

As shown in table 6 above, the total direct employment in the two mines was 1,141. However, this figure excludes the workforce in the mine service providers/contractors in the company. According to management, together with contractors in the company, the total employment in the two mines was 4000 in June 2004. The number is likely to increase in the coming years if plans to expand the company's operations and to move from "contract mining" to "owner mining" are carried out.

2.4 Company Restructuring

Gold Fields relies heavily on subcontracting companies for a number of its activities in the two mines. Activities that are subcontracted include security services, processing, geology (mining), engineering, administration, procurement, milling, maintenance, health care services, and housekeeping. According to the management representatives, contracts are awarded competitively with "ability to deliver" as the main criterion.

Usually, workplace restructuring (i.e. outsourcing, subcontracting and introduction of new technology) is considered a prerogative of management and is not subject to negotiation with either the local or national union. The junior staff and their union are usually not involved in such decisions.

Some of the workers who used to provide these services before they were subcontracted were either laid off or reassigned since the subcontracted companies hire their own employees[168]. The company has however decided to return to "owner mining" in the coming years. This is expected to reduce the number of activities and jobs that are subcontracted.

2.5 Gold Fields Future Investments Plans in Ghana

According to Gold Fields management, there are plans to invest US$194 million in 2004/05 to expand operations in the two mines in Ghana – Tarkwa and Damang. The company is also planning to do further explorations in the country and to continue to seek ways to extend the life of the Damang Mine. However, management expressed concern about the changing investment climate in Ghana. According to management, the investment climate in Ghana is not as favourable as it used to be at the time the company was locating in Ghana. Other countries in Africa including Mali, Zimbabwe and Tanzania now provide better investment conditions. ISSER (2004) reports a decline of FDI into Ghana's mining industry from US$353 million per annum between 1990 and 1999 to US$191 million between 2000 and 2003 due to the competition from other African countries. For instance, the mining companies have, in recent, times complained about excessive bureaucracy, particularly in their dealings with the central bank of Ghana and have raised concerns about tax issues (ISSER, 2004). According to the management of Gold Fields, the future plans of the company depend to a very great extent on the attitude of the government toward investors in the mining sector[169]. However, management is optimistic about the future prospects of mining in Ghana, a factor that is and has always been a major determiner in the company's investment and expansion decisions. Table 7 (below) show the company's planned investments in 2004/05 financial years.

Table 7: Investments in Tarkwa and Damang Mines Financial Year 2003 – 2005 (US$ million)[170]

2003 Financial Year		**2004/05 Financial Year**	
TARKWA MINE			
Development Cost Phase III	238	Capital Investment	12
Development Cost Phase IV	6	Construction of CIL and Owner mining	156

[168] Subcontracting and outsourcing are being adopted by many companies in Ghana especially those in the mining industry. As its strategy discourage this practice the TUC is encouraging its affiliates to ensure that working conditions that are negotiated for their members in regular jobs cover the sub-contracted workers who are usually employed on casual or temporary basis.

[169] A new Minerals and Mining bill is in the process of being passed into law. Among other objectives, the new law seeks to ensure "international best practices in the [mining] industry" and a "stable and equitable tax regime". Additionally, the law will also take cognizance of environmental protection as well as community interests "for development and sustainability of mining in the country". Mining companies in the country may see this as a threat to their operations.

[170] Source: Goldfields (Ghana), Head Office, Accra

Cash and working capital investments	73	Cash and working capital investments	9
Total Tarkwa	317		177
DAAMANG MINE			
Development cost	160	Future Planned Capital Investments	5
Exploration Expenditure	3	Exploration	3
Cash and working capital investments	31	-	-
Total Daamang	194	-	13
Total Goldfields Ghana operations	**511**		**198**

2.6 Prospects for increased employment at Gold Fields

It is envisaged that the company may increase employment as the business expands. But a large proportion of those who will be employed are likely to be professionals and management personnel. Part-timers, casuals and low skill workers may not be needed in the near future, according to management. In response to a question regarding the potential effects of the new labour law on the company's employment decisions, management in both mines indicated that it was too early to know the impact of the new law which came into force in 2003 but they were determined and ready to comply with all the provisions of Labour Act (Act 651, 2003).

Part 3: The macroeconomic environment in Ghana

Following a turbulent period between the mid-1970s and early 1980s, Ghana embarked an economic reform programme in 1983. Since then Ghana's GDP has been growing at an average of about 4 per cent per annum. However, the economy remains relatively unstable and fragile[171]. Inflation and interest rates remain high even by Sub-Saharan African standards. The national currency (the cedi) continues to depreciate against the major international currencies. For instance, at the end of 2003, the year-on-year inflation was approximately 24 per cent and interest rates (lending rates) ranged from 27 per cent to 33 per cent. The cedi depreciated from ¢5,322 per US$1.00 in 2000 to ¢8,668 in 2003 representing a cumulative depreciation of approximately 39 per cent during the four year period or about 10 per cent depreciation per annum.

The Ghanaian economy still depends on three major exports – cocoa, minerals and timber, for foreign exchange. Agriculture remains the backbone of the economy. Between 2000 and 2003, for example, the average share of agriculture in GDP was 40 per cent compared to 33 per cent and 27 per cent for the services and industrial sectors respectively. Agriculture employs about 55 per cent of the workforce. Trading and manufacturing sectors employ 18 per cent and 12 per cent of the labour force respectively (GLSS4, 2000). Unemployment is officially estimated at 10.4 per cent, according to the GLSS 4 and the 2000 Population Census. But independent researchers

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[171] See Killick T, (2000) "Fragile Still? The Structure of Ghana's Economy 1960-94" in Aryeetey et al, (eds) Economic Reforms in Ghana: The Miracle & The Mirage, James Currey Oxford, Woeli Publishing press Accra & Africa World Press Trenton, NJ

estimate unemployment to be about 20 per cent (Dordonoo, 2001). Poverty is widespread. The latest household survey (GLSS4) estimated the incidence of poverty to be around 40 per cent. In other words, four out of every ten people in Ghana are below the national poverty line, which is about US$1 per day.

Some of the major economic policies that have been implemented in Ghana since 1983 have aimed at attracting foreign direct investment into the country. Among these policies were the revision of Ghana's investment code in 1994 and the introduction of the export-processing zone (EPZs) in 1995 (World Bank, 2001). It was also one of the reasons for the privatisation of state enterprises. But Ghana still ranks among the countries in Africa with the lowest foreign direct investment. According to a World Bank report on Ghana's international competitiveness, in 1998, Ghana attracted 0.7 per cent of the total FDI inflow to Africa. This placed Ghana at the 21st position in Africa and 16th in Sub-Saharan Africa in terms of FDI flows in that year (see World Bank, 2001).

Ghana is among the world's most heavily indebted countries in terms of debt/GDP ratio. In 2001, for example, Ghana's total external debt was US$6,585.33 million or 121 per cent of GDP. The debt ratio fell to 111 per cent in 2002. At the end of 2003, Ghana's external debt was US$7,034.30 million, which represents approximately 90 per cent of GDP. In summary, Ghana has been able to turn its economy around from negative growth to positive growth but the economy remains weak because of its over-reliance on agriculture, minerals and timber.

Part 4: National legislation and ratification of ILO conventions

Ghana became a member of the ILO in 1957, immediately after independence. Since then it has ratified 46 ILO Conventions including seven of the eight core conventions, namely Convention 87 (Freedom of association and protection of the right to organise, Convention 98 (Right to organise and collective bargaining), Convention 100 (Equal remuneration), Convention 111 (Discrimination – employment and occupation), Convention 29 and 105 (Abolition of forced labour) and Convention 182 concerning worst forms of child labour. Ghana has, however, not ratified Convention 138 concerning the minimum age for employment.

The right to form or join trade unions was legalised during the colonial period as far back as 1941 under the Trade Union ordinance (1941). Several labour laws have since been enacted to ensure full compliance to the ratified conventions. Prominent among the labour laws were the 1958 and 1965 Industrial Relations Acts that sought to promote trade unionism in Ghana and to protect workers' rights. It is worth mentioning that the labour laws, particularly, the 1965 Industrial Relations Act contributed immensely to the growth of trade unionism in Ghana in the 1960s. However, in line with government's objective of ending the so-called "monopoly of the Trades Union Congress" and ensuring that labour laws in Ghana conform to the "free market system adopted by the country" the 1965 Industrial Relations Act and other related labour laws were repealed in 2003 and replaced by a new Labour Act (Act 651, 2003). The aim of the new law is to achieve a flexible labour market as one of the means of attracting foreign investors into the country.

With regard to the mining sector, as mentioned earlier, a new minerals and mining bill is in the process of being passed into law. The provisions in the new law, according the minister responsible for mining, will reflect the "new thinking and developments in the mining industry…" and will "reposition Ghana as a major mining investment destination" in Africa. The law will also ensure a more equitable corporate tax regime in the country. Another important provision in the new law relates to what is known as the "localisation policy" which essentially requires every holder of a mining lease to submit to the Mines Commission a detailed programme for the recruitment and training of Ghanaian personnel towards eventual replacement of expatriate personnel by Ghanaians. Furthermore, the law for the first time will regulate activities of small-scale miners in the informal sector. In summary, the new law will provide a regulatory framework that ensures international best practice in Ghana's mining industry to protect the environment and the local communities in which mining companies operate.

Considering the low FDI flows to Ghana and the strong quest for increased employment in the formal sector of the economy and the weak capacity of the agencies in charge of monitoring labour standards and working conditions in the country, there is the tendency on the part of the government and foreign and local employers to compromise the labour and environmental standards, in line with the flexible labour market policy and the liberalised environment. The implications of these policies for the well being of workers are obvious. Since the mining sector has been the key sector that attracts foreign direct investments into the country there is an even greater tendency for the authorities and employers to ignore health, safety and environmental conditions in the mines in order to avoid jeopardising Ghana's chances of attracting more investors into the sector.

To protect workers and communities from this potential danger, unions and other civil society organisations should be willing and able to monitor the activities of mining companies regularly.

Part 5: Unionisation and labour relations

5.1 Unionisation and the industrial relations climate in Ghana

Generally, the industrial relations atmosphere in the post-independence period has been quite stable compared to the pre-independence era, thanks to the labour laws (discussed above). There is strong social partnership among employers, unions and the government at the national level at least in the areas of minimum wage determination. Currently, there are 17 national unions affiliated to the TUC with a total membership of nearly 500,000 representing about 50 per cent of the formal sector workforce. The membership of the unions cuts across all the major sectors in the formal economy. The sectors with high unionisation rates include mining, utility, transport, finance, and community, social and personal services sectors. Data available in the Ghana Living Standard Survey conducted in 1999 show that 81 percent of all mineworkers in Ghana are unionised compared to the average union density of approximately 50 percent in the formal economy. The table below compares the union density in the mining industry with union densities in other sectors in the formal economy.

Table 8: Union Densities in the Mining and other Industrial Sectors in Ghana's Formal Economy[172]

Industrial Sector	Union Density (Percent)
Agriculture	31.0
Mining	81.0
Manufacturing	34.0
Utility	72.7
Construction	17.6
Trade	20.0
Transport	53..3
Finance	55.4
Community, Social & Personal services	61.6
Formal Sector union density	49.7

As shown in the table (above), unionisation rate in the mining sector is much higher compared to sectors such as construction (18 per cent), trade (20 per cent), agriculture (31 per cent) and manufacturing (34 per cent). This is explained by the traditional solidarity among mineworkers who are predominantly males. Another reason for the high unionisation in the mining industry around the world is the high concentration of mineworkers. In Ghana, for example, almost all the mining activities are concentrated in two of the ten administrative regions. This facilitates the work of unions in terms of organisation and recruitment.

5.2 Labour relations at Gold Fields

Like most enterprises in Ghana's mining industry, all the regular employees in junior positions at Gold Fields (in both the Tarkwa and Damang mines) belong to the Ghana Mineworkers' Union (GMWU). Members of the senior staff belong to a senior staff association. The formation of the union in both mines predates the acquisition of the companies by Gold Fields.

From the information we gathered from both management and union representatives, there seems to be a very cordial relationship between the union and management in both mines. Meetings are held regularly between the two parties. At Tarkwa, for instance, management–union meetings are held regularly at the sectional level because of the difficulty involved in getting all the workers at the same time. At Damang meetings between management and union are usually held quarterly. In between the quarterly meetings *ad hoc* meetings are held as and when necessary. Issues related to medical care for workers and the financing of their children's education are among the issues that are frequently discussed at management-union meetings.

As mentioned above, industrial relations in both mines have been quite peaceful over a long period except that in 2001 workers at Tarkwa embarked on an hour demonstration to back their demand for Christmas hampers when they suspected that the human resources manager was an obstacle in their way. The issue was resolved amicably. At the Damang mine, as mentioned earlier, there was a more serious industrial action at the end of 2001 to back their demand for severance pay when Gold Fields was taking over the Damang mine from the previous owners.

[172] Author's calculation from the Ghana Living Standard Survey (1999)

The labour laws in Ghana require that workers are given severance award any time there is a reorganisation of a company and such reorganisation leads a diminution of working conditions of employees. The severance award was paid after the strike action but the implication was that the new company was not obliged to employ the workers after the severance payments had been made. Legally, all the workers severed employment relationship with the company. Some of the workers were retained but the majority of them were not re-engaged.

With regard to access to information necessary for negotiation, the workers in both mines reported that management scarcely give them such information even when they request it. The workers also reported that even when management provides the requested information it is not provided in time for negotiation though such information is usually found to be relevant for negotiation. Workers at the Damang mine have had cause to complain about management refusal to fulfil provisions in the collective agreement concerning union-management meeting, provision of soap, education, and medical care for employees and dependants.

Despite these disturbances, management in both mines described their relationship with workers and the union as "very good" and envisage an even closer and stronger relationship in the years to come. Shop stewards and other local union leaders are allowed to attend union meetings and to take part in other national and local union activities without any hindrance since this is provided for in the collective agreement. The only condition attached to their release is that the union has to give a prior notice. But according management, even if the union delays in putting in the request for release of local union officials, they are always released when requested to do so. According the workers' representatives interviewed in both mines, there have been no problems in getting the union recognised. The company deducts union dues at source. The Tarkwa and Damang branches of the union have 20 and 12 stewards respectively. But none of them have a full-time shop steward. Management does not exercise any type of pressure to discourage workers from belonging to the union and no case of discrimination or victimisation against union officials has been recorded. The unions in both mines have never complained or instituted any legal action against the company. Union officials are free to visit any section of the plant and are always free to distribute information to workers. Officials of the national union confirmed this information.

Unlike the regular/permanent employees in the mines, the subcontracted workers in both mines do not belong to any union. Their employers therefore determine their terms and conditions of employment. Gold Fields has no influence on employment conditions in the subcontracted companies. As one management representative at Damang put it "this is a matter for the contractor".

Part 6: Wages and benefits at Gold Fields

6.1 Wages

Workers in the mining sector earn higher wages, on average, than workers in all the other sectors of the economy, according to the latest living standard survey (GLSS4). As shown in the table below the average wage in the mining industry is about three times the average wage in agriculture. The national daily minimum wage in 2004 is approximately US$ 1 (for eight hours of work) or US$ 27 per month[173]. The minimum pay in the mining industry is over US$ 150. In other words, the lowest wage earner in the mining industry in Ghana earns over five times the national minimum wage[174].

Table 9: Average basic hourly earnings in main occupations by industry for active population aged 15+ (in cedis)[175]

Main Industry	Average hourly earnings (in cedis)	Average hourly earnings (in US$)*
Mining	1484	0.62
Agriculture	512	0.21
Manufacturing	1156	0.48
Utilities	1105	0.46
Construction	1019	0.42
Trading	1411	0.59
Transport/communication	1187	0.50
Financial Services	1454	0.61
Comm.& Social Services	1035	0.43

* Exchange rate in March 1999, the reference month for GLSS data, was ¢2394/US$

The determination of wages, benefits and working conditions in Gold Fields is subject to collective bargaining at the Mines Standing-Joint Negotiation Committee (MSJNC), which is made up of representatives from the local and national union and management[176]. The same collective agreement covers workers in both Tarkwa and Damang mines. The collective agreement is usually for a term of three years but wages are reviewed at the beginning of every year.

In June 2004, the minimum monthly pay for workers in the junior staff category at the Damang mine ranged from US$ 178.28 to US$ 308.84. Senior staff pay ranged from US$ 422 to US$ 930. The management at the Tarkwa mine failed to provide information on wages but according the national union and the management at the Damang mine, workers in both Tarkwa and Damang mines receive similar levels of pay and they rank among the highest paid employees in the country.

There is a huge wage differential between expatriates and the local staff. For instance, in June 2004, the pay for the expatriate staff ranged from US$3000 to US$10,000, according figures obtained from management of the company. A comparison of the minimum salaries for the local senior staff and expatriate staff shows that the expatriate on the minimum scale earns approximately seven times the pay for the local counterpart ($3000/422=7.11).

[173] Monthly wages are by law calculated based on 27 working days.
[174] The relatively high wages in the mining sector has been attributed to the indexation arrangement agreed between most of the mining companies and the Ghana Mineworkers' Union. Since 1997 wages of most workers in the mining sector have been tied to the US dollar so that as the Ghanaian currency depreciates the indexed wages are adjusted automatically by the rate of depreciation. Since the cedi (the national currency) depreciated faster than the inflation, the average pay in the mining industry has almost quadrupled since the indexation arrangement started in 1997.
[175] Source: Ghana Living Standard Survey (1999) Report, p.35, table 4.11
[176] Traditionally a representative of the Ghana Chamber of Mines attends such negotiations as an observer.

6.2 Fringe benefits

Workers in both mines (i.e. Tarkwa and Damang) enjoy a wide range of fringe benefits. The benefits include social security, a provident fund, free medical care (for employees and their close relatives such as spouse and children), interest-free loans, education bursaries (for employees and children), transportation (to convey employees to work and children of employees to school), maternity leave (with full pay), paid annual leave (7 days), bereavement leave (8 days in a year), casual leave (a maximum of 10 working days in a year without pay), paid study leave (depending on the duration of the course of study), paid sick leave, subsidised housing, funeral undertaking allowance, housing allowance, and other benefits (see Appendix I for detailed comments on these benefits).

Pregnant women are entitled to 12 weeks maternity leave with full pay. Usually maternity leave is split into two equal parts: six weeks before and six weeks after delivery. However, if there are any complications, a certification from a medical officer could earn the person more leave days also with full pay. However, it is important to note that the company does not provide childcare services.

In response to a question regarding what the company is doing that, in their opinion, stands unique among all companies in the mining industry, management indicated that the company in collaboration with the union has initiated a housing loan scheme for all employees who have been with the company for at least three years. Management also mentioned that the company is now leading the industry in terms of wages and the number of fringe benefits. According to management at the Damang mine, the company's expenditure on fringe benefits is almost equal to the expenditure on wages (see table below). Management at Tarkwa and Damang ranked the company's benefit schemes as "above average" and "highest in the industry" respectively.

Table 10: Labour Costing at Gold Fields (Damang Mine)[177]

Employee Type	**Basic Pay (A)**	**Overtime Allowance (B)**	**Other Allowances (C)**	**B/A (%)**	**C/A (%)**	(B+C)/A (%)
Total Cost (Junior Staff)	358,963,622	222,770,779	127,471,758	62.06	35.51	97.57

Part 7: Working conditions

7.1 Hours of work

Hours of work range from 8 to 12 hours per day or 40 to 60 hours per week (including overtime). All hours in excess of the legal maximum of 40 hours per week attract overtime rates (time-and-a-half, double-time or a time x 3) depending on whether the overtime work takes place in a normal working week day, weekend or on a public holiday.

[177] Gold Fields Ghana Limited (Damang Mine).

7.2 Training

The company has a training policy that aims at training all new entrants and upgrading the skills of all employees. According to the workers, the company adheres to its policy of training all new entrants but in the case of retraining and upgrading of skills of employees management decides who receives such training. Although such opportunities are open to all employees, the company has so far sponsored a few workers and/or their children for further studies in academic institutions. Neither the local nor the national union was involved in the formulation of the training programmes.

