

# THE BOTTOM LINE

## UK CORPORATE ABUSE OVERSEAS

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CORE OF BUSINESS

CORE is the UK civil society coalition on corporate accountability. We work to improve the regulatory framework to make companies more accountable for their impacts internationally and to improve access to remedy for people adversely affected by corporate activities.

The case studies in this report were provided by the Business & Human Rights Resource Centre, based on publicly available information, human rights allegations from civil society, and company responses sought by the Resource Centre to these allegations, all of which are available on the Resource Centre's website. All information correct as at 31 July 2015.

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# THE BOTTOM LINE: UK CORPORATE ABUSE OVERSEAS

In November 2011 the Prime Minister announced the UK's commitment to implementing the UN Guiding Principles on Business & Human Rights (UNGPs). The Principles, unanimously endorsed by the UN Human Rights Council in June 2011, rest on three pillars: the State duty to protect human rights; the corporate responsibility to respect human rights; and access to remedy for victims of business-related human rights abuse.

The UK broke new ground in September 2013 when it released the world's first Business and Human Rights Action Plan. Since then, there have been some notable initiatives, most recently the inclusion in the Modern Slavery Act 2015 of a clause requiring companies to report on the steps they have taken to ensure that their supply chains are slavery-free.

Yet much remains to be done to translate policy commitments into concrete actions to end corporate immunity and deliver access to remedy for victims. The case studies in this briefing paper show that some companies listed and headquartered in the UK are involved in activities that would be unacceptable at home. From alleged attacks against locals protesting against mining projects around the world, to large-scale land and water pollution affecting human health, and the sale of surveillance technology to an oppressive regime, a picture emerges of corporate misconduct with serious implications for people and the environment.

None of the companies featured in this report has been subject to meaningful sanction in the UK. In one case, authorities have refused to conduct an investigation in spite of credible evidence that a crime was committed in the UK. This sends a signal that some British companies are above the law.

At the same time, communities attempting to resist corporate activity often find themselves criminalised. Victims of corporate abuse face major, frequently insurmountable, barriers to justice in their own countries, due to corruption, poverty and the huge economic and political power of business. Legal action against parent companies in the UK is an option in limited circumstances only, and is highly complex and costly.

The situation is urgent. UK government action is needed to guarantee access to remedy for those adversely affected by the international operations of UK business, and to create a corporate culture in which serious malpractice, anywhere, carries meaningful consequences.

## KEY RECOMMENDATIONS FOR THE UK GOVERNMENT

- Clearly communicate that companies, their directors and/or their employees will be prosecuted where there is evidence that crimes committed in the UK led to serious human rights abuses abroad;
- Develop and adopt into law a consistent and coherent concept of corporate criminal liability;
- Direct UK authorities to investigate and prosecute corporate crime as a matter of priority, including when UK-based companies commit crime abroad;
- Ensure that investigators and prosecutors understand the link between corporate crime and human rights abuse, and have the resources, knowledge, expertise and capacity needed to successfully investigate and prosecute corporate crime;
- Take steps to limit the financial risk taken by victims bringing civil actions against multinationals for human rights harms;
- Give the UK National Contact Point for the OECD Guidelines for Multinational Enterprises (UK NCP) enhanced investigatory duties and powers, and introduce sanctions for UK companies found to be in breach of the Guidelines;
- Set out a strategic, cross-departmental approach to fulfilling the commitment to implement the UNGPs;
- Include information on the UN Guiding Principles, the National Action Plan, and appropriate human rights due diligence and impact assessments in FCO & UKTI 'Doing Business Guides', Overseas Business Risk, and Infrastructure Sector Opportunities guidance;
- Encourage and where appropriate require UK companies to undertake human rights due diligence as set out in the Guiding Principles;
- Provide training to business to foster a high standard of common practice on effective human rights impacts assessments (HRIAs);
- Support and maintain space for civil society, particularly Human Rights Defenders.



# The global impact of UK corporations



PERU: Glencore mine linked to health and environmental damage



PALESTINE: G4S' supply of security services and equipment to Israeli agencies leads to alleged abuses



EGYPT: Vodafone allegedly linked to communications black-out during 2011 revolution



BAHRAIN: Gamma Group's FinFisher surveillance software allegedly used to infringe privacy rights and contribute to other abuses



IVORY COAST: Trafigura accused of dumping toxic waste



DRC: SOCO linked to human rights abuses in UNESCO World Heritage Site



SOUTH AFRICA: Lonmin accused of involvement in Marikana massacre



TANZANIA: Acacia Mining allegedly complicit in killings and injuries



BANGLADESH: GCM Resources' proposed mine will likely impact on indigenous peoples



INDONESIA: BHP Billiton involved in allegations of land grabbing





## CASE STUDIES





## SOUTH AFRICA: LONMIN'S ALLEGED INVOLVEMENT IN MARIKANA MASSACRE

**THE COMPANY:** Lonmin is a mining company producing platinum group metals. 2014 pre-tax profits: \$46 million.

**UK CONNECTION:** Headquartered in London, and operational headquarters in Johannesburg (South Africa); listed on the London Stock Exchange.