7.3 Discrimination

The workers did not complain of any form of discrimination in the company. The only issue raised in connection with this subject was that men dominate mining but they attributed that to the nature of the job and the higher health, safety and environmental hazards involved. The workers are not aware of any plans to engage more Ghanaian managers but as reported earlier, the new Mining and Minerals law which is in the process of being passed seeks to make it compulsory for all mining companies to train local managers and experts with the aim of reducing the proportion of expatriates in the mining sector under what is known as the “localisation” policy. The workers are not aware of any employment equity plan in the company. What is well known to all workers is that the company has a code of good practice to deal with sexual harassment.

We do not have information on the wages for employees in the subcontracted companies. However, the workers’ representatives at Tarkwa hinted that there is a wide gap between the wages in Gold Fields and those in the subcontracted companies even for comparable workers. It is also well known that the subcontracted workers do not enjoy most of the fringe benefits mentioned above.

7.4 Child Labour

The minimum age for employment in Ghana is 15 years[178]. According to the management of the company, none of Gold Fields’ employees is under 15 years. Workers’ representatives who were interviewed at Tarkwa confirmed that even among subcontracted workers in the mine, none of them is below 15 years of age. Their counterparts in the Damang mine also confirmed that the company does not employ children below 15 years. However, they did not know whether or not subcontractors employ children. The workers’ representatives are also not aware of any agreement between management and subcontractors that ensures that the subcontractors do not employ children.

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[178] Ghana has ratified the Convention on the Rights of the Child (1990). A Children’s Act was passed by parliament in 1998 to protect children from all forms of abuse. Ghana has also ratified the ILO Convention 182 (2000) concerning the worst forms of child labour.

7.5 Occupational Health and Safety

7.5.1 OHS in the mining industry

During the colonial period many mineworkers lost their lives and many sustained permanent damages to various parts of the body because of the poor health and safety standards. The situation has since improved considerably, thanks to modern methods of mining. Nevertheless, mining is still considered "a dangerous trade" and occupational health and safety in the mines remain priority issues for trade union policy.

Occupational health and safety issues in the mining industry received more attention when the ILO adopted Convention 176 (1995) concerning safety and health in mines. The convention requires member countries to pass the necessary laws to ensure that employers in the mining industry take preventive and protective measures to eliminate, control, or minimise occupational risks. The Labour Act (2003) that has just come into force in Ghana makes it the duty of an employer to ensure that every worker employed by him or her works under satisfactory, safe and healthy conditions. Under the Act, an employer who refuses to discharge such obligations commits an offence and is liable for conviction to a fine or to imprisonment for a term not exceeding three years or to both. The law also requires employers to report occupational accidents and diseases and provides for a regular labour inspection to ensure that employers comply with regulations relating to health, safety and the environment.

The TUC launched a campaign in 1998 to get Convention 176 ratified by Ghana. As part of preparation towards its campaign the TUC conducted a number of case studies on the health and safety situation in the mining industry in Ghana[179] with the objective of gathering information that will serve as the basis for the campaign. Among other findings, the study revealed a wide variation in the observance of health and safety standards in Ghana's mining industry. While the standards in a few of the mining companies met international standards in the majority of companies OHS standards were below such standards. For instance, in one mining company in the Western region, it was found that part of the waste generated by the company was allowed to flow into a river that serves as a main source of water for drinking and for other household activities for communities downstream. The remaining waste from the company's activities was directed into a dam nearby. But, according to workers who were interviewed, the dam that contained the waste (cyanide) could overflow during rainy season to contaminate the water sources and water bodies around the area. The only measure taken by the company to neutralise the effects of the toxic substances was to spray ferrous sulphate into the cyanide tailings – a measure that was not effective according the workers. It was also discovered that the company did not have any environmental policy in spite of all the waste it was generating. In another mining company in the Western Region the workers who were interviewed reported that management refused to investigate six deaths that occurred in one department in a period of one year.

Despite the improvements in the situation in recent times, due mainly to change in technology and adoption of ISO standards by some companies, miners in Ghana still face many health and

[179] The companies selected for the study included Ashanti, Bonte, Bannex, Bogoso Gold, Ghana-Australian Goldfields, Ghana Manganese, Ghana Consolidated Diamond and Ghana Bauxite.

safety hazards such as exposure to chemicals and dust, high noise and heat levels as well as vibration and fumes. Almost all the companies covered in the above-mentioned study neither had pre-employment medical examination, periodic examination, nor exit examination for their employees. In some cases the exit medical examination was conducted but it was only available for expatriate staff and not for the local staff. All the companies surveyed in that study, including the multinationals in the sample, did not have qualified occupational health physicians and some did not even have any medical officer in the company either as full-time or part-time staff. Among the many safety hazards reported in that survey, most related to machinery, handling, transport and haulage. The underground mining companies that were covered by the survey reported rock falls and trucking as the major causes of accidents. Hands and legs are the parts of the body that are usually affected in such accidents. In some isolated cases there were multiple injuries and deaths. The main causes of deaths that were reported in the survey related to machinery and haulage (in the surface mines) and rock falls and fall of the ground (in the case of the underground mines). Most of the companies generated waste such as arsenic trioxide, cyanide tailings, xanthates, laterite, fine clay, slimes and bedrock. Yet, only three out of the eight companies covered by the survey had active policies on the environment.

Statistics on occupational health compiled by the Ghana Chamber of Mines indicate that there is high prevalence of diseases such as malaria, sexually transmitted diseases, lower back pain, musculoskeletal disorders, and respiratory tract infection among mineworkers. In 2000 alone, the number of cases of respiratory tract infection and sexually transmitted diseases reported in the 16 producing mines were 41,124 and 526 respectively (see table 11 below).

Table 11: Occupational Health in Producing Mines (2000 – 2002)[180]

Disease	2000	2001	2002
Malaria	100654	87214	6,699
Sexually transmitted diseases	526	1000	176
Chronic obstructive airways	212	1148	191
Lower back pain	3112	4906	526
Miners nystagmus	245	-	-
Musculoskeletal disorders	1286	2644	1,048
Noise induced hearing loss	135	24	32
Pneumoconiosis (e.g. silicosis)	3	17	171
Vibration induced finger	10	374	-
Respiratory tract infection	41124	39 257	1,601
Others	2499	11031	1,742
Total	149,806	147,615	12,186

7.5.2 Occupational health and safety (OHS) standards in Gold Fields

In this section, we provide some information on the occupational health and safety situation at Gold Fields based on the information gathered from the interviews with management and workers' representatives. Issues covered relate to occupational health and safety policy, health and safety committees, training and first aid skill acquisition, occupational diseases, health and

[180] Ghana Chamber of Mines

safety hazards, health facilities, medical examination, and measures put in place to prevent or protect workers.

Health and safety policy:

According to the management of the company, "safe and healthy working environment is one of the Company's major organisational objectives". The company is, therefore, committed to improving the quality of life of all its employees and strives to eliminate injuries or accidents, provide a safe working environment, and to develop safe working practices. The company's policy on occupational health and safety are contained in the collective agreement (see Appendix II).

Safety Committee:

The company has safety committees in both mines. At Tarkwa, there are three different safety committees: (1) the management health and safety committee (composed of all heads of departments and senior supervisors), (2) joint safety and progress committee (composed of two health and safety representatives from each department and one supervisor from the department), and (3) departmental safety committees (made up of health and safety representatives and two supervisors). The workers nominate the workers' representatives in the committees while the heads of the various departments nominates the supervisors. The management and the departmental health and safety committees meet once a month while the joint committee meets once every three months. At Damang, there is a health and safety board that is made up of 14 members (five management staff, eight senior staff and one workers' representative) that meets once every month.

First aid and OHS training:

The company has a first aid policy that includes training of first aides in both mines. At Tarkwa the target is to train all workers to enable them to offer first aid services. Management at Tarkwa also boasts of being the only company that has five certified trained first aides. At Damang, the target is to train all supervisors in first aid. The company has also instituted a health and safety training programme for all employees. It is the company's policy to retrain workers who return from annual leave. Such training programmes usually last for three days, two of which are devoted to health and safety.

Diseases and health hazards:

Malaria, respiratory diseases, diarrhoea, and tuberculosis are the four most prevalent diseases in the area. In 2000, for example, out of the 149,806 cases reported in the company 67 percent were malaria cases. The corresponding proportions for malaria cases for 2001 and 2002 were 59 and 55 percent respectively (see table 11 above). Among the health hazards mentioned by both management and workers are those that relate to fine dust, noise (above 85 decibels), heat (due to exposure to the sun), stress, vibration (from heavy equipment), excessive lighting, radiation (welding and cutting), and chemicals (e.g. cyanide).

Safety hazards:

The safety hazards facing the workers relate to falling materials, rock falls, fall of the ground, electric shocks, fire outbreaks, trucking/tramming, gassing, handling, slips and falls, the use of explosives, explosions, use of heavy equipment and machinery, burns, haulage and transport. The three main sources of accidents are handling, machinery, slips and falls, vehicle incidents, handling, and haulage/trucking. The parts of the body mostly affected by such incidents include (in order of frequency): the arms/hands, the legs, trunk, and eyes. There have also been cases of multiple injuries in both mines. Accidents that cause fatalities and multiple injuries at the Tarkwa mine relate to machinery and, to some extent, handling. At Damang, there has never been any accident that has resulted in death of a worker at the mine since the company was established.

OHS statistics:

The company keeps up-to-date records on diseases and injuries. These reports are compiled and submitted to management on daily basis and to the corporate office on weekly basis. Serious injuries are reported to the Mines Department.

Welfare of accident victims:

It is the responsibility of the company to take care of accident victims. This is done in consultation with the branch or the national union and the labour department. Compensation is usually paid to victims based on the provisions of the Workmen's Compensation Law (1987) that stipulates the methods for calculation of benefits and how payment is made.

Accident investigation and corrective measures:

Workers are required to report all accidents/incidents immediately to the supervisor in the section. Investigations are conducted to find the causes of the accident. The report is usually released within 24 hours of the accident/incident. Both management and workers' representatives responded in the affirmative when asked whether in their opinion such corrective measures are adequate and effective (see Appendix III for a sample of accident report form used in the company).

Health facilities and services:

Both mines have health facilities (hospital and clinics) on site. Private companies own the health facilities. These services are supported by the regional health facilities at Tarkwa, which is state owned. The company has also established Emergency Response and ambulance services Units in both mines. The hospital at the Tarkwa mine has a medical officer and a trained medical response team of first aides for each shift. There are two medical officers and a nurse at the Damang mine. Workers are required to undergo medical examinations before they are employed. Periodic medical examinations are also conducted as and when necessary. The company also conducts exit medical examinations before workers retire or when their employment is terminated.

Management in both mines indicated that they are satisfied with the facilities and services provided at the mines but the workers in both mines were not. The reason given at Tarkwa for their dissatisfaction was that workers feel that they are not getting adequate attention from the health personnel in the hospitals and clinics. The explanation we had from the workers at Damang was that the medical officers work for only two hours a day (from 8:00am to 10:00am). In their opinion this is not adequate.

Emergency response plan:

Workers have been educated on emergency response plans in both mines. In case of emergency workers are required to either use radios or telephones located at different points in the mines. All workers know the channel (for the radio) and emergency number (for the telephone).

Safety awards:

At Tarkwa workers are awarded monthly for outstanding performance in safety. Damang gives safety bonuses quarterly and housekeeping awards yearly. We should note passing that safety awards have come under some criticism. According to the critics, such award schemes encourage workers to hide injuries so that they can win safety awards. However, we were not in the position to investigate this issue in the present study.

Self assessment and safety record:

The Management and workers' representatives were asked to assess their own performance in occupational health and safety and to rank their performance relative to other mining companies operating in Ghana. Management in both Tarkwa and Damang ranked their companies "among the best" in the industry. Although workers expressed some reservation about the quality of health services in both mines (as reported earlier) it is interesting to note that they also ranked their companies "among the best". When asked to give reasons for their rating, management indicated that the accident/incident rates in both mines are much lower compared to other companies in the industry both within Ghana and internationally. In the case of Damang, management cited the zero fatality record as an important reason for rating the company among the best. The objective of the company is to achieve the International Standard Organisation (ISO 1800) certification. Because of this particular attention is being paid to occupational health and safety issues. The quality and the frequency of training in health and safety are an indication of the importance the company attaches to occupational health and safety issues, according the workers who were interviewed.

The records obtained from the Mines Department, which indicated that Gold Fields Ghana was adjudged the "best improved mine" in the country for 2001 confirmed this perception about the company. . This rating was based on the performance of the company in terms of reduction in injury frequency rate. In 2000, the injury frequency rate in Gold Fields was 1731.67. The rate reduced to 6.45 in 2001 representing a 99.63 percent reduction in injury frequency rate compared with an increase of injury frequency rate between 6.51 and 98.19 percent in other mining companies operating in the country during the same period (see **Appendix IV and V** for detailed information on the safety rankings by the Mines Department for 2002 National Safety Day Competition).

7.6 HIV/AIDS

7.6.1 HIV/AIDS as a workplace issue

As has been pointed out by the ILO, "AIDS is a workplace issue not only because it affects labour and productivity, but also because the workplace has a vital role to play in the wider struggle to limit the spread and effects of the epidemic". According to the ILO, out of the over 40 million people infected with HIV around the world 26 million (65 per cent) are workers aged between 15 to 49 years. The following are some of the reasons why ILO is concerned about HIV/AIDS:

- Discrimination against people with HIV threatens fundamental principles and rights at work, and undermines efforts for prevention and care;
- The disease cuts the supply of labour and reduces income for many workers;
- Valuable skills and experience are lost;
- Productivity falls in enterprises and in agriculture, and labour costs rise;
- Investment is undermined and tax revenue cut just as countries face more pressure on public services; and
- The double burden on women gets heavier as they have to earn a livelihood and provide care to sick family members and neighbours.

It is in this light that ILO has adopted the code of practice on HIV/AIDS that seeks to "provide a set of guidelines to address the HIV/AIDS epidemic in the world of work within the framework of the promotion of decent work" (see Appendix VI.)

7.6.2 HIV/AIDS in Ghana

The incidence of HIV/AIDS in Ghana is estimated at 3.6 percent. This translates into about half a million people afflicted with the disease. As in other parts of the world, the majority of those with the disease are in the working age population (15 to 49 years). The regions in Ghana that have the highest incidence of the disease are the Eastern, Volta, Greater Accra, Western, and Ashanti regions.

7.6.3 Measures to combat HIV/AIDS at Gold Fields Ghana

Gold Fields considers HIV/AIDS an important workplace issue particularly when the Western region (where it operates) is among the regions with the highest prevalence of the disease. The company aims to work with the union to combat the disease within the ILO code of practice and the Ghana AIDS Commission guidelines on combating HIV/AIDS at the workplace. In line with this objective, the company has recently employed a full-time HIV/AIDS coordinator who is charged with the coordination of all programmes related to the disease. The work of the coordinator will not benefit only Gold Fields employees but also it will be extended to their families and to the community at large. In an interview with the deputy secretary general of the Ghana Mineworkers' Union, he expressed the union's willingness and readiness to cooperate with the company to ensure that the workers and the community receive the education and the support they need. The union has a full-time officer in charge of HIV/AIDS education who is working closely with the Ghana Chamber of Mines and the Ghana AIDS Commission to design policies and programmes for all mine workers and the people in mining communities.

Part 8: Environment

8.1 Environmental standards at Gold Fields

Environmental issues have become topical in the mining area in recent years due to the shift from underground mining to large-scale surface mining. As indicated earlier, Gold Fields has shifted completely from underground mining to surface mining. The implication for the environment cannot be overemphasised. The wastes produced by the company include contaminated materials, scrap steel, oil-contaminated waste, and what management described as "normal waste" or "non-hazardous waste" such as food, paper, and so on.

Gold Fields has an environmental policy that spells out the company's commitment to ensuring that "its operating practices promote conservation or enhancement of the natural and social environments in which the company operates". The company recognises that the sustainability of its operations in exploring, developing and exploiting mineral resources depends on sound environmental management and acknowledges that the environment "represents a strategic resource for both current and future generations and will therefore minimise to the maximum extent practical the impact that the company's operations have on the environment"

Box 1: Environmental policy of Gold Fields Ghana Ltd

The management of Gold Fields Ghana Limited is committed to adherence to policies and responsible operating practices which promote the conservation of enhancement of the natural and social environments in which the company operates. We recognise that the sustainability of our operations in exploring, developing and exploiting mineral resources is reliant on sound environmental management. We acknowledge that the environment represents a strategic resource for both current and future generations and will therefore minimise to the maximum extent practical the impact that the company's operations have on the environment.

In furtherance of this policy, Gold Fields Ghana Limited has set the following specific objectives:

1) Comply with all applicable laws and regulations of the government of Ghana and maintain open and cooperative working relationships with relevant government agencies;
2) Prevent pollution and apply internationally-recognised industry best management practices for environmental management;
3) Establish and maintain a clearly defined environmental management programme which covers all relevant aspects of the company's operations and integrate environmental management into the company's day-to-day operational activities;
4) Train employees at all levels of the organisation to perform their job functions in compliance with sound environmental practices and procedures and require the

highest level of commitment to the company's environmental objectives from company directors, managers and staff;
5) Provide managers and supervisors with the necessary resources and authority to carry out the environmental management programme;
6) Establish and maintain effective environmental monitoring systems, act promptly and responsibly to address any identified non-compliance, and take necessary steps to prevent reoccurrence;
7) Complete periodic reviews of the company's operations to monitor environmental performance and to continuously improve the effectiveness of the environmental management programme with consideration of technical and scientific advances;
8) Minimise waste generation and maximise efficiency of resource use; and
9) Communicate and consult with interested and affected parties on the environmental aspects of company's operations.

The management of Gold Fields Ghana Limited will actively participate in achieving these objectives for the benefit of the company, its employees, and the communities in which we operate.

8.2 Waste disposal

The company is ISO 14001-certified[181] and so the waste generated is disposed off according to those standards. Uncontaminated waste is dumped in landfills and then reclaimed. Special areas have been designated for dumping hazardous materials to ensure that they do not come into contact with water sources or water bodies. This is achieved by covering the waste with the appropriate waterproof material before it is dumped (see Box 2 below for a list of contaminated materials designated by the company to be treated with special care according to the ISO 14001 standards).

Box 2: Environmental management system of Gold Fields Ghana

CONTAMINATED MATERIAL LIST
APRIL 21 2003

All of the following waste materials must be disposed of in designated contaminated waste material containers and stored in bundled areas:

1. Any refuse, including papers, plastic, cloths, filters, hoses, boxes, bags, wood, and metal scraps, with oil/grease/fuel/chemicals of any kind on them or which have come into contact with oil/fuel/grease/chemicals (including process solution).
2. Welding rods and fragments of welding rods.
3. Fluorescent bulbs/tubes and mercury vapour bulbs.
4. Torch light batteries and radio batteries.
5. Used spray cans and small bottles/cans that previously contained chemicals, oil,

[181] ISO 14001 is the leading environmental management system in the world.

lubricants, cleaners, solvents, fluids, etc.

6. Painting supplies including paint and thinner cans, brushes, etc.
7. Smoke detectors with radioactive elements.
8. Grinding and cutting blades for drills, rotary tools, and grinders.
9. Asbestos gaskets or any other asbestos materials.
10. Discarded fire extinguishers, toner cartridges for copiers/printers.

Contaminated waste should not be mixed with refuse that is not contaminated. All liquid oil/fuel must be drained into waste oil drums before placing the dirty item in the contaminated waste container. Contaminated waste barrels will be marked with a symbol to identify them and prevent mixing with un-contaminated waste.

Any contaminated waste container that sits at a location without a roof must have a lid that prevents rain from falling into the container. All contaminated waste must be disposed of at an authorised contaminated material disposal site following Ghana Gold Fields Limited procedures.

8.3 Pollution

In 2001 and 2002 the local community accused Gold Fields Ghana of noise and water pollution. There have also been complaints from local communities regarding the activities of the surface mining on farming that serves as the main source of household income in the area. In addition, in 2004, some villages in the mining areas complained that wild animals have been straying to their villages as a result of the extensive surface mining. The company has however taken some measures to deal with such complaints. In some cases the company has relocated the local population. Other measures used to address the environmental problems include rehabilitation and reforestation.

Part 9: Corporate social responsibility

Gold Fields has over the years "developed a strong partnership" with local/stakeholder communities. In 2002, the company established a Trust Fund that is funded every year from operational profits (US$0.50 of every ounce produced plus o.5 percent of pre-tax profit). The fund is used mainly to finance educational and health projects in the local communities. The company and community leaders jointly identify these projects. At Damang, for example, there is a formal Community Consultative Committee (DMCC) that meets regularly to discuss such community projects.

Between 2000 and 2003, the company spent ¢25 billion cedis (approximately US$3 million[182]) on community projects. The money was used to finance improvements in health facilities, water, sanitation and construction, building and maintenance of access roads. For example, the company financed over 50 boreholes to provide potable water for local communities. Part of the amount was used to support the construction of school buildings, libraries, as well as purchases of books

[182] This figure is based on exchange rate at the end of 2003 which was ¢8631/US$1.00.

and computers. Part of the money from the trust fund was used to finance the renovation of the Tarkwa School of Mines (now Western University College). The company is also involved in the provision of electricity in the local communities.

During the period under discussion, the company assisted the regional administration in the form of the provision of computers and accessories, financed the rehabilitation of the morgue, and donated hospital equipment for the Tarkwa Government Hospital (the main hospital in the mining community). The company has gone beyond the community and the region in which it operates to the neighbouring region to finance the rehabilitation of the Orthopaedic unit of the Cape Coast Regional Hospital and to provide financial support for the Business Studies Department of the University of Cape Coast.

Gold Fields plans to continue to work with the local stakeholder communities to seek effective ways of integrating the company's activities into the local economy by building "alternative livelihood and sustainable development projects".

Part 10: Conclusion

In this report we have presented the findings of a case study research conducted at Gold Fields Ghana Limited – a mining company jointly owned by Gold Fields South Africa, the Ghanaian government and IamGold of Canada. We have provided information on all aspects the company's operations with emphasis on occupational health and safety, environment, wages and working conditions based on the information we gathered from interviews with national and local union officials and management representatives.

From all indications, the company seems to be leading the mining industry in terms of wages, benefits and other working conditions. In the area of occupational health, safety, and environment the company appears to be among the leaders in the industry. Although the workers expressed some dissatisfaction about the health services in the company their overall assessment was that it is "among the best" in the industry in terms of the provision of health care for its employees and their dependants.

The company contributes significantly to Ghana's foreign exchange earnings. For example, between 2000 and 2003, the company contributed approximately 12 percent of Ghana's total foreign exchange from exports and paid approximately US$ 7 million in royalties and over US$ 15 million in direct taxes to the government of Ghana. The company also seems to be very conscious of its social responsibility. Among other things, it has set up a Trust Fund that is used to finance community projects such as renovation of schools and hospital buildings, provision of potable water, and construction of roads in the communities in which it operates.

However, like other companies in the mining industry, the company does not have a qualified occupational health physician to provide the kind of health services needed in the industry. It relies mainly on general practitioners who may not have the requisite qualifications and skills to manage occupational health problems. The future investment plans of the company do not seem to include any investment in the area of occupational health training or employment of occupational health physicians. Mining companies in Ghana seem to be interested in hiring expatriate professionals in all areas of their operations but not in the area of occupational health and safety, even though expatriate professionals are hard to find in Ghana.

We suggest that Gold Fields Ghana should provide the leadership in the industry in the area of occupational health and safety by sponsoring courses at the Ghana Medical School to train occupational health physicians in the country. We believe strongly that once this leadership is provided other companies will join in. This, in our view, will be the best legacy Gold Fields Ghana can leave for Ghana in general and for the mining industry in particular.

Another important issue that does not seem to receive the attention of management of many mining companies in Ghana is HIV/AIDS. Compared to other African countries, the incidence of HIV/AIDS in Ghana is low. Nevertheless, HIV/AIDS deserves special attention in the health and safety policy of mining companies since the regions where the mining companies are concentrated (Western and Ashanti) are among the regions that have the highest incidence of the disease in the country. In this area, Gold Fields Ghana has recently taken the lead by employing a full-time officer to coordinate all activities related to the education and prevention of the disease not only for workers in the company but also for the mining communities where the company operates.

With regard to employment, as pointed out in the report, the mining industry ranks among the least important sectors. Gold Fields, for example, provides employment (directly and indirectly) for only about 4000 workers. We, therefore, see the company's future plan to invest in alternative livelihood and sustainable development projects in the local communities as a step in the right direction and a move worthy of emulation by other companies in the industry. The company also deserves commendation for the housing scheme introduced for its employees that will enable all workers to own houses.

From all indications, there is a very cordial relationship between management and workers in Gold Fields. It is expected that management and the union will use this opportunity to improve working conditions in the mines and to ensure that labour and environmental standards are strictly observed in order to protect the local communities in the mining areas.

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Appendix I: Fringe Benefits

Table: Benefits enjoyed by Goldfields employees

Benefit	Expatriate	Management / Senior Staff	Junior staff	Remarks
Social security / Pension	No	Yes	Yes	As a statutory requirement, the company pays 12.5 per cent of employee's month basic pay into the Social Security and National Insurance Trust Fund on behalf of the employee.
Provident Fund	No	Yes	Yes	All employees are members of a contributory provident fund scheme. Employees contribute 10 percent of his/her monthly salary to the fund. Management adds 10 percent of each employee's salary and pays it into the fund on behalf of the employees. A board of trustees nominated by management and the union manages the fund. The company has agreed to use the provident fund as the collateral granting housing loans to all employees to enable them buy or build their own houses.
Free Medical care	No	Yes	Yes	The company provides free medical care for employees and their dependants (spouse & children). This includes dental and optical and ophthalmic treatment if recommended by the company's medical officer.
Loans	-	-	Yes	Employees may apply for compassionate interest free loans subject to conditions laid down by the company.
Education / training bursaries	Yes	Yes	Yes	The company may assist employees to further education by granting them interest free loans for job-related part-time courses. If employee(s) graduate(s) successfully i.e. passes final examination, the loan is not repaid but if he/she is not successful the loan is repaid in instalments for 12 months. The company awards bursaries to registered children (up

				to 3 children) of employees to attend recognised schools secondary/vocational schools.
Free Transport	Yes	Yes	Yes	Free transport to and from work. The company also provides transport the children of employees to and from school and to hospital when ill.
Paid sick leave	Yes	Yes	Yes	In case of non-occupational sick leave the following arrangements apply: For those who have served less than 6 months they are not entitled to sick leave with pay. Those who have served between 6 months to 5 years are entitled to full basic pay for the first three months and half pay for the second three months. Between 5 years and 10 year of service, the employee is entitled to full pay in the first 4 months of sickness and half pay in the second 4 months. Those who have served over ten years are entitled to full pay in the first five months of sickness and half pay in the second five months of sickness.
Paid Annual leave	Yes	Yes	Yes	Workers who have served between 1 and 5 years are entitled to 24 days annual leave with pay. Those who have served over five years are entitled to 28 days leave with pay. Seven days basic salary is paid to employees as leave travelling allowance. Employees are also entitled to bereavement leave up to 8 working days with pay per annum. A maximum of ten days casual leave may also be granted an employee upon request subject to operational requirements. An employee undertaking a job-related course approved by the company may be granted a paid study leave.
Leave travelling allowance			Yes	An employee proceeding on annual leave is entitled to seven days basic salary as leave travelling allowance.
Subsidised	Yes	Yes	Yes	Workers provided with housing are

housing/housing allowance				required to pay a subsidised rent. Where the company is unable to provide accommodation employees are paid the equivalent of about $ 20 per month or (¢175,000 a month).
Bonus	Yes	Yes	Yes	The company may pay annual production bonus to employees. The details of such payments are determined with the branch union.
Severance Pay	-	Yes	Yes	Statutory. Act 651 (2004), Section 65 provides for the payment of severance pay.
Maternity leave with full pay	Yes	Yes	Yes	Six weeks before confinement and six weeks after confinement. Or a total of 12 weeks maternity leave or 16 weeks if multiple birth and 4 more weeks (unpaid leave) upon certification by the company's medical officer. Nursing mothers are also given two 30-minute breaks during the course of work-day on resumption of work.
Childcare services	No	No	No	None
Canteen	Yes	Yes	Yes	The company provides one free meal per shift per employee. The arrangement for the provision of the meals is done in consultation with the branch union.
Employee Share Owner Plan (ESOP)	No	No	No	None
Funeral Undertaken Allowance	-	-	Yes	The company provides coffin for deceased employee or their dependants (spouse and children) and donates an amount of money to either bereaved employee or to his relatives upon the death of an employee.
Transfer allowance	-	-	Yes	Two month basic pay is paid as transfer allowance when an employee is proceeding on a permanent transfer.
Long service award			Yes	The company rewards employees who have served the company for long periods. The company and the branch union jointly determine conditions and types of award.

Paid bereavement leave			Yes	8 days
Casual leave			Yes	Maximum 10 days without pay.
Study Leave			Yes	Duration of leave depends on duration of course.
Funeral undertaking allowance			Yes	In the event of death of an employee or any of his registered dependants, the company provides a coffin determined by the company and the branch union. The company bears the mortuary bill (if any) for an employee and his/her registered dependants. The company provides free transport to convey the body to the employee's hometown if required. In the event of the death of an employee, the company donates ¢1 500,000 (approximately US$ 167 in 2004), two bottles of schnapps, four cartons of beer and four crates of soft drinks to deceased relatives/family. In the case of the death of registered spouse the company donates ¢1000,000 (US$ 111 in 2004), one bottle of schnapps, one carton of beer and one crate of soft drinks to deceased relatives/family. In the case of the death of a registered child of an employee, the company donates ¢400 000 (US$44 in 2004) and one bottle of schnapps. These amounts are subject to annual review.
Shift work allowance				An employee who is engaged in rotation of shift work is paid a night shift allowance of 15 per cent of his/her basic monthly pay. An employee who works on permanent night shift is paid a shift allowance of 20 per cent of his/her monthly pay.
Standby allowance				An employee who is formally placed on standby is paid an allowance of 15 per cent of his/her weekly basic rate each week of effective standby in addition to overtime pay in respect of hours

				worked outside his/her normal shift.
Transfer allowance			Yes	A transfer allowance of 1 month's basic pay is paid to any employee proceeding on permanent transfer.
Other benefits	-	-	Yes	Hampers and soap are provided by the company.

Source: Goldfields Tarkwa and Damang mines.

Appendix II: Occupational health and Safety Policy

Safety and health (Loss Control) at Gold Fields (Tarkwa and Damang Mines)
Article 16 of the Collective Agreement between Gold Fields Ghana Ltd (Damang Mine, Tarkwa Mine and Accra Office) and the Ghana Mine Workers' Union of the TUC

1. General Provisions

a. The company is committed to improving the quality of life of all its employees by:
   i. Eliminating injuries or accidents
   ii. Providing a safe working environment
   iii. Developing safe working practices.
b. The company will operate within the framework of its environmental action plan.
c. A safe and healthy working environment is one of the Company's major organisational objectives. It contributes to a happier and more profitable organisation and safety and production go hand in hand. To ensure a safe and harmonious working environment the Company needs the assistance and cooperation of its employees.
d. Good "housekeeping" is part of an employee's job. Keeping his workplace clean and tidy shows pride in his job and contributes to his safety.
e. Copies of the relevant portions of the Mining Regulations and the Company's health and safety policy shall be given to an employee upon commencement of employment.

2. First Aid Requirements and Training

a. Facilities for first aid and emergency treatment shall be provided at points convenient to areas where mining operations are performed.
b. As far as reasonably practicable all employees shall be inducted in basic first aid when employed and on their return from leave.
c. As far as reasonably practicable all employees shall undergo a training programme to enable them to qualify for a recognised first aid certificate.

3. General Welfare

a. The Company shall comply with the applicable provisions of the Mining Regulations, 1970 (LI 665) in respect of sanitation, drinking water and change house facilities. The Company shall provide suitable protective shelters where practical for employees who work in the open air during conditions of adverse weather.
b. Internal arrangements regarding the supply of soap and other detergents for the use of employees working in physically dirty areas shall be agreed between the company and the branch union.

4. Free Protective Clothing and Equipment

a. In terms of the Mining Regulations, 1970 (LI 665) approved personal protective equipment will be made available. Failure to wear protective clothing or use protective equipment issued will result in disciplinary action.
b. The company shall provide the following protective clothing and devices and shall be worn by the employees concerned.
   i. Suitable protective clothing to employees who are exposed to wet, cold, heat, noise, airborne dust, harmful physical and chemical agents and harmful gases/fumes.

ii. Suitable protective clothing or equipment and face shields or goggles when welding, cutting or working with molten metal/wood or when other hazards of the eyes exist.

iii. Suitable protective clothing to cover the whole body when handling corrosive or toxic substances or other materials, which might cause injury to the skin.

iv. Protective gloves when handling materials or performing work which might cause injury to the hands.

v. A safety helmet where falling object may create hazard.

vi. Suitable protective footwear.

vii. Safety belts and lines where there is danger of falling.

viii. Life jackets where there is a danger of falling into water.

ix. Closely fitting clothing when working around machinery.

c. The protective clothing and devices shall conform to standards as may be specified by the Mines Department.

d. The Company shall replace worn out protective clothing and equipment when a worn out item is returned to the company.

f. If an employee loses protective equipment depending on the circumstances he shall pay the company full cost of replacement.

g. Failure to wear protective clothing or use protective equipment issued will result in disciplinary action.

5. Uniforms

a. The company shall furnish free uniforms to each employee to perform his normal duties.

b. Each employee will receive 2 uniforms. The uniform will be replaced when a worn out uniform is returned to the company.

c. The company in consultation with the branch union shall decide what uniforms shall be worn.

d. If an employee loses or wilfully destroys a uniform, he shall pay the company the full cost of replacement.

6. Vibration

The company shall take such measures as are practicable to minimise the adverse effect of vibration on an employee's health.

7. Safety committee

a. The company and the branch union shall devise to form safety and health committees for the purpose of:

i. Safety inspections
ii. The enforcement of safety rules
iii. Safety education
iv. Coordinating safety and health activities

b. Inspections and accident investigations

i. Elected safety representatives shall participate in inspections and accident investigations, accident statistics and shall collect and work on accidents, injuries and sickness data.

ii. Elected safety representatives shall work in close cooperation with related personnel such as medical officers, health and safety officers, mines/machinery inspectors.
iii. Inspections and accident investigations shall be tripartite.

Appendix III: Accident reporting

SAFETY FLASH FOR TOOLBOX AND SAFETY MEETINGS ACCIDENT/INCIDENT REPORT (For Circulation) NAME: Isaac Taylor DATE OF INCIDENT: 31/5/04 Kinsley Donkor DEPARTMENT: Security SECTION: PPA LOCATION: VRA/Airstrip Boom Gate
DESCRIPTION OF INCIDENT: At approximately 1430hrs on 31st May 2004, rain storm pushed down the security kiosk at the VRA/Airstrip Boom Gate causing slight bruises on the arms of the two security occupants. The "mike romeo" team sent them to ABA hospital for treatment. They have been placed under observation.
IMMEDIATE CAUSES: Rain storm SUSPECTED SUBSTANDARD PRACTICES: SUSPECTED SUBSTANDARD CONDITIONS: Legs of kiosk not well secured into the ground
BASIC CAUSES: Rain storm SUSPECTED PERSONAL FACTORS: SUSPECTED JOB FACTORS:
CORRECTIVE ACTION TO CONTROL RECURRENCE: "Legs" of kiosk to be secured into the ground.

Appendix IV: Occupational injury statistics (1)

Mines Department
2002 National Safety Day Competition
2001 Best Improved Mine

Company	Injury Frequency Rate (2000)	Injury Frequency Rate (2001)	Percent Change in Injury Frequency Rate (2000-2001)	Position
Goldfields	*1731.67*	*6.45*	*- 99.63*	*1*
Ghana Manganese	3474.44	34.25	- 99.01	2
Resolute Amansie Ltd	3.95	1.25	- 68.35	3
Bogoso Gold Ltd	2523.44	2447.76	- 3.00	4
Abosso Goldfields Ltd	*2.87*	*3.07*	*6.51*	*5*
Ashanti (Bibiani)	1.06	1.79	40.78	6
Ashanti (Iduaprem)	3.46	11.57	70.10	7
Ghana Consolidated Diamonds Ltd	4176.65	20036.06	79.15	8
Ghana Bauxite Company	3.9	42.38	90.80	9
Ashanti (Obuasi)	683.84	10329.59	93.38	10
Bonte Gold Mine Ltd	3.86	212.77	98.19	11
Ashanti (Ayanfuri)	3.61	NA	NA	
Prestea Sankofa Gold	2.3	0	-	
Satellite Goldfields	2829.95	0	-	
Teberebe Goldfields	NA	NA	NA	
Dunkwa Continental Goldfields	NA	NA	NA	
Obenemase Gold Mines	NA	NA	NA	

Source: Mines Department & Ghana Chamber of Mines
Notes: NA means not available.
(-) means reduction in injury frequency rate

Appendix V: Occupational Injury Statistics (2)

Mines Department
2002 National Safety Day Competition
Best Mine Based on 2001 Occupational Injury Statistics

Company	Number of Injuries			Average Book Strength	Total Man-hours worked (H)	Total Man-Shifts Worked	Injury frequency Rate (IFR)	Position
	Fatal (F)	Serious (S)	Total (T)					
Resolute Amansie	0	2	2	493	1596820	153490	1.25	1
Ashanti (Bibiani)	0	5	5	1096	2795156	349396	1.79	2
Abosso Goldfields	0	3	3	271	976824	78048	3.07	3
Gold Fields	0	7	7	1676	1084867	135798	6.45	4
Ashanti (Iduaprem)	0	9	9	969	777967	173530	11.57	5
Ghana Manganese	0	16	16	748	467162	58391	34.25	6
Ghana Bauxite	0	7	7	330	165162	16203	42.38	7
Bonte Gold Mine	0	8	8	553	37600	48000	212.77	8
Bogoso Gold	1	1	2	581	2451627	306454	2447.76	9
Ashanti (Obuasi)	7	50	57	27,463	4070830	523771	10329.59	10
Ghana Consolidated Diamonds	3	0	3	701	1197840	270855	15027.05	11
Ashanti (Ayanfuri)	0	3	3	-	-	-	-	-
Prestea Sankofa	0	0	0	195	376688	47086	-	-
Satellite Goldfields	0	0	0	614	1451155	18895	-	-
Teberebe Goldfields	-	-	-	-	-	-	-	-
Dunkwa Continental Goldfields	-	-	-	-	-	-	-	-
Obenemase Gold Mines	-	-	-	-	-	-	-	-

Source: Mines Department & Ghana Chamber of Mines
Note: Injury Frequency Rate=(6000F+S)x 1,000,000/H, Fatal injuries are weighted by a factor of 6000.

Appendix VI: Principles of ILO Code of Practice on HIV/AIDS

A workplace issue
HIV/AIDS is a workplace issue because it affects the workforce, and because the workplace can play a vital role in limiting the spread and effects of the epidemic.

Non-discrimination
There should be no discrimination or stigma against workers on the basis of real or perceived HIV status – casual contact at the workplace carries no risk of infection.

Gender equality
More equal gender relations and the empowerment of women are vital to preventing the spread of HIV infection and helping people manage its impact.
Healthy work environment .The workplace should minimize occupational risk, and be adapted to the health and capabilities of workers.

Social dialogue
A successful HIV/AIDS policy and programme needs cooperation and trust between employers, workers, and governments.

No screening for purposes of employment
Testing for HIV at the workplace should be carried out as specified in the
Code, should be voluntary and confidential, and never used to screen job applicants or employees.

Confidentiality
Access to personal data, including a worker's HIV status, should be bound by the rules of confidentiality set out in existing ILO instruments.

Continuing the employment relationship
Workers with HIV-related illnesses should be able to work for as long as medically fit in appropriate conditions.

Prevention
The social partners are in a unique position to promote prevention efforts through information, education and support for behaviour change. Care and support workers are entitled to affordable health services and to benefits from statutory and occupational schemes.