**THE COMMUNITY:** Mine workers and families in Marikana, in the North-West province of South Africa, demanding a living wage and the adequate housing.

**SUMMARY:** *On 16 August 2012, 34 workers were killed and 78 injured after South African police opened fire on striking miners at Lonmin's Marikana mine. Workers were demanding a pay raise to living wage standards and decent housing facilities. Lonmin is accused of escalating the violence through providing advice, assistance and means to support the police crackdown. In June 2015, a report by the South African government inquiry commission concluded that there was insufficient evidence to prove the "active contribution" of Lonmin to the killings. Families of victims disappointed by the finding are pursuing other means to hold the company to account for its alleged involvement. NGOs have also raised concerns about the continuing negative social and environmental impacts of Lonmin's mining operations. Lonmin says it has taken a number of steps to build a more transparent and trustworthy working environment, but admits that it has a long way to go.*

Negotiations between Lonmin and workers at the Marikana mine on wage increases have been ongoing since October 2011.<sup>1</sup> Several agreements were reached, but remained highly contested among the parties. Dismissals of mine workers and protests accompanied these negotiations. A strike in January 2012 resulted in violence and 4 deaths.<sup>2</sup> The relationship between mining companies, workers and communities was fragile: locals felt threatened by private security companies hired by the mines, resettlement was often mismanaged, and negotiations for improved workers' housing and fair wages were poorly handled.

In August 2012, a number of Lonmin workers went on strike demanding a monthly salary of 12,500 South African Rand (about £645)<sup>3</sup> and decent housing facilities. Protesters supported the newly established Association of Mineworkers and Construction Union (AMCU), a rival to the National Union of Mineworkers. It was reported that between 9 and 14 August, 10 people including two police officers and two security guards were killed when worker factions clashed with each other and with the police.

Top photo credit: Marxist.org via the Business and Human Rights Resource Centre.





Legal Resources Centre lawyers claim Lonmin senior executives used their connections to lobby for the police to end the strike.<sup>4</sup> On 16 August, South African police opened fire on protesters, killing 34 workers and injuring 78, in the most lethal use of force in South Africa since the end of apartheid.<sup>5</sup> Police arrested approximately 250 people.<sup>6</sup>

Several NGOs and lawyers have raised concerns about a connection between Lonmin and the chain of command that requested the intervention of South African Police Force against the strikers.<sup>7</sup> They claim that decisions by Lonmin escalated the violence,<sup>8</sup> and allege that former Lonmin non-executive director and senior African National Congress politician Cyril Ramaphosa pressured other high-ranking politicians to increase police intervention in the protests.<sup>9</sup>

In October 2012, the South African government set up a commission of inquiry under Judge Ian Farlam to investigate the events at Marikana. Its aim was to clarify the roles of all parties – government, police, workers and the company – in the massacre, and to address the question of accountability for the killings, including whether Lonmin made sufficient efforts to engage with workers on ending the strike peacefully and to protect its employees.

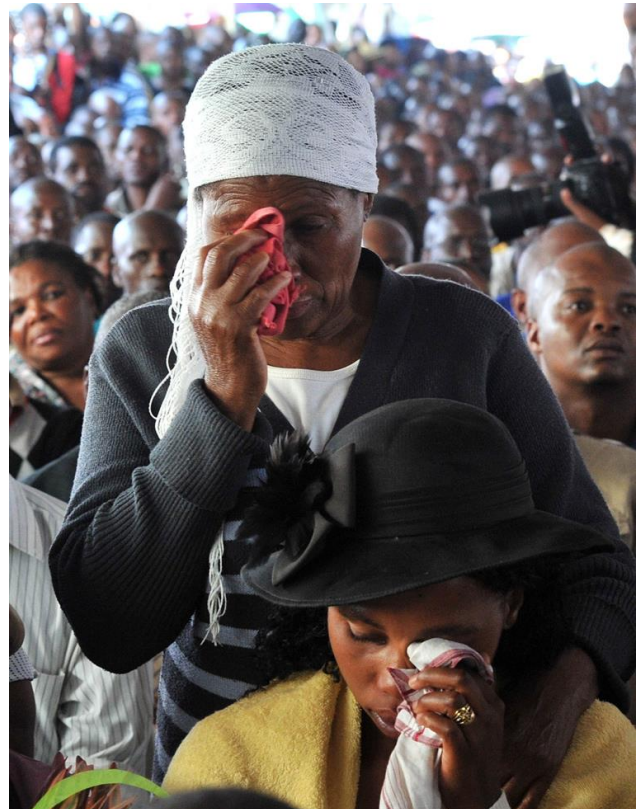
The report was originally submitted confidentially to President Zuma in March 2015 and released publicly in June 2015.<sup>10</sup> The commission did not find sufficient evidence to conclude that Lonmin had contributed actively to the killings. However, it attributed responsibility to Lonmin for failing to address workers' demands, lack of necessary safeguards and measures to ensure its workers' safety.<sup>11</sup> Victims' advocacy groups were disappointed by the commission's report, as the judge had refused to address the corporate liability of Lonmin for the killings saying that this "would have exceeded the mandate of the commission."<sup>12</sup> To date, it remains unclear whether criminal charges will be brought against any party that appeared before the commission.<sup>13</sup> Lonmin welcomed the report and committed to considering it in detail before taking further action. It cited a number of steps it has taken already to improve working conditions at Marikana.<sup>14</sup>