Source: ILO Programme on HIV/AIDS and the world of work, International Labour Organization, www.ilo.org/aids

Assessing labour and environmental standards in South African multinational companies in the mining industry in Africa: the case of Gold Fields South Africa

By Devan Pillay

NATIONAL LABOUR & ECONOMIC DEVELOPMENT INSTITUTE

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Abbreviations

ASO	African Social Observatory
MNC	Multinational Corporations
COSATU	Congress of South African Trade Unions
NUM	National Union Mine Workers
JSE	Johannesburg Stock Exchange
NYSE	New York Stock Exchange
GFA	Gold Fields Academy
EE	Employment Equity
US(A)	United States of America

Part 1: Introduction

The African Social Observatory (ASO), 2004 research project centres on South African mining Multinationals Corporations (MNC) with business operations in Africa. Gold Fields, together with Anglogold, and Metorex (Ltd), were the companies identified by the ASO research team for this edition of the study.

In both Ghana and South Africa, it was agreed to study Gold Fields (Ltd). Gold Fields, one of the largest mining houses in South Africa, is also one the largest precious metal producers in the world. In South Africa the company wholly owns the Driefontein, Kloof and Beatrix mines. This paper focuses on Gold Fields' Driefontein mine, which is situated in the small mining town of Carltonville in the province of Gauteng. Outside of South Africa, the company has operations in Ghana, Australia, Europe, North America, and South America.

The company employs some 46 000 people in South Africa, including contract labour. It has a comprehensive corporate governance policy that speaks to issues of transparency, standard communication, accountability, structure and the responsibility of the board, employment equity, code of ethics, and shareholder information. The focal point of this paper is to assess the company's labour policies and practices. To a lesser extent the corporate social responsibility, environmental, and HIV/AIDS policies and practices are evaluated.

The paper starts with a brief glimpse of the mining sector in the country, followed by the research methodology, macroeconomic landscape, national labour legislation, labour relations and employment conditions at the mine, environmental issues and concludes with a few recommendations.

1.1 Mining industry in South Africa

The discovery of gold and diamonds in the late nineteen century served as a catalyst to the industrialization of the country and transformed the social and economic fabric of the South African society.

The agrarian nature and the social structure of African society in the late nineteen century sheltered the African population from wage employment. As industries grew, so did the demand for cheap labour. The government introduced a number of tax measures that exclusively targeted the African population to push black males into wage employment to meet the demand. This changed the social fabric of the African society forever as adult males were compelled to seek wage employment, mainly in mining towns leaving behind their families and social networks. This marked the development of the internal migrant labour system – evident to this day.

As the mining industry boomed the demand for labour continued to increase and with it not being met domestically, the mining industry, with the assistance of the government, began to recruit miners from other parts of southern Africa. By 1972, 80 per cent of South African mining workforce originated from outside of the country. But as southern African countries gained independence they withdrew their labour from South Africa, in protest against the apartheid state policies. In the early 1970's, 170,000 foreign mineworkers withdrew their labour[183].

Apartheid policies provided the mining industry with the opportunity to entrench a number of discriminatory practices that remain to date. For example, black miners were forced to live in single sex hostels with between eight to 24 miners per room while white miners were given houses and lived with their families.

The hostel system was designed to embed division among black mine workers by housing them along nationality and ethnical lines. This was particularly problematic at the height of resistance to apartheid state during the 1980s and 1990s when many violent clashes transpired between ANC and IFP supporters on mine premises. Responses to these clashes by mine management were obtrusively absent. It was evident that mining companies at the time were in cahoots with the apartheid state repressive mechanism to crush the ANC and its supporters.

On the eve of the demise of the apartheid state the mining industry continued to contribute to the structural poverty of black families. For example in1991 it was found that white miners earned as much as 5 times more that black miners. To this today, 10 years into the democratic dispensation, COSATU affiliated unions are still fighting to close the apartheid wage gap. Since 1994 NUM has been victorious on a number fronts in improving the working and living conditions, and wage of its members.

The mining industry has over the decades developed into a key industry. In 2002 there were close to 800 mining operations in South Africa with total sales valued at R139,8 billion of which R109,9 billion earned through exports. In 2002 the mining industry contributed:

- 27,4 per cent of total exports;
- R17,8 billion to gross fixed capital formation (GFCF); and
- Employed 413 180 employees.

There are 33 gold mining operations in the country that employ 195 940 workers. South Africa has the largest gold reserves in the world and is also the largest global gold producer – producing 15.2 per cent of the total global gold output. In 2002 395 tons of gold was produced and sold for R41 billion. Only R500 million of the country's gold production was used domestically – just over 1 per cent of total production. Estimates from the Chamber of Mines suggest that the industry creates 1 indirect job for every 3 persons employed on a mine. The gold industry itself contributes R26 billion to the GDP, that is, 2.6 per cent of GDP.

Evident from the above statistics, mining is an extremely important sector to the country. Ownership however still remains predominantly white. Effort to redress this has pushed government into instituting a number of regulatory and legislative measures.

This report is being written at a time when the mining industry is experiencing much difficulty, largely the result of a strong rand which strengthened from 13,85:1 against the US dollar in 2001 to 6:1 in 2004. Many companies have made public statements, some hinting, while others more

[183] Department of Labour, Labour Market Policy Papers 1, Gold Mining's Labour Markets: legacies of the Past, Challenges of the Present

explicitly stating, that further retrenchments are imminent. Unions were unhappy with this and want to know what happened to the huge profits made by the mining companies when the rand depreciated during the 2001/2 period, as the huge profits did not translate to higher wage increase for workers nor to more jobs being created.

Mining group Harmony's[184] intention to reduce staff pressed NUM to declare a dispute and give Harmony notice of intention to strike.

Gold Fields have stated that its Beatrix mine, while operating at peak, is still not profitable. The company had released press statements to this effect.

In support of the mining industry NUM and COSATU leadership have raised concerned about the strong rand and its impact on export producing companies, particularly the mining industry.

1.2 Research methodology

The research findings are based primarily on two questionnaires – one for the company and the other for workers/unions. Publicly available information on the company was also used. In addition, focus group discussions were held with full-time shop stewards and union officials of both NUM and Solidarity. This proved to be extremely useful.

Prior to starting the research, a meeting was held with senior management from the Gold Fields head office. At the meeting the researcher explained the objective of the study, why it is important, the research process, the scope of the study, and the importance for management to participate in the study. After a few days management sanctioned the research.

Noting that the company directly employs some 44 000 workers in the country it was initially decided that the Kloof mine would serve as the case study for the research. The researcher communicated this to the head office management, and at the same time requested a list of employees at the mine so a sample could be drawn. The sample would have included unionised and non-unionised workers by job grade and gender. Further a representative sample of unionised workers by union affiliation would have been applied to the sample. Although the request was for this information was made more than once, the company failed to respond.

NUM, the largest union at the company, was contacted and asked to assist. Since the NUM Carltonville branch was able to provide information on its union members and estimates for other unions at the Driefontein Mine, the case study was shifted to the Driefontein Mine.

The researcher learnt through a meeting with NUM officials at the branch that the Driefontein Mine employs approximately 15 000 workers. About 13 000 workers are employed in grades A3 to B4 – the unskilled and semi-skilled jobs. Two thousand workers are employed in grades B5 – C3 – the skilled category. The research excluded management and administrative staff at the mine.

[184] Harmony is another SA mining MNC.

The above estimates suggested that the sample is biased towards unskilled/semi-skilled workers. Accordingly, it was decided to study 10 workers each in job grades A3 to B4 and two workers each in job grades B5 – C4.

The lack of management cooperation made it difficult to interview workers. However with the assistance of the union, field workers were sent to the different hostels to interview workers. Only workers who were willing to take part in the research were interviewed.

A total of 58 workers were interviewed from grades A3 to C1, of which, only two were female. No workers were interviewed in grades C2 toC4. None were available during the fieldwork.

Table 1: Sample

JOB GRADE	**INTERVIEWED**
A3	6
B1	15
B2	13
B3	13
B4	8
B5	2
C1	1
TOTAL INTERVIEWED	58

A questionnaire was sent to the company's head office. It was anticipated that upon completion of the questionnaire discussion would be held with both head office and local management. However this did not occur as planned – the company failed to respond to the questionnaire, although they promised to do so on several occasions. Had the company responded to the questionnaire, it would have given the researcher better insight into the company investment/disinvestments plans, its perception of the economy, constraints experienced by the company, etc.

Part 2: General characteristics of the company

The company's head office is based in Johannesburg, South Africa. As mentioned earlier, the company wholly owns three mines in South Africa: Driefontein, Kloof, and Beatrix. The company's shares are listed on the JSE in South Africa, and the New York Stock Exchange (NYSE) in the United States of America.

In 2003, the company contributed R568 million in taxes to the South African government. Its total wage bill for the year, including benefits and allowance amounted to R3.3 billion. Of the R5.8 billion spent on material and services almost 100 per cent flowed to locally based companies. Eight per cent of the company's total procurement spending targeted black empowerment companies.

The company has two executive directors and 10 non-executive directors, with two of the latter being black. An executive committee, which includes the two executive directors and a further nine people, is responsible for the day-to-day running of the company. The executive committee has one female and one black person.

The senior management at all three local mines are all white males. They are responsible for the day-to-day operations of the mine and policy implementation. Each mine has a HR department.

Gold Fields was one of the first mining houses to sell part of the company to a black empowerment company, Mvelaphanda Holding. The chairman of Mvelaphanda Holdings, Tokyo Sexwale, serves as one of the non-executive directors on Gold Fields board. This sale is in keeping with government policy to transform the mining industry.

Failure by management to respond to the questionnaire prevented the researcher from expanding on other important issues, such as the company's future plans, the company's economic perspective of the country, etc.

Part 3: Macroeconomic environment

The year 1994 marked a fresh beginning for South Africa, ending decades of socioeconomic racial and discriminatory practices. In order to achieve a more equitable society, the ANC government introduced through the Reconstruction and Development Programme (RDP) five key programmes that are meeting basic needs, developing human resource, building the economy, democratising the state and civil society, and implementing the RDP. The RDP was widely accepted by all sectors of society; even its initial opponents began to take ownership of it and big business publicly threw its support behind the RDP. Jay Naidoo[185] stated in Business Day (4 March 1994) that the RDP was the most comprehensive framework for social policy written in the history of South Africa.

The RDP was short lived (or rather took a backstage), with the introduction in 1996 of the highly contested Growth, Employment and Redistribution (GEAR) macroeconomic policy that brought into play a neo-liberal economic framework. Criticisms levelled at GEAR included that:

?? The policy advocates a macroeconomic policy option similar to structural adjustment programmes;
?? The model was never made public, preventing it from being subjected to "independent and rigorous debate by professional economist"; and

[185] Naidoo served as the General Secretary of COSATU (1985-1994) and was appointed as a Minister in the first democratically elected government in 1994.

?? The government had to succumb to the policy dictates of international financial institutions.

GEAR'S targets were:[186]

?? GDP growth of 6 per cent by the year 2000;
?? Accelerated employment growth, reaching 409,000 jobs annually after the year 2000 and reversing the rising arch of unemployment;
?? An inflation rate below the 10 per cent barrier throughout the period;
?? Average annual real non-gold export growth of 8.4 per cent during the five year period;
?? A rise in gross domestic saving from 18 per cent to 22 per cent of GDP;
?? Increase in gross domestic investment, from 20 per cent to nearly 26 per cent of GDP in the year 2000 with an average annual real private investment growth of 11.7 per cent; and
?? Inflows of foreign investment equivalent to almost 4 per cent of GDP.

For the most part, targets were not achieved. Nevertheless GEAR is credited with creating a stable macroeconomic environment that secured the attention of global capital and western political leaders.

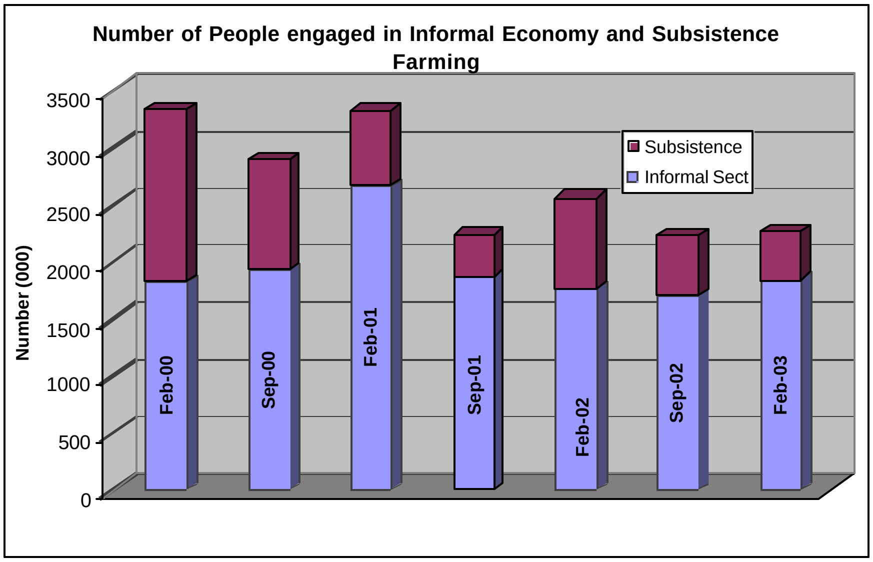
GDP on average grew 2,3 per cent between 1994 and 2000. In 2000 it peaked at 3,4 per cent and has since averaged 2.7 per cent, before dipping to 1.9 per cent in 2003. These growth rates were experienced within the context of job losses. The South African economy is often described as one with jobless growth, at least in terms of formal sector jobs. Since 1996 GDP at market prices has doubled from R617 billion to R1,2 trillion. It is generally accepted that growth rates of 6 per cent must be attained before the economy can create jobs.

High levels of unemployment continue to plague the country. The official unemployment rate stood at 26 per cent in 1996 and 28 per cent in 2003. There is approximately 3 million discouraged work seekers in the country. Expanded unemployment, which takes into account discouraged work seekers, stood at 36 per cent in 1996 and 41 per cent in 2003;about 2,7 million people have never been employed.

As formal sector jobs are on a decline, people are forced into survivalist activity in both the informal economy and subsistence agriculture. Since 1996 there was a huge increase in the numbers of people engaged in the informal sector. But as the graph below demonstrates, since February 2000 the number of people engaged in survivalist activities has been on a decline. This may be attributed to, in part, improved access to government social grants, but more critically the possible saturation of the informal economy as daily income in the informal economy ranges from R0 to R200, with the majority earning in the lower limits.

[186] NGQO volume 1 number 1 June 1999

Figure 1: People engaged in survivalist activities



Research has shown that rural households survive mainly on social grants. About 3.2 million households in the country survive on less than R400 per month (that is less than US$[187] 61 per month). In 2000 the poverty rate stood at 45 per cent, that is, 3,1 million households. In 1995 the poorest 20 per cent of households received only 1.9 per cent of the total national income and by 2000 this dropped by a further 0.3 per cent to 1.6 per cent[188]. South Africa is considered to be one of the most unequal societies in the world with a Gini coefficient of 0.68[189].

Government has, since introducing GEAR, put in place a number of incentives and programmes to encourage economic growth through exports. From 1996 the rand gradually depreciated until 2002 when it reached R13 to the US dollar. This huge depreciation in the rand led to price increases, fuelled by inflation and import parity pricing. Since then the rand has gained strength and is now trading between R6 and R7 to the US dollar. Companies producing for the export market, including the mining industry made "super profits" during 2002/3.

As the exchange rate stabilised so did inflation. The South African Reserve Bank inflation target is 3-6 per cent and, since 2003, this has been achieved.

In order to address these social problems, particularly high unemployment, a Growth and Development Summit (GDS) was held in 2003 that committed government, business, labour, and

[187] Exchange of R6.50 to the US$ 1 is used.
[188] Braude, W. 2004. South Africa Country Analysis – Global Workforce Development Study. Global Policy
Network, Washington DC
[189] 1996 Population Census in South Africa Country Analysis – Global Workforce Development Study.

community (the NEDLAC[190] constituencies) to a set of programmes and investment targets that would lead to jobs being created.

Part 4: National legislation and ratification of ILO conventions

The following pieces of legislation define the nature, context and content of the present labour regime:

- ?? Basic Conditions of Employment Act
- ?? Labour Relations Act
- ?? Skills Development Act
- ?? Skills Development Levies Act
- ?? Employment Equity Act
- ?? Occupational Health and Safety Act
- ?? Unemployment Insurance Act
- ?? Compensation for Occupational Injuries and Disease Act

Restructuring the labour regime after 1994 proved to be a significant challenge for government. Having bequeathed a racially skewed labour market that served as one of the cornerstones of the apartheid regime, the democratic government had to cautiously balance the interests of business and labour. To achieve this the National Economic Development and Labour Council (NEDLAC) was established by parliament through the NEDLAC Act as an institution of social dialogue with representatives from labour, government, business, and community. NEDLAC seeks to reach agreement by consensus in the four chambers in which it conducts its work, namely, the trade and industry chamber, the labour market chamber, the development chamber, and the public finance and monetary chamber. One of the first pieces of legislation to be negotiated at NEDLAC was the Labour Relations Act.

Below we briefly discuss the above stated Acts. Some detail is provided as to those Acts that transformed the labour market.

- ??The Labour Relations Act – regulates the relationship between trade unions and employers. The stated purpose and objectives of the Act includes advancing social justice, giving effect to the fair employment practices, and giving effect to ILO obligations.
- ??The Basic Conditions of Employment Act – sets minimum conditions for all workers, especially those that fall below a prescribed wage threshold.
- ??The Employment Equity Act – tackles a cornerstone of South Africa's apartheid jobs reservation policy where certain jobs categories were exclusively reserved for whites. The Act removes barriers to employment and seeks to advance historically disadvantaged groups (i.e., 'designated groups'). Furthermore the Act stipulates that companies, depending on the number of people employed, must submit employment equity plans to the Department of Labour.

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[190] NEDLAC is the acronym for the National Economic Development & Labour Council. www.nedlac.org.za. This is a social dialogue institution that has representatives from government, business, labour, and the community that seeks to reach agreement through consensus.

- The Skills Development Act – addresses the apartheid legacy of under-investment in skills development of black people.
- Occupational Health and Safety Act – provides for the health and safety of persons at work. Health and safety standards are set.
- Unemployment Insurance Act – Provides unemployment insurance to dismissed or retrenched workers on a sliding scale.
- Compensation for Occupational Injuries and Disease Act – provides employees with compensation for injury or fatalities that occur at the workplace.

The Labour Relations Act sets out rules for the establishment of worker and employer representative bodies. In terms of the Act, a union must provide proof that it has sufficient representation at the workplace in order to enjoy organisational rights accorded by the Act, for example, the rights to access the workplace and the implementation of a stop order facility. With regard to other rights such as the right to elect shopstewards, the right to assist in grievance and disciplinary hearings, and the right to disclosure of information, depend on being recognised as a major union.

The Labour Relations Act has been criticised by business largely for the perception that the Act makes it difficult to hire and fire employees. The law is not overly cumbersome in terms of retrenchments for operational reasons. In fact 'operational' requirements are broadly defined and retrenchments are easy to implement – so much so that more than 500 000 formal sector jobs were lost in the first five years of the implementation of the Act. With regards to the dismissal of workers, the Act does require an employer to demonstrate 'fair reason' and 'fair procedure'. The Act addresses past discriminatory practices where unskilled black labour was seen as an easily disposable labour source. The Act seeks to change employers' approach in the management of their workforce, something that they are generally reluctant or find difficult to do. Through this law, the Commission for Conciliation, Mediation and Arbitration (CCMA) was established to resolve disputes between employers and employees. Most importantly, the Act encourages employers and trade union to reach agreements through collective bargaining.

Two laws, in particular, place specific requirements on companies to establish committees and draw up implementation plans. These are the Employment Equity Act and the Skills Development Act (linked to this Act is the Skills Development Levy Act).

1. The Employment Equity Act of 1998 seeks to redress past inequalities in terms of employee recruitment and employment profiles of companies. The act states, "Every employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice". Employment policy or practice includes: recruitment, job classification, remuneration, employment benefits, terms and conditions, and promotion and dismissal. The act makes specific reference to disadvantaged groups, referred to as "designated groups", which are blacks, women and the disabled. Companies are required to develop employment profiles, identify barriers to employment/advancement of designated groups within their company, and develop and implement plans to address this. Companies must compile reports together with worker representatives and submit the reports the Department of Labour. The EEA applies only to firms of a certain size (based on employment or turnover). It does not specify any targets, leaving it to individual companies to determine their own targets after consulting with employees/unions.

The main features of these plans are to:

a. Achieve reasonable progress towards employment equity;
b. State the objectives to be achieved each year, the names of those managers responsible for the implementation of the plan, and the affirmative action measures to be implemented;
c. Set numerical goals to achieve the equitable representation in occupational category and level in the workforce, a timetable indicating when this is to be achieved, and the strategies intended to achieve the goals;
d. Set a timetable for each year of the plan for the achievement of goals and objectives other than numerical goals; and
e. Set procedures to monitor and evaluate implementation of the plan and to resolve any dispute about the plan.

The plan may not cover a period shorter than one year or longer than five years.

Under section 24, designated employers must assign one or more senior managers to take responsibility for monitoring and implementing the Employment Equity Plan.

2. The Skills Development Act seeks to encourage employers to develop their workforce by placing a levy on employers to contribute to the skills development fund that supports skills development in all sectors of the economy. In terms of the Act, employers are required to contribute 1 per cent of their wage bill, which is low when compared to international norm on expenditure on skills development. Employers implementing a skills plan can recover their costs from this fund. The law thus forces all employers to share in the costs of skills development, and also creates incentives for them to establish workplace skills plans.

In addition to the above Acts, the Minister of Labour is empowered to introduce Sectoral Agreements in sectors of the economy that lack a bargaining council and where it is found that workers are “exploited”. In all cases where Sectoral Agreements were introduced, working conditions and wage levels were improved, but the latter is still generally very low and have often been described as “poverty wage”.

The following table briefly sets out how South African labour legislation gives effect to the fundamental labour rights established by the ILO Conventions as well as the dates when they were ratified by the South African government.

Table 2: South African legislation giving effect to ILO conventions

ILO Core Conventions	**National Legislation**
Freedom of association (Conventions 87) Ratified 1996	This convention is enforced in the LRA, Act number 66 of 1995.
Right to organise and to collective bargaining (Conventions 98) Ratified 1996	This convention is enforced in the LRA. The LRA obliges employers to disclose information relevant to collective bargaining.
Abolition of all forms of discrimination (Conventions 100 & 111) Convention 100, ratified 2000	This convention is enforced through the Employment Equity Act. However, government has chosen not to enforce equal

Convention 111, ratified 1997	remuneration in the labour laws, but to leave it open for the labour movement to apply this convention by means of collective bargaining between employers and employees. There is still a large wage gap between women and men and between black and white workers doing work of equal value. Discrimination with regards to people suffering from HIV/AIDS is also covered in the Employment Equity Act.
Minimum Age Convention (Convention 138) Worst Form of Child Labour Convention (Convention 182) Both Ratified 2000	This convention is enforced as part of the BCEA. The law prohibits employers from employing children of less than fifteen years of age.
Abolition of forced labour (Conventions 29 and 105). Both ratified 1997	This convention is enforced through the BCEA.

South Africa has ratified all of the ILO core conventions and implementation is largely complete.

The mining industry is regulated by the Department of Mineral and Energy, which has in the recent past introduced several policy measures to transform the industry, to reflect the country's democratic dispensation. The focus of the regulations though is to transform ownership.

The proportionally higher health and safety risks faced by the mineworkers, when compared with other industrial occupations, necessitated the promulgation of the Mine Health and Safety Act by Department of Mineral and Energy.

Part 5: Labour relations

This section of the paper assesses the company's labour policies and practices in relation to national legislation with greater emphasis on the latter.

The company's policy states that any trade union, which is significantly representative of its employees, is afforded recognition in terms of existing agreements. The National Union of Mineworkers (NUM), an affiliate of COSATU, is the largest union in the mining sector and represents about 67 per cent of Gold Fields employees making it the largest union in the company[191]. Solidarity and United Association of South Africa are the two other unions that have recognition agreements with the company with the latter representing mainly administrative staff – the division of employees that fell outside of the study. Solidarity represents mainly skilled workers while NUM mainly unskilled and semi-skilled workers. Collectively the 3 unions represent 78 per cent of Gold Fields South Africa workers.

[191] www.goldfields.co.za

NUM and Solidarity have a good working relationship and tend to support each other during negotiations with the company. Historically, NUM membership was predominantly black while Solidarity membership was exclusively white. This has changed in recent in times.

In an agreement with the National Union of Mineworkers (NUM), Gold Fields South Africa has established a forum known as the Plenary, with representatives from both management and the union. "The primary objective of the Plenary is to address, in a spirit of joint problem solving, issues relevant to both parties."[192] Solidarity is represented in all of the subcommittees of the plenary.

The plenary deals with the following:

- Negotiation of terms and conditions of employment;
- Recognition of duly elected union representatives;
- Provision of facilities to union structures (branch committees and shaft steward committees) to conduct their business and to have meetings;
- Discussion of threats to industrial peace with shaft stewards and/or union officials;
- Allowance of full time union officials access to their operations; and
- Allowance of trade union representatives to represent employees in disciplinary and grievance procedures.

Some shop stewards, however, have complained that when they need a few days off to attend union meetings/workshops, they are told by management that it's a waste of time and they are not given time off. In addition to the plenary, there are regular meetings between the local mine management and union officials – sometimes they meet up to 3 times per week to discuss general day-to-day problems.

While the perception of an open and transparent relationship between unions and management may prevail, union representatives have stated that management is not necessarily open on all issues. The example sited was the recent black empowerment deal with Mvelaphanda Holdings, where unions learnt of the transaction through the media. Financial matters are also considered sensitive and not disclosed.

While there has been no major industrial action at the Driefontein mine over the last 5 years, there have been a number of smaller incidents.

- In 2001 there was a special stay away at the mine when one of the NUM leaders was killed (shot).
- Workers from 6th Shaft went on a one day strike because management refused to put place measures to protect cars from being stolen. This was resolved after the strike.
- While not calling for industrial action, Solidarity has taken management to the CCMA on a number of issues and the union has in most instances won.

Union officials have expressed dissatisfaction with the mine's local management efforts to suppress workers' expression of dissatisfaction. For example, when NUM plans marches, mine

[192] www.goldfields.co.za

management distributes pamphlets threatening workers that they will be "dealt with" if they engage in the march. Mine management's response to the union on this issue is that there is nothing legally preventing them from this action. Shop stewards have also mentioned that permission is required from mine management (HR manager) before putting up notices.

Wages and benefits are negotiated every two years in the Chamber of Mines, where bargaining councils are defined by job grades. The agreements reached are binding to all mining companies. Unions have complained that management at Gold Fields takes a long time to implement these agreements and when the company is not in favour with the agreement reached at the Chamber of Mines, the company then reinterprets the agreement and implements it accordingly.

Another form of frustration brought to the fore by NUM members, and confirmed by the NUM branch, is the ongoing situation where the company stopped deducting union fees from NUM members' wage. NUM's attempt to elicit a response from the company on the matter and to ascertain how the company seeks to resolve it remains elusive – the company provides no response. Workers have no choice but to resubmit a membership form to the company. It takes the company up to 3 months, from receiving the membership form, before the deductions actually take place. This problem has not only been raised with the mine management but also with senior management at the head office. Considering that other unions don't experience this problem, coupled with the company's failure to respond on the matter, suggests a level of passive aggression towards NUM.

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5.1 Labour conditions

This part of the paper focuses on the labour conditions at Driefontein mine.

Labour legislation prohibits the employment of persons under the age of 16 and the companies human rights policy gives effect to this legislative requirement by prohibiting the employment of any person under the age of 18, with the exception of vacation work, internships and specific learnerships where persons younger than 18 may to be temporarily employed provided that all terms of applicable legislation and regulations have been abided by. The company verifies the age of all employees at the point of engagement. Workers and union officials have confirmed that the company does not use any form of child labour, even through its contractors.

Protection against forced labour is afforded in terms of legislation and in the company's human rights policy. There is no direct use of forced labour at the company.

Workers, according to the collective agreement are to work six 8-hour shifts per week. The performance bonus structure introduced by the company sees workers working up to 14-17 hours per shift. The long hours seem to be the norm as was brought to the researchers attention by all union officials interviewed as well as workers. The bonus structure is based on production – and to procure the bonus many workers effort extremely long hours to achieve the targets. After they leave their production site it is assessed and workers almost always find at the end of the months they are paid less than the anticipated bonus – with no recourse against this practice.

It is quite evident that the bonus structure was put in place to circumvent overtime pay and ensure maximum production from workers, but through the evaluation process minimise the workers return. The table below reflects the wage for each job grade. Management failed to provide the researcher with wage data. The data below was acquired with the assistance of NUM officials who drew wage data directly from workers wage slips. They were unable to attain actual wage for workers in grade C2 and C3.

It emerged through the research that workers in Gold Fields' three mines, while doing the same job, are paid different wage levels. Workers have acknowledged that the difference is the result of the merger in 1998 of Gold Fields of South Africa Limited and Gencor Limited. However, it is six years since the merger took place and the situation persists.

Table 3: Wage levels by job grades[193]

Grade	Rand	US $[194]
A3	R 534.90 per week	$82
B1	R586.32 per week	$90
B2	R692.28 per week	$106
B3	R817.98 per week	$126
B4	R960.72 per week or R 5606 per month	$148 or $862
B5	R5606.00 per month	$862
C1	R8669.64 per month	$1334
C2		
C3		
C4	R13764.00 per month	$2117

In 2002 the mining industry levels of profit were at their highest as the rand/dollar exchange rate peaked at R13:$1. During the 2003 wage negotiations management in the mining industry offered wage increases of between 6.5 and 7 per cent, while unions were demanding 20 per cent. The reason for the huge wage demand was based on huge profit margins in 2002 that was the result of a weak rand. After lengthy negotiation, unions declared a dispute and were about to go on strike when a settlement of 10 per cent increases across the board was reached.

> "It is ironic for Chris Thompson, Chairman of Gold Fields Limited, after having received a total remuneration of R14,974 million in 2002 to state in the company's 2003 Annual Report that one of the concerns that may affect the outcomes of the transformation of the mining industry is"…the excessive cost pressures be imposed by zealous union demands,…"…"[195]

As stated earlier, like in many other sectors of the South African economy, the apartheid wage gap still prevails in the mining sector. Workers in grade C4 earn about 6.5 times more than workers in grade A3 at Goldfields. The table below illustrates the ratio of director fees to minimum wage[196] for the economy as a whole. The data strongly suggests that workers do not benefit from wealth they generate for the company.

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193 NUM
194 An exchange rate of R6.5:$1 was used.
195 LRS, Bargaining Indicators, vol. 9, April 2004
196 LRS, Bargaining Indicators, vol. 9, April 2004

Table 4: Wage gap between director and worker wage in the economy

Exec – Director (ED)	3 094 986
Non-Executive Director (NED)	449 872
Workers (W)	25 363
Ratio of ED/W	122
Ration of NED/W	18

There have been a number of incidents brought to the fore by NUM union officials and shop stewards that make specific reference to discrimination. The box illustrates of the important discriminatory practices by the company.

Box 1: Discriminatory practices at the company

1. A NUM member who had studied public relations at a private institution and was funded by NUM through its JB Marks bursary was overlooked for a the position of a PA to a manager. Instead the company employed someone from outside the company.

2. It was broadly felt that NUM members were not considered for promotion even though many of them were acting in the position.

3. Black employees are not considered for positions in the engineering department.

4. When a new person joins a section, supervisors comment that they don't need NUM members.

5. White workers still get preference over black workers for housing. "If a white person is employed and needs a house he would be given the house ignoring the black workers whose names are on the list".

6. Workers who are members of NUM have complained about being victimised by supervisors. One worker stated that supervisors tell them that that they don't need NUM members working with them.

With regards to benefits, workers at Gold Fields enjoy the following:

Retirement Fund:

All workers, except contract workers employed through labour brokers, are members of a retirement fund. As of 2003 the employers' contribution to retirement funds increased from 12.5 per cent to 13.5 per cent.

Medical Aid:

The lower wage earners and contract workers do not belong to the medical aid fund. The former (grades A3-B4), who are the majority of the workers on the mine make use of the primary health care facility situated on the mine premises. For those employees who do have medical insurance, coverage is extended to the immediate family members. The company's current pay structure prevents lower wage earners and their family members benefiting from private medical care. To some extent this practice still reinforces the apartheid social benefit system.

Those employees who can afford medical aid insurance have had a number of complaints on the benefit structure. It was described as the "worst medical aid fund" by one shop steward. Workers' dissatisfaction with medical aid was brought to management's attention.

Medical facility on site:

While there is a medical facility on site, it has been described as highly inefficient. One shop steward said that all they do is "dressings" and provide pills.

Housing:

Housing is provided for all workers. As mentioned earlier, white employers are given preference to houses over black workers. Black workers are still housed in single sex hostels. Primarily, those that still live in the hostels are migrant workers. Other employees that live in the surrounding residential communities are given a living-out allowance of R707.

In 2003 an agreement was reached with all stakeholders in the mining industry that within 10 years the hostel system will be abolished, and by 2009, 50 per cent normal accommodation including a family housing system will be in place.

Transportation:

Transportation is provided for those workers that live on the mine premises only. Those who don't, finance own their transport. The living-out allowance is in part to cater for transport costs.

Maternity leave:

Female employees are entitled to four month maternity leave with pay. Two of the four months' pay is received through the Unemployment Insurance Fund (UIF) and topped by the company so the employee receives full pay. In order qualify for the maternity leave an employee must have worked for at least 12 months at the company. This is an improvement from the company's previous policy that stated the employee had to be employed for 24 months. This adjustment occurred in the 2003 negotiations.

Other leave:

Workers are entitled to 30 days leave that includes a 7 day "dust" leave per annum. A further one day leave is provided by the company to employees that have worked more than 100 overtime hours per year. A maximum of 7 days leave per year may be accumulated to a ceiling of 30 days that may either be taken or paid to the worker.

Workers are entitled to 30 paid sick days and a further 32 unpaid sick days. Female employees are entitled to 5 days of family responsibility leave.

Bonus:

In addition to the performance bonus mentioned above, workers are entitled to a 13th cheque that they receive when they go on vacation.

Workers are unhappy with the manner in which the incentive scheme/performance bonus is based. Theoretically it is based on meters “broken”. Firstly, the evaluation process underestimates the actual meters broken and workers have no recourse against this underestimation. Secondly, there is no verification mechanism in place to ascertain the accuracy of the evaluation. Thirdly, the structure and quantity of the bonus system differs from department to department.

Training and education:

The company claims that it creates “opportunities for employees to develop to their full potential” regardless of gender, age or race. In 2003 it spent approximately R130 million on education, training and development of its employees, which translates to about R2,700 annually per employee.

Training takes place at Gold Fields Academy (GFA) which offers both in-house and outsourced training courses in engineering systems, mining activities and certification, ABET, life skills, assessor training, project management, learnership development, performance management, job evaluation, materials design and leadership development.

Besides the training centre, the company also provides bursaries to its employees.

Employment Equity (EE):

The company commits itself to taking positive steps to address discrimination under apartheid and have gone beyond the statutory requirements by concluding, with representative labour unions, mechanisms to advance historically disadvantaged South Africans. .

Employment Equity forums at regional and operational levels were established to monitor compliance. In 2000, Gold Fields' Employment Equity Consultative Forum undertook to identify discriminatory practices and procedures, and to identify possible barriers that unfairly affect people from designated groups. Remedial steps were identified and implemented.

The table below reflects the company’s employment equity targets

Table 5: Gold Fields employment equity targets

Occupational category	June 2002	June 2003		June 2008
	Actual	Actual	Target	Target
Senior management	8	14	15	40
Professionals	47	56	53	57
Technicians and associated professionals	37	45	45	50
Clerks	96	97	95	94
Service and sales workers	99	97	98	96
Craft and related trades	44	53	49	53

Plant and machine operators	100	100	98	97
Elementary occupations	100	100	98	97

Table 6: Gold Fields management profile by gender and race

By gender	**2003**	**2002**
Women	199	195
Men	1,862	1,995
By race		
Whites	1,621	1,882
Africans, coloureds and Asians	440	368

NUM has raised many concerns on the EE within the context of discrimination – black workers experience many difficulties moving into higher paying jobs. The present composition of the senior management at all 3 Gold Fields mines in the country remains white males. Union officials have raised questions on the implementation of EE and have described the implementation as "window dressing" – as the black appointees don't have any decision-making power.

Solidarity has pointed out that they fully support the EE process but state that EE must not only happen at the top but also at the bottom. Essentially they argue that whites must be considered for employment in lower job grades – presently dominated by black workers.

While the 2003 agreement speaks of provision of crèche, pre-school, and breast feeding facilities, both workers and union officials stated that the company has not provided these.

5.2 Reorganisation, restructuring, relocation

The company claims that through recognition agreements, the group negotiates terms and conditions of employment with recognised unions. The agreements though exclude the employment of contract workers through labour brokers. Unions have pointed out that this form of employment has become common over the past five years. The company will, over a period of time, reduce and eventually remove unions from the workplace.

Contract labour is used in all spheres the company operations. It seems as though most of the skilled labour are sourced through a third party (labour broker) and less skilled workers are employed "off the street". It was found that the less skilled contract workers earned about R 600 per month (US$ 92 per month).

The mining of shafts 7 and 8 at the Driefontein mine have some panels outsourced to Planet Mining, a small contract mining company. While the unions are concerned with the rate of outsourcing, they were alarmed that the company is now outsourcing its core functions.

Contract workers are not entitled to any benefits but do receive the same wage rate as Gold Fields employees. It is alleged that the wage received by the contracted labour is 50 per cent of the income received by the labour broker. This suggests that there is not much savings in terms of employing a person directly or through the third party. There is also no evidence to suggest that company demands from labour brokers comply with the minimum labour standards of the country.

Unions have demanded that Gold Fields must ensure that all labour brokers used by Gold Fields must provide their employees with medical aid and pension benefits. Solidarity, however, has facilities for contract labour employed through labour brokers to join the union. The union has prioritised the recruitment of contract workers.

Unions and workers have accused middle management[197] of making and implementing restructuring decisions without consulting with the unions. The only form of recourse available to the unions is through the company's internal procedures which require the union to declare a dispute with corporate/head office human resource department – a process the unions disapprove off as it takes too long before the issue is resolved, or as in most cases, is allegedly swept under the carpet.

5.3 HIV/AIDS Policy

The company's HIV/AIDS programme centres on prevention, providing care and treatment, and community support. The company has partnerships, with organised labour, government and other business sectors. A study conducted by the company estimates that the HIV prevalence in the group is about 30 per cent.

Therefore the company introduced a strategy on HIV/AIDS that:

- Creates awareness and provides education and training on HIV/AIDS to employees, and host and labour sending communities;
- Offers informed, consented, voluntary counselling and testing (ICVCT) for people affected by HIV/AIDS;
- Manages sexually transmitted infections (STIs) amongst employees with the syndromic management approach, and provides STI treatment and Periodic Presumptive Therapy (PPT) to people at high risk in host communities;
- Offers Wellness Management services, including HAART;
- Develops and supports home-based care throughout southern Africa, in particular in remote and under-resourced labour-sending communities (including Mozambique, Swaziland, Lesotho and Botswana); and
- Develops and maintains a wide range of empowering partnerships.

In 2002 the company, together with NUM, launched a Wellness programme. The company's policy looks very promising in dealing with this problem. As of 1 April 2003, those employees that are infected and qualify for ARV are provided with it.

An agreement has been signed with the unions that provides for projects and programmes in the following areas:

- Awareness and education;

[197] Middle management refers to the management at the mine itself.

?? Management of STIs;
?? Condom distribution and promotion;
?? Informed, consented voluntary counselling and testing;
?? Care, support and treatment through Wellness Management and home-based care;
?? Community partnerships to encourage behavioural changes in host and labour-sending communities, particularly for high-risk persons such as commercial sex workers;
?? A responsible and compassionate ill-health retirement programme for employees who have reached a stage of medical incapacity, supported by community home-based care; and
?? Ongoing monitoring, research and development.

While it was difficult to ascertain the amount spent on HIV/AIDS in the 2003 financial year the graph below provides a break down on how the monies were spent.

Figure 2: Budget distribution of HIV/AIDS programme 2003[198]

Source: www. Goldfields.co.za

5.4 Health and Safety

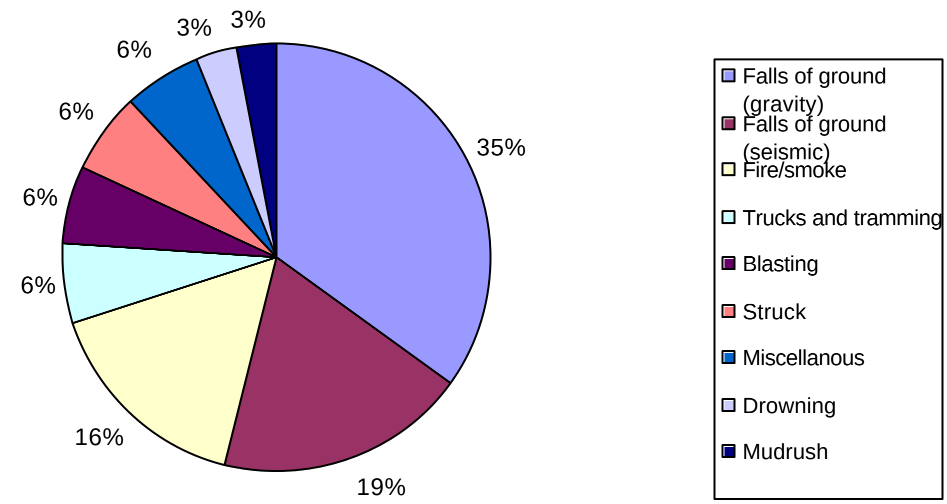
"South Africa's mining industry, which has shown a big improvement in safety during the past decade, has to improve further to meet international safety targets and milestones," an industry representative said recently[199]. The country though is considered to lead on health- and safety-related issues on the continent, particularly in the mining industry.

Improving safety at its deep-level operations in South Africa is a significant challenge for Gold Fields. During 2003, 32 employees lost their lives as a result of 26 separate work-related accidents. According to the company it has a multi-pronged approach to improve its health and safety environment. Team training and behaviour-based campaigns that emphasise looking out for colleagues in the workplace and eliminating at risk behaviour, is one such approach. The company has issued all underground employees a self-rescuer, which provides at least 35 minutes of oxygen supply to enable an employee to reach a life-sustaining refuge bay in the event of air contamination.

198 www.goldfields.co.za
199 11 October 2004, Mining Weekly, www.miningweekly.co.za

The Full Compliance Programme, which was implemented in South Africa in June 2000, and later extended to the international operations, seeks to eliminate all fatal accidents at all Gold Fields operations. A comprehensive safety reporting system, meeting legislative requirements, exists within all divisions. Workers receive compulsory health and safety training annually, when returning from vacation.

Figure 3: Agencies of fatal accidents 2003



Source: www.goldfields.co.za

During 2003, more than 600 baseline risk assessments were conducted to identify work-related health hazardous areas and activities. Gold Fie lds undertakes to eliminate, minimise, and control any hazards and risks identified in the workplace. Efforts to minimise noise-induced hearing loss, pulmonary tuberculosis (TB) and silicosis continued at all operations.

A comprehensive medical surveilla nce programme is in place. As required by the Mine Health and Safety Act of 1996, a total of 60,922 medical examinations were performed in 2003. The principal health hazards associated with the group's operations are thermal stress, noise, airborne pollutants and radiation. Codes of Practice have been compiled for thermal stress, noise and airborne pollutants and have been fully implemented at the South African operations.

Since workers receive mandatory health and safety training annually when they return from vacation, they felt that senior management of Gold Fields take health and safety issues seriously. However NUM is of the opinion that much more can be done. Num suggests that there be more engagement between the head office NUM and the head office of the company on this matter through a formal structure. NUM is also concerned about management engagement in the health and safety committee at mine level as junior staff who have no decision making powers mainly attend theses meetings.

The research found that there are occasions when shaft supervisors don't necessarily take health and safety. Workers have stated that some shaft supervisors force them to engage in activities that are contrary to what they are taught at the health and safety training. This was reaffirmed by the NUM officials.

Part 6: Environment

The company's environmental policy states that it will strive to:

- ?? Assess and meet the requirements of industry standards with respect to environmental management practices;
- ?? Continually assess and improve environmental performance and implement processes, practices, materials or products that avoid, reduce or control pollution;
- ?? Take cognisance of, and comply with, applicable environmental legislation, regulations and other requirements to which the organisation subscribes;
- ?? Apply a transparent and constructive approach in our daily interactions with stakeholders;
- ?? Minimise the use of consumptive resources and promote the reduction and recycling of waste products where possible;
- ?? Integrate environmental management into management practices throughout the company;
- ?? Exercise prudence with critical ecological resources, in particular where impacts are unknown or uncertain;
- ?? Apply proven risk management methodologies; and
- ?? Train and educate employees in environmental responsibilities.

Gold Fields' Environmental Management System is certified to ISO 14001 requirements. Every mining site develops its own individual environmental management plans that are monitored. Biannual external audits are performed on the entire environmental programme. There is a focus on management systems, pollution prevention, waste minimisation, and energy conservation. The reporting guidelines cover all environmental management issues as defined in the ISO 14032 series.

Table 7: Environmental incidents 2002 and 2003[200]

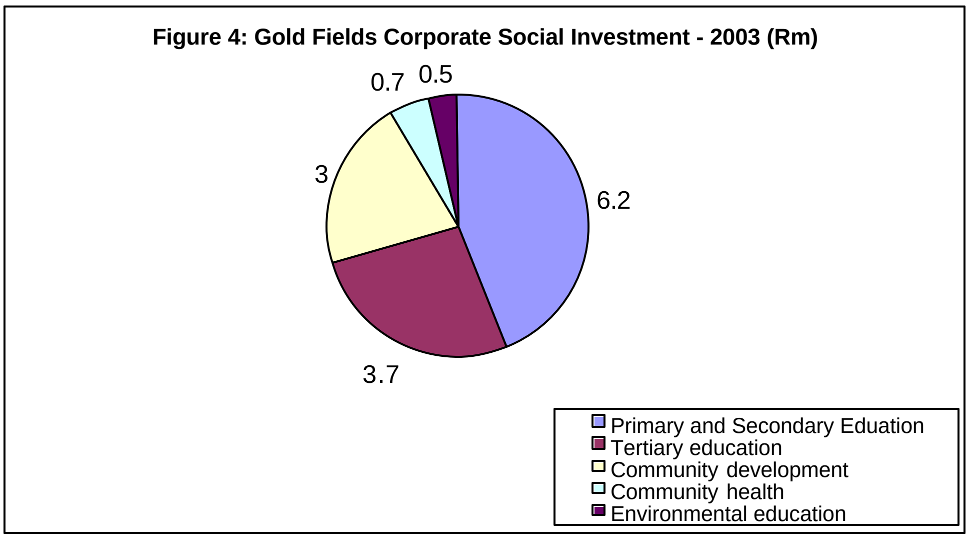
Type of incident	Brief description	2002	2003
Level 2	Incident that contains minor non-compliances that result in short term and limited adverse environmental impact.	59	144
Level 3	Incident that contains limited non-compliances. These non-compliances are those that result in ongoing, but limited environmental damage	7	4
Level 4	Incident that contains significant non-compliances. These non-compliances are those that result in medium-term environmental damage.	3	0
Level 5	Incident that contains major non-compliances. These non-compliances are those that result in long-term environmental damage.	0	0

[200] www.goldfields.co.za

Workers and union officials stated that the company takes environmental issues very seriously.

Part 7: Corporate social investing

The Gold Fields Foundation focuses on community development that aims to improve the quality of life in host- and labour-sending communities through grants and donations related to training, welfare, small business development and job creation, with particular emphasis on the empowerment of women and youth. The Foundation received R14 million in South Africa for 2003 – funded by receiving R1 for every ounce of gold produced and 0,5 per cent of pre-tax profits. The graph below shows the social investment decisions.



The company SRI activities are quite extensive in South Africa[201]. Some of them are listed below.

?? The Litshovhu Secondary School at Louis Trichardt in Limpopo Province was reopened in June 2002 after Gold Fields spent R1.1 million upgrading the school for the Madombisha community. Six extra classrooms, a laboratory and a library were built.

?? The Gold Fields Environmental Education Service Centre at Rhodes University in Grahamstown, South Africa, offers various environmental education courses and programmes. This centre provides, among other things, teaching and resource materials, distance-learning courses and materials, and training in environmental education.

?? The company also provides grant top tertiary educational institutions.

?? Health care focus is on helping communities around our mines and in the remote rural areas to access health care by building clinics, refurbishing local hospitals and supporting the growth and development of heath care workers through the Gold Fields Nursing College situated in Carletonville. The college provides training for about 240 professional

[201] The companies 2003 Sustainable Development Report provides a more comprehensive illustration of the companies SRI activities globally. It can be found on the companies website, www.goldfields.co.za

nurses a year to meet the requirements of not only mine hospitals, but also the broader community.

?? Other programmes include home-based care initiatives in the major labour-sending areas. Gold Fields was instrumental in establishing the Bambisanani Pilot Project in the Eastern Cape, an internationally acclaimed community-based health care project for people living with HIV/AIDS and other terminal diseases.

?? The Gold Fields Foundation funded the establishment of the Paediatric Oncology Ward at the Chris Hani Baragwanath Hospital in Gauteng.

?? R1 million was sponsored to the South African National Productivity Institute to assist the SMME sector.

Part 8: Conclusion

Gold Fields (Ltd) is one of the largest gold mining companies in South Africa with operations on almost all continents of the globe. Its mere listing on the JSE and NYSE demands that the company conducts itself as a good corporate citizen, that it has good governance policies, complies with international labour conventions and national legislation, conducts its business activities in a sustainable manner with least negative impact on the environment, etc.

The company, similar to all South African MNCs and companies listed on the JSE, complies with all national labour legislation and other relevant regulations. It has in place a number of policies and structures, even at the board level, making it a responsible company that provides security to investors by lowering future risks.

The study found that most workers felt that Gold Fields is very stable employer. While workers and unionist generally felt that the company has positive policies in place, they were critical of some of the company practices.

It is only when in-depth research such as this is conducted on companies, do many important and crucial issues come to the fore. The bullet points below reflect some of the crucial findings of this research.

✍✍It is acknowledged that the company complies with minimum wage agreements reached with unions in the sector. It demands at this juncture the recognition that Gold Fields is one of the many companies that directly benefited from apartheid, which allowed it to develop into a global mining company. There has been failure to address the glaring evidence regarding the minimum wage paid to the lowest wage earners in the company. This wage does not provide much room for mineworkers to elevate themselves above the poverty trap that many of their families find themselves in. As the research found, many of the lower earning workers cannot afford medical insurance.

Also related to the issue of wages,

✍✍While the company claims to comply with the employment equity requirements, mine management at their respective mines remains all white males. While the 2003 management structure demonstrates that the company is very close to its target, it was pointed out that black employees in management are not given any decision-making powers to act – they are only given mandates that they must carry out. A union official noted one example where a senior black manager told him that he was tired of being a messenger for management – soon after this the black manager resigned from the company.

- The structure of the performance bonus demands immediate action. It serves as a cost-cutting mechanism for the company by eliminating the need to pay overtime wages while attaining overtime productivity levels. There is also a need to make more transparent the performance bonus verification process – that is, meters broken. This clearly serves as another management mechanism to reduce wages, by unilaterally understating performance and not paying workers the true bonus owed to them.

- The researcher found that the company is generally very serious about health and safety issues, evident from its policy and structures at the company coupled with the annual training. Yet the company still experiences fatalities, which may be explained in part by the company's bonus structure – where workers toil up to 15 hours per shift. On the other hand workers have commonly stated that the health and safety procedures and not strictly adhered to by supervisors. This, the company should investigate.

- Mine management approaches to suppress workers expression of dissatisfaction at workplace issues do not bode well for the company, especially since the company claims to be transparent and to have a good relationship with the unions. Dissatisfaction over the conduct of local mine management emerged from both NUM and Solidarity shop stewards and union officials. Senior management of the company cannot claim on one hand to have a good working relationship with unions while local mine management behaviour borders on union-bashing.

- While the company has sexual harassment policy embedded in its human rights policy, workers have stated that female mine workers that work underground are at a disadvantage. Firstly there are no female toilets underground. Secondly, in the event of an emergency, the first aid crew are generally all males, and depending on the emergency, may have to expose parts of the female miner's body.

- It is important that the company prioritises and remedies the different wage levels for the same job within the company's different mining operations. This difference in pay for the same job is a violation of ILO Convention 100.

- Through the Gold Fields Foundation the company demonstrates its commitment to society.

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South African multinationals in Zambia: The case of Chibuluma Mines Plc

By Austin C. Muneku

Table of contents

Part 1: Introduction

This study attempts to examine and assess the conduct of South African based multinational corporations engaged in the mining sector in Zambia. Particular interest of the study is to assess the impact of the company on labour, economic social and environmental standards. Chibuluma Mines Plc was selected for the purpose of the study because the majority shareholder is a South African-based mining house engaged in mining operations in Zambia. Additionally its operations in Zambia are large in terms of employment.

Chibuluma Mines Plc formerly ZCCM Chibuluma Division was sold through the privatisation programme to the Metorex consortium of South Africa in 1997. It was among the first copper mine privatisation deals to be concluded and is listed as one of the top SADC mining Foreign Direct Investments (FDI) by the SADC Investor Survey, conducted and published by BusinessMap SA in 2000.

Mining, and in particular, copper mining, has played a significant role in the development of the post-independence Zambian economy. Copper mining was the mainstay of the Zambian economy in the early 1970's through to the 1980's. To underscore the importance of mining industry, in particular copper mining, it is pertinent to mention that at independence and well into the 1980's, copper accounted for approximately 40 per cent of GDP, 92 per cent of export earnings, 71 per cent of Government revenues and about one third of formal employment.

The Zambian mining sector dominated by copper mining has gone through some major transformations since independence. The control and ownership of the mines became critical issues for Government immediately after independence. In 1969, however, the government under the Mulungushi Reforms took a bold move to nationalize the economy, including the mining industry.

This development led to the establishment of the largest mining conglomerate in the history of Zambia called Zambia Consolidated Copper Mines (ZCCM). ZCCM expanded into non-core mining business such as agriculture, transport and shipping, and was a source of funds for other national projects – a development that left little or no resources for mining rehabilitation and expansion programmes. By the late 1980's ZCCM's operations were experiencing severe difficulties, with some divisions nearly collapsing, and required urgent re-capitalization. Since the government had no resources to re-capitalize the mines, privatisation was seen as a panacea.
Privatisation is among the conditionalities under the structural adjustment programmes prescribed by the International Monetary Fund (IMF) and the World Bank (WB) in support of Zambia's economic reforms. Below is a summary on the progress in privatizing the state-owned copper mining enterprises in Zambia.

Table 1: Privatisation policy measures[202]

Year	Policy Measure
1991	First Trench of State Enterprises for Privatization Identified.
1992	Privatization Act passed and Zambia Privatization Agency (ZPA) established
1993	Zambia Privatization Trust Fund (ZPTF) created
1994	Lusaka Stock Exchange Starts operations

[202] ZPA Privatisation Status Report 2001

1994	Unbundling of ZCCM divisions into separate entities
1994-1996	✍ Kansanshi Mines sold to Cyprus Amax of USA ✍ Kafue Consortium comprising Anglo-vaal (South Africa), Norada (Canada) and CDC (UK) bid for Nchanga and Nkana Divisions of ZCCM ✍ ZCCM Privatization Task Force Created
1997	Government Negotiations with Kafue Consortium collapse
1997	✍ ZCCM Luanshya Division Sold to Binani Industries of India and UK and New Company is called Roan Antelope Mining Corporation of Zambia (RAMCOZ) Plc. ✍ ZCCM Chibuluma sold to Metorex Consortium of South Africa ✍ ZCCM Bwana Mkubwa Copper Mines sold to First Quantum of Canada
1998	✍ ZCCM Chambishi sold to Non-Ferrous Metals Corporation of China ✍ ZCCM Chambishi Cobalt Plant sold to Avmin of South Africa
1999	ZCCM Mufulira and Nkana Division sold to First Quantum of Canada and Glencore International Ag of Switzerland under joint venture Mopani Copper Mines Plc
2000	ZCCM Nchanga and Konkola sold to Zambia Copper Investment Limited and Anglo American Corporation (AAC) trading as Konkola Copper Mines (KCM) Plc
2001	AAC pulls out of KCM Plc

The share of mining in GDP has declined over the years. In 2003, mining accounted for only 7.8 per cent of GDP. However, mining remains the major contributor to exports and foreign exchange earnings. In 1998, copper accounted for 49.3 per cent of total exports and Cobalt 17.6 per cent.

Equally, the share of mining in formal employment has declined drastically. Jobs in mining contracted from 45,461 in 1995 to 25,000 in 1999.

1.1 Methodology

The purpose of this study is to:

Examine and assess the corporate practices and operations of Chibuluma Mines Plc on a measurement of good, average or bad scale based on labour, economic and social criteria on a 60 – 40 per cent weight respectively.

The specific criteria include the following;

- ??Wages, unionisation, employment intensity, decent jobs relative to industry, skills development, industrial health and employment equity
- ??Adherence of corporations and supply chain to core labour standards
- ??Engagement with trade unions and community
- ??Contribution to local economic development/linkages to local companies
- ??Support for acceptable forms of corporate social responsibility

- Adherence to good corporate governance
- Promotion of human rights
- Extent of environmental/health and consumer protection impacts
- Extent of political influence
- Adherence to Code of Conduct (including strong enforcement and auditing)

The study is primarily concerned with how Chibuluma Mines Plc operations in Zambia as determined by the above criteria impact on labour and the economic and social aspects of the economy at large.

Several methods were used to collect data for the study. Qualitative and quantitative data from both primary and secondary sources was collected. The methods used to collect data included:

- Interviews with key informants using a questionnaire (two questionnaires were designed for trade unions and Management respectively),
- Desk review and content analysis of published and unpublished data including policy documents, newspapers, and Internet.

Even though management refused to be interviewed, they reluctantly accepted to respond to the questionnaire. This development in itself has denied the study vital management information not adequately explained in the questionnaire response.

Part 2: Company profile

Chibuluma Mines Plc was established and registered in 1997 following the privatization of ZCCM Chibuluma Division. The purchasers of ZCCM Chibuluma Division, now Chibuluma Mines Plc, on a competitive tender basis were the Metorex Consortium comprising Metorex Limited and Miranda Mines Limited both South African mining companies. The other partners in the Consortium at the time of purchase were Crew Development Company of Canada and Genbel Limited, a mining finance company of Australia.

The negotiated purchase consideration comprised cash amount US$ 17.5 million at close of the sale. The Zambian Government through ZCCM Investment Holding retained 15 per cent shares. The main product of Chibuluma Mines Plc is copper and its by-product cobalt. At privatisation, Chibuluma Mines Plc operated one mineshaft, which is technically closed as the only activity there is reclaiming copper ore from the residue. However, in line with its expansion plans, Chibuluma Mines Plc is developing a new mine currently undergoing excavation and construction.

The authorised and issued share capital of the company is 50,000 ordinary shares. The table below shows the share capital structure of Chibuluma Mines Plc.

Table 2: Share Capital structure[203]

Share Holder	Number of Shares	Percentage Shareholding
Crew Development Corporation	14,875	29.75
Miranda Mines Limited	12,750	25.5
Genbel Securities Limited	8,500	17.00
ZCCM Limited	7,500	15.00
Metorex (properties) Limited	6,375	12.75
Total	50,000	100.00

At the time of privatization, Chibuluma Mines PLC had a total labour force of 1,062. At the time of the study, the mine only employed 556 people. Table 2 below shows the structure of employment at the mine. The table shows that 63 per cent are permanent – the bulk of whom are unionised except for a few Zambian managers and supervisory staff, 11 per cent casual and 25 per cent contract employees. The number of expatriates in the total labour force is 6, or 1 per cent.

Table 3: Employment structure as at July 2004[204]

Employment Category	Number Employed
Permanent Employees	350
Contract	139
Casual Employees	61
Expatriate Permanent	6
Total	556

The proportion of the current employees that are highly skilled/professional/management is 7 per cent; skilled artisans and production personnel are 23 per cent; while the remaining 50 per cent is unskilled according to management. Only 9 percent of employees are female. Management claims that, for now, they will maintain the same level of employment. In the past three years Chibuluma Mines Plc has hired new employees mainly to replace those who have died, been dismissed, resigned or retired. Chibuluma Mines Plc contributes to indirect employment through outsourcing a number of contracts and services. For instance, the excavation and development of the new mine, to be called Chibuluma South, is outsourced. In addition, all security services are being outsourced.

Owing to management refusal to be interviewed, it was difficult to get quantified data on the numbers of people indirectly employed.

According to union sources the opening of the new open pit mine is unlikely to lead to new jobs because this operation will simply absorb the labour force in the old mine that is facing eminent closure.

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203 Chibuluma Mines Plc Report and Financial Statement 1977-1998

204 Chibuluma Mines Plc Management Questionnaire

Management pointed to high retrenchment and retirement packages as an influence in company decisions to hire more employees or retrench existing staff.

2.1 Management Structure

According to union sources the Chibuluma Mines Plc management is controlled from South Africa. The local management has limited powers to make major decisions apart from the day-to-day administration and operations decisions. Decisions on investment, including wage and conditions of service negotiations, have to be consented to and authorized by the parent company in South Africa.
The main responsibilities of the local management include the day-to-day running of mining operations and related operational decisions such as hiring and firing of workers, administration, and stock management. Other major decisions and responsibilities are the preserve of the parent company in South Africa Metorex Consortium.

The local management is made up of 10 people of whom 4 are Zambians and 6 are white expatriates form South Africa and overseas. The expatriates hold the most senior management positions, which are general manager, mine manager, engineering manager, metallurgical manager, finance manger and supply manager. The four Zambians in management hold the positions of underground manager, technical manager, chief medical officer and human resources manager.

The structure of local management is unlikely to change even with the commissioning of the new mine at Chibuluma south. Again, vital information has not been forthcoming as management could not avail themselves for in-depth interviews.

According to union sources, Chibuluma Mines Plc has no social investment policy and neither is it involved with the local community. The new mine owners stopped funding sports and other amenities, which employees and the community enjoyed during the ZCCM regime. The mine hospital is equally unfunded and has been commercialised to generate its own funds to cover personnel, operations and administration costs.

2.2 Macroeconomic environment

At independence in 1964, Zambia had a strong economy based on mining, in particular copper mining. The decline in copper prices coupled by the oil shock in the early 1970's marked the downturn in Zambia's economy to which it has never recovered. The economic situation continued to deteriorate and in response, the government sought the assistance of the IMF and World Bank. The IMF and World Bank prescribed Structural Adjustment Programmes (SAPs) as a remedy to Zambia's economic malaise.

In the 1990's, with the dawn of political pluralism, a new Government was elected into power led by Chiluba's Movement for Multiparty Democracy (MMD). The MMD Government took a fundamentally different approach to the implementation of SAPs. The MMD government went all out to implement all SAP measures at once, prominent among them being the wholesome liberalization of the economy and privatization.

Table 4 below shows selected economic indicators. Growth in real GDP increased steadily from 2.4 per cent in 1999 to 5.2 per cent in 2001 and then dropped to 3 per cent in 2002, growing steadily to 5.1 per cent in 2003. The growth in real GDP in 2003 is mainly attributed to agriculture sector recovery from the effects of the 2002 draught. Inflation fell from 27.6 per cent at the end of 2002 to 17.2 per cent at the end of 2003. This also attributed to the fall in food prices following a bumper harvest in the agriculture sector. This positive development in macroeconomic parameters in an ideal situation must translate to a reduction in poverty given an annual population growth rate of 2.4 per cent.

Table 4: Selected economic indicators[205]

	1999	2000	2001	2002	2003
Real GDP Growth (%)	2.4	3.6	4.6	3.3	5.1
Inflation Rate (%)	20.6	30.1	18.7	26.7	17.2
Domestic Fiscal Deficit (%)			4.7	3.3	18.9
External Debt US$ Billion	6.5	6.3	7.3	6.5	6.5
Current Account Balance US$ Million				-652	-628
Population		10.2	10.6	10.9	10.9

Table 5 below shows Gross Domestic Product by Kind of Economic Activity. The contribution of mining to GDP has continued to decline since the privatization of the copper mines. Mining contribution to GDP fell from 16.4 per cent in 2002 to 3.3 per cent in 2003. However, copper and cobalt are among the main exports of Zambia and are a significant source of foreign exchange.

Table 5: Gross Domestic Product by kind of economic activity (per cent) point[206]

Kind of Economic Activity	2000	2001	2002	2003
Agriculture, Forestry and Fishing	1.6	(2.6)	(1.7)	5.0
Mining and Quarrying	0.1	14.0	16.4	3.3
Manufacturing	3.6	4.2	5.7	7.6
Electricity, Gas and Water	1.2	12.6	(5.2)	0.6
Construction	6.5	11.5	17.4	21.6
Wholesale and Retail trade	2.3	5.4	5.0	6.1
Restaurants, Bars and Hotels	12.3	24.4	4.9	6.9
Transport, Storage and Communications	2.4	2.8	1.8	5.0
Financial Institutions and Insurance	(0.6)	0.1	3.5	3.5
Real Estate and Business Services	17.0	3.5	4.4	4.0
Community, Social and Personal Services	(0.5)	5.8	1.6	1.6
Less: FISIM	2.5	2.5	2.5	2.5
TOTAL GROSS VALUE ADDED	3.4	4.6	4.6	6.0
Taxes on Products	5.2	7.0	(6.8)	(3.0)
Total GDP at Market Prices	3.6	4.9	3.3	5.1

FISIM: Financial Intermediation Services Indirectly Measured

Mining contribution to employment has equally been on the decline. The mining employment figures for the periods 1995 to 1999 in table 5 below are self-explanatory.

[205] Ministry of Finance and National Planning, CSO, 2004 Budget Address
[206] CSO The Monthly Statistics Digest April 2004

Table 6: Mining employment 1995-1999[207]

	1995	1996	1997	1998	1999
Number of Employees	45,461	42,622	37,150	36,065	25,000

Between 1995 and 1999, employment declined from 45,461 to 25,000 a decline of 20,461, or 45 per cent. This development paints a negative picture of mining employment in Zambia despite the privatization of the mines.

The external debt stock at the end of 2003 remained at US $ 6.5 billion, the same amount it stood at the end of 2002, despite Zambia spending about US $ 113.1 million in debt servicing during 2003. Zambia's current account balance remained in deficit, improving marginally from minus US$652 million in 2002 to minus US$ 628 million in 2003. This deficit narrowed to US$ 325 million after taking net private inflows and project grants. This explains to some extent Zambia's dependence on external sources to finance the current account deficit. Zambia's terms of trade over the same period recorded an insignificant improvement from minus 7.1 per cent in 2002 to minus 7.0 per cent in 2003.

In the recent past interest rates have declined, although they remain high in absolute terms. Commercial Bank's weighted lending base rate declined to 42.4 per cent in 2002 from 46.7 per cent in 2001. Similarly, the average savings rate for amounts above K 100,000 and 30-day deposit rates for amounts above K 20 million declined to 8.1 percent and 19.5 per cent in 2002 from 8.7 per cent and 19.8 per cent in 2001 respectively.

Preliminary results of the Living Conditions Monitoring Survey III (LCMSIII) conducted by the Central Statistics Office (CSO) in 2003 reveal that 67 per cent of the total population in Zambia was poor. This implies that 67 per cent of about 10.8 million people were deprived of the minimum basic needs and, as such, fell below the poverty line. The proportion of poor people was higher in rural areas, at 74 per cent, than in urban areas, at 52 per cent.

According to the CSO the food basket in August 2004 was K 575,206 (US$ 120) for a family of six. The same family, on average, was expected to live on K 825,988 (US$ 172) for all their food and basic needs such as housing.

However, another basic needs basket for the same period compiled by the Jesuit Centre for Theological Reflection (JCTR) puts the total Basic needs basket at K 1,106,100. The ranges of wages or take home pay for selected occupations are shown in the table 6 below.

Table 7: Comparative figures of monthly wages 2004[208]

Teacher	**Secretary in Civil Service**	**Nurse**	**Police Officer**	**Miner**	**Security Guard**
K 407,000 - K 913,000	K 390,000 - K 791,000	K 461,000 - K 1,489,000	K 120,000 - K 300,000	K 584,223 - K 846,488	K 40,000 - K 180,000

207 Source: SADC Mining Coordination Unit 1999 Report
208 Source: JCTR Basic Needs Basket 2004

US$ 85 - US$ 190	US$ 81 - US$ 165	US$ 96 - US$ 310	US$ 25 - US$ 63	US$ 122 - US$ 176	US$ 8 - US$ 38

It is evident from table 6 that, on average, most people employed in above-mentioned occupations are paid wages far below the basic needs basket by CSO or JCTR standards. This, to some extent, explains the growing numbers of the working poor. Furthermore, real wages for most categories of workers have continued to fall and their purchasing power has eroded.

The labour market remains fragile with the high levels of unemployment. This is a result of the inability of the economy to absorb the growing labour force. Very few real jobs (jobs that are permanent and sustainable) are being created compared to the number of jobs that are being lost. The structure and quality of employment has equally changed over the years with a shift from sustainable and permanent jobs to part time, temporal and casual employment.

The unemployment rate was estimated at 22 per cent in 1998 according to the Central Statistics Office (CSO). However, critics claim that the unemployment rate in Zambia is understated because those considered employed include subsistence farmers and unpaid family workers, constituting over 50 per cent of the labour force.

When considering only those workers in formal employment and in paid self-employment in the informal economy conservative estimates indicate that the unemployment rate could be well over 60 per cent of the total labour force.

Table 8: Formal employment and labour force trends[209]

	1992	1993	1994	1995	1996	1997	1998	1999
Total Labour Force (millions)	3.3	3.5	3.7	3.8	3.99	4.4	4.41	4.6
Formal Sector Employment (Thousands)	546	526	496	485	479	475	467	478
Formal Sector Employment as % of total Labour Force	17	16	15	13	12	11	10.5	10.4

In 1999, the formal employment trend recorded an increase but was still insignificant compared to the growth in the labour force. In 1997 out of the total labour force estimated at 4.194 million, only 11 per cent were employed in the formal sector. The remaining 89 per cent of the labour force were either unemployed or employed in the informal sector. It is estimated that formal employment has been declining at an annual average of 2 per cent since 1990.

The decline in formal employment has witnessed an increasing number of people seeking refuge in the expanding informal economy. Between 1986 and 1993, the informal sector grew by 28 per cent while the formal sector declined by 11 per cent. It is estimated that 2.3 million people are engaged in the informal economy. Out of these, the majority are self-employed (56.3 per cent) or

[209] Source: CSO Reports, 1999

unpaid family workers (41.7 per cent), most of whom are women. The remainder are engaged as private sector employees (1.8 per cent) or as private sector employers in firms with less than 5 workers (0.2 per cent).

Part 3: National legislation and ratification of ILO conventions

In the past ten years, the government has taken a number radical measure to liberalize and deregulate the labour market. The current government strongly believes that deregulation of the labour market will create flexibility and the much needed jobs. To achieve this government has reviewed and amended the principal labour laws with little consultation with the relevant social partners, i.e. unions and employers.

The principal labour Acts are the Industrial and Labour Relations Act (ILRA) and the Employment Act. These two Acts are complimented by a number of pieces of legislation that directly or indirectly affect labour and labour relations. These include the Minimum Wages and Conditions of Employment Act, Factories Act, Employment of Women, Young Persons and Children Act, National Pensions Authority Act, Workmen's Compensation Act and the Public Service Pensions Act.

The ILRA restricts strike action, including prohibition from participation in lockouts or strikes. For instance, no employee or trade union is allowed to take part in a strike action that is not in contemplation or furtherance of a collective dispute to which the employee or trade union is party. This kills trade union solidarity and strength which are both critical for effective mobilization and action.

In 1997, the government amended the ILRA to provide for formation of trade unions and employers' representative organizations, including the formation of federations of trade unions and federations of employers' organizations. Soon there was a proliferation of unions that included the formation of the second federation, the Federation of Free Trade Unions of Zambia (FFTUZ).

The amendment to the ILRA in 1997 also redefined the recognition and collective agreements by removing the words "joint council and collective agreements" and replacing them with "collective agreements". The government argued that the labour regime had to comply with the liberalised economy. Employers were already agitating for a shift from industrial or joint council bargaining to enterprise bargaining. Employers were arguing that joint council collective agreements were not acceptable in a liberalised economic environment because what really counted was the employer's ability to pay and this varied from one employer to another – even if they operated in the same industry.

This amendment effectively put an end to joint councils as employers dismantled their joint council bargaining units to shift to enterprise bargaining. Furthermore, the amendment to the ILRA was meant to liberalise the industrial relations arena and to aid the accelerated deregulation of the labour market. The trade unions, on the other hand, perceived this development as a measure meant to further weaken them.

The Employment Act has also undergone a number of changes in the last ten years. The Employment Act was amended in 1997 to facilitate deregulation of the labour market as well as remove some of the so-called over-protection clauses workers enjoyed, as this was seen to be scaring away investors. The key changes in the 1997 amendment to the Employment Act were: the definition of casual employment and the addition of the Supreme Court rather than just the Industrial Relations Court alone hearing labour related cases. The amendment also delegated many powers to the Labour Commissioner.

The 1997 amendment to the Employment Act defines a casual employee as "any employee the terms of whose employment provides for his payment at the end of each day and who is engaged for a period of not more than six months". Trade unions have questioned government rationale on this change especially since before the amendment the maximum period of continuous employment of casual employees was three months. In addition, the Act is silent on sanctions to employers abusing the provisions especially in the face of increasing casualization.

The amendment also removed the clause that made it mandatory for an employer to provide housing in the absence of a housing allowance. This also applied to the mandatory provision of medical services by the employer to the employees. Public service workers not accommodated by government were denied housing allowances until only recently, after protracted negotiations and occasional industrial action.

The Minimum Wages and Conditions of Employment Act was intended as statutory protection for non-unionised workers in the formal employment sector who were not organized and represented because of the small numbers at their place of employment. Through the Act the Minister of Labour could issue a statutory instrument to announce minimum monthly wages and other conditions, including hours of work, overtime rules, paid leave, sick leave, maternity leave, funeral benefits, redundancy, retirement, medical discharge, allowances and repatriation benefits. This Act covers mainly shop workers and other general workers.

However, in the recent past the Act has come under pressure from employers with backing of the government for what they see as very generous separation benefits provided by the same. The Act provides for three months' salary for each completed year of service as a severance package to workers, but employers contend that this is too generous and is scaring away investors and encouraging casualisation. The unions, on the other hand, have maintained that the benefits are modest given the low wages that these categories of workers normally get. The Government has now set up a tripartite technical committee to come up with appropriate recommendations to allow the Minister make an agreeable decision on the matter.

The Mines and Minerals Act, which provides for exemptions to investors in the industry in the form of various tax and non-tax incentives, regulates the mining industry. This act does not exempt the Mine owners from any of the principle labour acts. The only exception has been the exemption to new mine investors from the National Pension Authority Act that provides for one mandatory national pension scheme called the National Pensions Scheme Authority (NAPSA), to which all employers and workers are required to contribute. Employees in the mining industry, under the ZCCM regime, had a special pension scheme called the Mukuba Pensions Scheme. However, this scheme appears to have been relegated following the privatisation of ZCCM as it has no members in the new mine companies. The new mine owners, including Chibuluma Mines Plc, have been exempted from the compulsory NAPSA and Mukuba Pension Schemes, allowing them to set up their own schemes. Like other new mine owners, Chibuluma Mines Plc has opted for an offshore pension scheme called the Saturna Regna Pension Trust Fund.

The social partners, in particular workers and employers, have expressed dissatisfaction on certain provisions of the principle labour acts and subsidiary legislation often from different standpoints. However, there have been areas of commonality in a few cases. This has forced the Ministry of Labour and Social Security to accept calls for a comprehensive review of principle labour acts and subsidiary legislation. Some of the contentious issues, among other things, include:

- Trade unions want the provisions on legal strikes streamlined and simplified contrary to the provisions of the present ILRA Act;
- Trade unions want provisions for casual employment to be redefined so as to prevent abuse of casualisation by employers;
- Redefining people in management and eligibility to join trade unions;
- Consolidation of one-union in one-industry concept within the provisions of the law;
- Removal of police and prison officers from the exempt list of categories not eligible for unionisation;
- Employers on the other hand want the Minimum Wages and Conditions of Employment Act, in particular the provision on retirement and redundancy (three months pay to each year served), abolished, or retirement benefits revised downwards.

Zambia has ratified 43 International Labour Organization (ILO) conventions, including the 8 core International Labour Standards. However, only 39 of these are in force following the denunciation of conventions 45, Under Ground Work (Women), and 89, Night Work (Women), and the denunciation of conventions 5, Minimum Age (industry), and 123, Minimum Age (Under Ground Work), as a result of the ratification of convention 138. See Annex 1.

3.1 Labour relations

At present, there are two national unions organizing workers in the mining industry. These are the Minesworkers Union of Zambia (MUZ) and the National Union of Mine and Allied Workers (NUMAW). MUZ is one of the oldest unions in Zambia with the mining industry having been established in 1948. The NUMAW is a new union and a splinter union from the MUZ, registered recently in 2003. All Chibuluma Mines Plc unionised members belong to MUZ. At present Chibuluma Mines Plc has a labour force of 400 permanent employees as opposed to 1,062 at time of privatisation. Out of the 400 permanent employees, 350 employees are paid-up union members.

The company also employees a significant number of casual employees who are not union members and hence are not represented by the union. These are normally contract employees employed on 3 months' contracts. The reason advanced by the union for not organising the casual employees was that they (casuals) were difficult to recruit to paid union membership because of the temporary nature of their employment. Otherwise, there are no legal restrictions on unions in organising casual and contract workers under current labour laws.

The casual employee phenomenon is equally widely practiced by the subcontractors to whom Chibuluma Mines Plc outsources a number of service and mining related contracts. The casual employees employed by subcontractors are beyond the reach and mandate of the union. The employers are able to beat the legal requirement that an employee ceases to be causal if he or she is in continuous employment for a period exceeding six months by rolling over fixed three-month contracts. The contracts are appropriately terminated and then fresh ones re-entered into by both parties.

The Mineworkers Union of Zambia (MUZ), which organizes unionised workers at Chibuluma Mines Plc, is affiliated to Zambia Congress of Trade Unions and International Chemicals, Energy and Mining (ICEM).

The MUZ branch at Chibuluma Mines Plc runs the affairs of the union and the attendant responsibilities of representing members in close collaboration with the MUZ national Secretariat. The Chibuluma Mines Plc MUZ Branch has 6 Executive Branch officials assisted by 19 shop stewards present in each section of the mine plant. Management grants time off for union officials to conduct trade union business at the workplace. A Recognition Agreement between MUZ and Chibuluma Mines Plc exists and management has put in place a check-off system to deduct union dues off the payroll. The union and management negotiate a collective agreement that has a provision to review salaries once a year and conditions of service after every two years.

According to union sources, management discriminates against workers belonging to the union. For instance, line supervisors are not allowed to join unions by order of management. The union also complained that management was in the habit of making unilateral decisions, some of which have had negative impact of workers welfare. An example cited was managements' decision to commercialise the mine hospital and stop funding reaction activities as well as community services.

The company management and unions' representatives meet regularly at least once per month to discuss issues affecting the company's operations. Management consented to holding regular meetings with the union. The issues discussed include production and productivity or company performance and occasional staff issues. The union is equally free to distribute information to members within the company plant.

According to the union officials, the company has recorded three work disruptions since its inception. These work disruptions were in 1999, 2000 and 2001. All the three disruptions were related to salary increments, in particular, managements' refusal to pay back-pay or salary arrears arising from the wage increases and delayed salary increments. However, in all situations, management and the union reached acceptable settlements before the situation could deteriorate into strike action.

3.2 Labour relations: basic worker rights

Zambia has ratified both ILO conventions 87 and 98 on Freedom of Association and Protection of the Right to Organize and Right to Organize and Collective Bargaining. National legislation, in particular the Industrial and Labour Relations Act (ILRA), which regulates the formation of trade unions and provides for the right to collective bargaining, supports these conventions.

The other Act important to the mining industry is the 1995 Mines and Mineral Act. Though it does not override existing labour legislation it provides far reaching exemptions to investors in the mining industry. These include exemptions from import duty and VAT on all machinery and equipment, including specialised motor vehicles required for prospecting or mining activities. However, none of these exemptions include exemptions from the labour code, which, in essence, could be possible.This has never happened due to the presence of a relatively strong union in the industry, which not so long ago was one of the strongest national unions in Zambia.

There is no wage plan in place at Chibuluma Mines Plc but the collective agreement covers union members, while non-union members are left at the mercy and discretion of management. There are differences in wages and salaries based on employment status. There are differences in wages between permanent and non-permanent workers. According to union sources there are also differences in salaries between Zambian and expatriate managers. The actual variances however, could not be obtained. This practice is against the ILO convention 100 (Equal Remuneration) that Zambia has ratified.

The union admitted that management avails them company information when requested. This information includes production data and company accounts. Furthermore, union representatives are allowed access to all sections of the mining plant and administrative buildings to carry out union duties.

It is not a policy of Chibuluma Mines Plc to demand from its subcontractors and suppliers adherence to labour laws. In other words, adherence to labour laws is not a significant criterion for choice of subcontractors or suppliers. This makes it even more difficult for the union to pressure contractors and suppliers to observe and uphold minimum labour standards.

Part 4: Labour conditions

Chibuluma Mines Plc maintains different conditions of services for different employees. Expatriate managers have different conditions compared to their Zambian counterparts. There are also different conditions of service for permanent unionised, contract and casual employees.

Management did not disclose information on conditions of service for managers. However, union sources revealed that management salaries for Zambians and expatriates differ. There is no national legislation to discourage this practice of discrimination even though Zambia has ratified conventions 100 (Equal Remuneration) and 111 (Discrimination - Employment and Occupation).

The average salary is around K 720,769 (US$150) per month and is above the national minimum in the industry. Evidence from the most recent collective that expired in June 2004 indicates a salary range of K 580,993 for the lowest paid in grade G 8 and K 857,316 for the highest paid union member in grade G 1. The union employees who fall within the range G 1 to G 8 include miners, administrative, technical and support staff. However, union sources claim that their counterparts in similar occupations employed on contract basis are usually paid more

Below is table 8 showing the minimum salary schedule obtained from the most recent collective agreement effective from 1st July 2003 to 30th June 2004. The new collective agreement covering the period 2004 to 2005 was still under negotiation at the time of the study.

Table 9: Minimum salary schedule 2003-2004[210]

Grade	Basic minimum kwacha per month	US dollar equivalent	Leave days per annum
G1	846,488	176	37
G2	794,432	166	37
G3	741,479	154	34
G4	678,107	141	31
G5	642,148	134	31
G6	618,990	128	30
G7	584,468	122	30
G8	580,993	121	30

The salary schedule in table 6 above is for surface unionised employees only. A basic salary for underground unionised employees in each pay grade is the above-mentioned basic salary increased by 15 per cent.

The company complies with the provisions of the labour laws in force and no practices of child labour, forced labour or discrimination have been reported or observed. In this respect, Chibuluma Mines Plc complies with national legislation and ILO conventions 29 (Forced Labour), 138 (Minimum Age), 123 (Minimum Age Underground) and 182 (Elimination of Worst forms of Child Labour). The company has, however, no explicit policy to compel the supply chain or subcontractors to observe the same practices.

The company has no clear policy on occupational health and safety. Union officials claim that the company has done away with safety committees that used to be in place during the ZCCM regime. The company now arranges ad hoc safety meetings at sections underground. This is contrary to the ILO convention 176 (Safety and Health in Mines) that Zambia has ratified.

The company has an in-house defined contribution pension scheme for all its employees and is exempt from the compulsory National Pension Scheme administered under the National Pensions Authority Act. This new scheme is a Defined Contribution Pension Plan. The scheme is managed under the Saturnia Regna Pension Fund Trust, an offshore-based pension fund. In Zambia, Saturnia Regna has appointed Africa Life Financial Services Limited to act as their agent.

Under this scheme the following apply;

- Employer Contribution is 10.7 per cent of employees salary;
- Employee Contribution is 5 per cent (Employee has option of increasing this up to a further 10 per cent of employee salary as additional voluntary contributions);
- Accumulated amount at retirement is used to provide an annuity (when one retires he/she may elect to take up 50 per cent of accumulated credit as cash and the balance is used to provide a pension);
- Death/Leaving Service Benefits;
- Employees bear the risk such as poor investment performance; and

[210] Chibuluma Mines Plc Collective Agreement 2003-2004

??The cost to the employer is quantified.

The Fund is administered by Africa Life Financial Services (Zambia) Limited which is also the funds investment manager. No employees are represented on the main board of trustees of the fund.

Instead, local pension executive committees are instituted at the company level, comprising three employee representatives and three employer representatives. The duties of local trustees include monitoring scheme performance, treatment of death benefits, servicing legal agreements and member communication.

The collective agreement between the union and management provides for separation packages for redundancy, retirement and medical discharge. The separation packages for exit through redundancy, retirement and medical will be calculated and paid as follows:

(i) Past value of service under ZCCM held in Trust plus one month's pay for each year served between October 1997 and 30 June 2003; and
(ii) Effective from 1 July 2003, service under Chibuluma Mines Plc will be calculated at two (2) months pay for each completed year of service or pro rata.

In addition, Chibuluma Mines Plc unionised employees are also assured the following benefits detailed in table 9 below.

Table 10: Conditions of service[211]

Benefits	Company Agreement at Plant Level	National Legislation/ILO Labour Standard
Medical aid	Employer is responsible for medical expenses of employee, spouse and children or legal registered dependants	No national legislation exists to compel employer to pay medical expenses for employee
Loans	No loan advances to employees forcing the union to seek alternative sources for employees' affordable loans	No national legislation exists. But open to bargaining through collective agreement
Education bursaries	Not provided by employer	No national legislation exists. But open to bargaining through collective agreement
Transportation	Transport provided to all workers	No national legislation exists. But open to bargaining through collective agreement

[211] Collective Agreement 2003

Paid Leave	As per schedule in table 6	Legislation exists and is a permanent feature in collective agreement
Paid sick leave	Yes, provision exists	Legislation exists and is provided in collective agreement
Medical facilities on site	No medical facilities at work place. The plant site clinic that used to be there is now only providing first aid.	Legislation exists and Zambia has been ratified in ILO Convention 176, Safety and Health in Mines
Subsidised housing/housing allowance	No provision in collective agreement. Employer pays 32 per cent of basic salary as housing allowance and employee picks the tax.	Previously legislation existed that made it mandatory for employer to provide housing, or in lieu, a housing allowance. This provision has been removed and is now open to bargaining through collective agreement
Subsistence Allowance	K 160,000 (US$ 33) per month and company picks tax	No national legislation exists. But open to bargaining through collective agreement
Childcare services	Not provided	No national legislation exists. But open to bargaining through collective agreement
Incentive bonuses	Christmas Bonus provided as the thirteenth cheque. Company pays the equivalent of one month's salary per calendar year completed pro rata and employee pays tax.	No national legislation exists. But open to bargaining through collective agreement
Paid maternity leave	90 days paid maternity leave	National legislation exists and ILO 103 (Maternity Protection)
Mother's Day	Female employees are entitled to 1 day absence from work each month	National legislation exists
Funeral Benefits	K 1,000,000 (US$ 208)	No national legislation exists. But open to bargaining through collective agreement

The above benefits only apply to permanent unionised employees and are denied to casual, and contract employees. The hours of work are 48 per week. The only exception is when employees work overtime which is remunerated above the normal rate of salary.

The company does not provide any profit sharing or share ownership schemes to employees. The company has no training policy for unionised employees. Employees undertake training at their own expense and initiative with no support or assistance from the company.

4.1 Reorganisation, restructuring, relocation

The company has undertaken significant reorganisation and restructuring since its inception. Most notable has been the development of the Chibuluma South Mine. This project, according to the Audit Report and Financial statements of 1997-1998, includes the construction of a concentrator plant and the sinking of a shaft to the 620-meter level. This new mine is expected to produce 1,400 tonnes of copper each month, or 16,800 tonnes per annum, and will involve an expenditure of US$ 25 million. When commissioned and operational the mine will employ 500 workers.

In its attempt to restructure its operations, Chibuluma Mines Plc has resorted to subcontracting as a policy that the union observes. The union said that one service the company is subcontracting is the transportation of ore from the mines to concentrators around the Copperbelt province operated by other mining companies since they have no concentrator or smelter of their own. Equally, the excavation works at Chibuluma South mines have all been subcontracted. Most workers employed by the mine before these services were subcontracted have been retrenched. Only a few have been retrained to operate other machinery and equipment.

The issue of workplace restructuring, subcontracting, and outsourcing, including the introduction of new technology, is not discussed or negotiated with unions.

In terms of future investment decisions in Zambia, the management viewed the following to be critically important:

- Inflation rates;
- Interest rates;
- Average wage levels;
- Exchange rates stability;
- Economic growth;
- Good labour relations; and
- Overall stability and predictability of the economy.

Equally important was the rate of economic growth and domestic consumer spending. However, the most important factor driving investment was profitability and overall stability and predictability of the economy.

Management claimed that they make socially responsible investment by, in particular, supporting the mine hospital and the local municipality from time to time and as and when practical. On the other hand, the unions refute this claim.

The company has, according to management, not adopted any new technology in the past three years. Management admitted that the following are quite important in making technology decisions:

- ??Innovation of competing firms;
- ??International industry standards;
- ??Need to reduce labour costs; and
- ??Improvement of quality of products.

Management further claimed that it is the intention of the company to create many employment opportunities, especially once the new Chibuluma South Mine is operational. However, they appealed to the government to level the playing field for all mining investors, in particular by encouraging tax incentives, so that they could channel more resources to social investment programmes for the benefit of the community. Chibuluma Mines Plc feels that it has not been given the lucrative incentives currently being enjoyed by other big investors in the mining industry.

4.2 Human Rights

No serious human rights violations have been recorded or reported against Chibuluma Mines Plc. Equally, no cases of discrimination, including racial discrimination, have been reported. Even though the company has no employment equity plan, the union feels that the proportion of Zambians occupying positions in management and supervisory levels does correspond to the profile of total workers employed.

The company has no code of good practice to deal with sexual harassment but the union feels that this is adequately taken care of in the company's disciplinary code.

The company has no code of good practice to deal with HIV/AIDS, neither is there a work place policy on the same. The union is pressuring management to come up with an HIV/AIDS policy in line with other mining companies in the industry that have developed and adopted their own codes on the subject.

The company is not on record for violating labour codes and standards relating to child labour. In short, it is company policy to not use child labour in any operations. However, the union was not sure if the company demands from its suppliers and subcontractors to not employ children in their activities.

The union does not have access to information on accidents at work and other health problems that company workers have encountered. The company has no health and safety committee but instead has a Health and Safety Department. According to the union, only employees involved in blasting, undergo regular training on health and safety issues. However, the company has shown a willingness to discuss with the union health and safety issues at the workplace.

4.3 Environment

Management claims that the company has an environmental policy committed to the protection of human health and natural environment. To achieve this the company strives to use the best environmentally-friendly technology available. The company has also committed its resources to environmental management in all its activities.

4.4 Corporate Social Responsibility

According to the union, the company has no significant social responsibility investments. The union claims that company has withdrawn funding to all non-core mining activities, and in particular, social activities. The company is no longer funding recreation facilities for miners, including the community football team that is in the first league of the Zambian soccer league. However, management maintained that they support the mine hospital and the municipal council as and when practical.

Part 5: Conclusion

The interrogation of Chibuluma Mines Plc reveals interesting results even though the management remained largely economical in availing company information, which could have made this study more conclusive. It is from this backdrop that the conclusions to this study need to be understood.

5.1 Economic and social impact

The Business Map SADC Investor Survey of 2000 lists Chibuluma Mines Plc among the SADC Mining Foreign Direct Investment (FDI) top deals.[212] Metorex Consortium of South Africa paid US$ 17.5 million to seal the Chibuluma mines Plc deal. Additionally Chibuluma Mines Plc has invested US$ 25 million in a new mine project, the Chibuluma South Mine, which is expected to employ 500 workers producing about 16,800 tonnes of copper per annum.

Admittedly, the privatisation of ZCCM Chibuluma Division to the Metorex Consortium came at a time when the former ZCCM mine was near shut-down and threatening to declare thousands of miners jobless. This development could have adversely affected the general social and economic life of the small mining town of Kalulushi. It is true that a number of jobs have been lost. Employment has fallen by almost half, from 1,061 at the time of privatisation to 556 workers in current employment. Equally true is the deterioration in the quality of employment with the advent of casualisation. However, some analysts and proponents of privatisation claim that had privatisation of ZCCM Chibuluma Division not taken place the situation could have been worse. Furthermore, it is claimed that hundreds more jobs have been created indirectly through the supply chain and outsourcing.

The contribution of mining to the GDP has been declining in the past, as indicated earlier in table 2. However, the traditional mining activities in copper and cobalt remain significant contributors to the country's much-needed foreign exchange earnings. Chibuluma Mines Plc, according to management, exports, on average, 6,617 tonnes of copper annually. In 1999, Zambia's volume of copper production averaged 250,000 metric tones per annum. Chibuluma Mines Plc has a small market share of the copper and cobalt but expects to increase this share through increased production, especially when the Chibuluma south Mine is opened.

[212] SADC Investor Survey, Businessmap SA, 2000

Chibuluma Mines Plc's main competitors are the big players, Mopani Copper mines Plc (MCM), Konkola Copper Mines (KCM), Bwana Mukubwa Mines and Luanshya Copper Mines.

Chibuluma Mines Plc is currently not listed on the Lusaka Stock Exchange (LUSE). In the absence of interview with management, it was not possible to establish the company's forward and backward linkages with suppliers and customers. Therefore, the company's economic impact in this respect could not be explicitly quantified.

5.2 Labour criteria

Labour relations at Chibuluma Mines Plc are cordial. Chibuluma Mines Plc, from the inception, developed good working relations with the union, MUZ. MUZ has a recognition agreement with Chibuluma Mines Plc and management consented to holding regular meetings with union officials.

Despite the seemingly good labour relations picture, some company practices point to the denial of worker's rights for certain categories of employees. For instance, the company sets conditions for casual and contract workers that make it almost impossible for the union to unionise this category of employees. Equally, line supervisors are not permitted to join the union on orders set by management.

There is also evidence of discrimination when it comes to the remuneration of employees. This is not only between the Zambian and expatriate staff. The union claims that management is remunerating contract workers more than permanent unionised workers within the same skill groups and occupations. The motivation by management here is obviously to encourage employees to opt for contract employment since management strongly believes that retrenchment and retirement packages are very high.

Furthermore, contract and casual employees are not part of the pension scheme that applies only to permanent employees. This denies them a pension at a time when they reach retirement age.

The rate of unionisation is relatively high when one considers both the eligibility (90 per cent) and those excluded due to employment category (36 per cent).

The decision by management to abandon health and safety committees is another serious omission. This is contrary to the ILO Convention 176 that Zambia has ratified.

Merely substituting the committees with a department does not help matters and the union strongly feels that the health and safety committees must be restored in order to implement and monitor company health and safety practices and to ensure that they comply with national and international standards.

Equally, the absence of an HIV/AIDS policy at Chibuluma Mnes Plc is a great concern to workers and the union. The union is pushing for an HIV/AIDS workplace policy, similar to what other mine companies have adopted and are implementing with encouraging results. The unions strongly believe that skills development and training is not a responsibility of the employee alone but also of the employer. Chibuluma mines Plc has no training policy and has left the responsibility of training and skills development to the employee. Management's view on this matter was not available.

Chibuluma Mines Plc's relationship with the supply chain, including subcontractors, is governed by purely business considerations, and labour standards are not important criteria. In short, suppliers and subcontractors need not observe core labour standards to do business with Chibuluma Mines Plc.

5.3 Economic and social criteria

Contribution to local economic development and linkages to local companies are difficult to assess in the absence of quantified information. Chibuluma Mines Plc is an investment resulting from the privatisation of the state-owned copper mines that were facing eminent closure. Chibuluma Mines Plc is also the first privately owned mine after privatisation to invest in developing a new mine. In this respect, this investment is a benefit to the small mining town of Kalulushi and to the Zambian economy.

Chibuluma Mines Plc can be said to be contributing to the economic wellbeing of Zambia by contributing to national output and employment opportunities in a small way. The new mine, Chibuluma South, is expected to produce an output of about 1,400 tonnes of copper per month or 16,800 tonnes per year, which is more than twice the current annual production. When the production from new mine is added to the current production, Chibuluma Mines Plc's total production will account for about 9.4 per cent of the total national copper production, currently averaging 250,000 tonnes per year.

Chibuluma mines Plc can be said to provide some opportunity for local business to supply goods and services as well as to participate as contractors to works that are being outsourced, even though on a limited level. This type of linkage has the potential to help local companies grow, to add value to the economy and to create employment. However, local businesses have been complaining that they are only given small orders and small contracts while the large, and more lucrative ones go to foreign companies.

The company and community interface is very limited and quite insignificant. Management failed to provide quantitative information to measure the company's social investment programme. The withdrawal from supporting workers' social and welfare activities is a clear testimony of this assertion. The company has even withdrawn support for the local football club that is a source of morale and entertainment for the miners, their families, and the surrounding community.

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Appendix: list of ratifications of ILO Conventions by Zambia a member of the ILO since 1964.

Convention	Description
Number 5	Minimum Age (Industry) Convention, 1919
Number 11	Rights of Association (Agriculture) Convention, 1921,
Number 12	Workmen's Compensation (Agriculture) Convention, 1921
Number 17	Workmen's Compensation (Accidents) Convention, 1925
Number 19	Workmen's Compensation (Occupational Diseases) Convention, 1925
Number 26	Minimum Wage-Fixing Machinery Convention, 1928
Number 29	Forced Labour Convention, 1930
Number 45	Underground Work (Women) Convention, 1935
Number 50	Recruiting of Indigenous Workers Convention, 1936
Number 64	Contracts of Employment (Indigenous Workers) Convention, 1939
Number 65	Penal sanctions (Indigenous Workers) Convention, 1939
Number 86	Contracts of Employment (Indigenous Workers) convention, 1947
Number 87	Freedom of Association and Protection of Right to Organize Convention, 1948
Number 89	Night Work (Women) Convention (revised), 1949
Number 95	Protection of Wages Convention, 1949
Number 97	Migration for Employment Convention (revised), 1949
Number 98	Right to Organize and Collective Bargaining Convention, 1949
Number 99	Minimum Wage Fixing Machinery (Agriculture) Convention, 1951
Number 100	Equal Remuneration Convention, 1951
Number 103	Maternity Protection Convention (Revised), 1952
Number 105	Abolition of Forced Labour Convention, 1957
Number 111	Discrimination (Employment and Occupation) Convention, 1958
Number 117	Social Policy (Basic and Standards) Convention, 1962
Number 122	Employment Policy Convention, 1964
Number 123	Minimum Age (Underground Work) Convention, 1955
Number 124	Medical Examination of Young Persons (Underground Work) Convention, 1965
Number 131	Minimum Wage Fixing Convention, 1970
Number 135	Worker' Representative Convention, 1971
Number 136	Benzene Convention, 1971
Number 138	Minimum Age Convention, 1973
Number 141	Rural Workers' Organization Convention, 1975
Number 144	Tripartite Consultation (International Labour Standards) Convention, 1976
Number 148	Working Environment (Air Pollution, Noise, Vibration) Convention, 1977
Number 149	Nursing Personnel Convention, 1977
Number 150	Labour Administration Convention, 1978
Number 151	Labour Relations (Public Service) Convention, 1978
Number 154	Collective Bargaining Convention, 1981
Number 158	Termination of Employment Convention, 1982

Number 159	Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983
Number 173	Protection of Workers' Claims (Employer's Insolvency) Convention, 1992
Number 176	Safety and Health in Mines Convention, 1995
Number 182	Worst Forms of Child Labour Convention, 1999

Source: ILO, Ratification of International Labour Conventions