Top photo: Mourners at memorial service for the killed workers. Credit: governmentZA

NGOs are concerned that Lonmin's commitments will not translate into concrete improvements. In October 2013, a report by the Bench Marks Foundation claimed that for the last 10 years, Lonmin has failed to live up to its corporate social responsibility promises, including the commitment to provide adequate housing for mine workers.<sup>15</sup> In June 2015, a group of women from Marikana, assisted by the Centre for Applied Legal Studies filed a complaint to the World Bank's Office of the Compliance Advisor/Ombudsman, raising concerns that the Intl. Finance Corporation did not undertake adequate monitoring of Lonmin's social and environmental promises after it invested \$150 million in the company.<sup>16</sup>

The Business & Human Rights Resource Centre invited Lonmin to respond to these concerns. The company stated in July 2015:

*"...We accept that our social performance in the past has not always been what was hoped, but, our shortfalls were not as a result of non-compliance...but rather a result of...over-ambitious plans...Lonmin does not see these as reasons to hold back on efforts to transform existing structures, provide affordable housing and plan for future housing requirements. The company has learnt from the tragic events of Marikana, recognises the structural changes in the mining industry and is committed to working with its stakeholders to bring about real change and transformation."*<sup>17</sup>



Mourners at memorial service for the killed workers. Credit: governmentZA





## IVORY COAST: TRAFIGURA'S ACCOUNTABILITY FOR DUMPING TOXIC WASTE

**THE COMPANY:** Trafigura is a Dutch international oil trading company registered in the Netherlands, with head offices in Switzerland. 2013 profits: USD 2.2 billion.<sup>1</sup>

**UK CONNECTION:** Trafigura's London office chartered the "Probo Koala" ship and thus allegedly directed its operations, according to evidence brought to light during a UK court case.

**THE COMMUNITY:** Residents of Abidjan, Ivory Coast capital, living near the dump sites.

**SUMMARY:** *In 2006, Trafigura's chartered ship "Probo Koala" dumped 500 tons of toxic waste in the coastal areas of Abidjan, Ivory Coast. Fifteen people died, allegedly from exposure to this waste, and more than 100,000 sought medical attention. Trafigura refuses to admit liability, and despite limited compensation having been awarded to the Ivorian government and affected communities both accountability and remedy remain elusive. Amnesty International encountered a frustrating lack of engagement from various authorities when attempting to prompt a criminal investigation in the UK, with the decision not to investigate resting ultimately on a lack of will, expertise, resources and sufficient legal apparatus to tackle corporate crime in the UK.*

On 19 August 2006 toxic waste was dumped in multiple locations around the city of Abidjan, Ivory Coast, causing a major social and environmental catastrophe. Over 100,000 people sought medical assistance, 15 deaths were recorded, and extensive clean-up was required. The waste was produced when independent oil trader Trafigura used caustic soda to "wash" a sulphurous petroleum product at sea, having failed to identify a company willing to perform the operation on land due to concerns regarding waste disposal. The intention was to sell the cleaned product to the West African market for a profit of approximately \$7 million per cargo. Trafigura tried and failed to dispose of the waste in Malta, Italy, Gibraltar, The Netherlands and Nigeria before heading to Abidjan.<sup>2</sup>

Trafigura denied the waste was toxic, claiming instead that it was standard waste from on-board operations of ships. The company also denied responsibility for the dumping, stating that it had entrusted the waste to an Ivorian disposal company, Tommy, (established only a few weeks before the ship's arrival) and claiming that

Top photo: Akouédo dump site, February 2009. People live and work close to the site. Credit: Amnesty International.



it had no grounds for suspecting that Tommy would improperly dispose of the waste. Trafigura contested the number of victims, stating that only 69 people suffered significant injury.

In February 2007 the Ivorian government signed a settlement agreement with Trafigura in which the company agreed to pay \$198 million to the government for a compensation fund, in exchange for agreement that the government would not proceed with any ongoing or future prosecutions against the company. A group action lawsuit against Trafigura in the UK ended with an out-of-court settlement in September 2009, with the company agreeing to pay 30,000 claimants approximately \$1,500 each.



Rubbish skip on the streets of Abidjan. Much of Trafigura's toxic waste was dumped in broad open areas in the poor suburbs of the city. Credit: OuiOui

## Calls for criminal investigation in the UK

A 2012 report by Amnesty International and Greenpeace called for UK criminal investigation into Trafigura. The report concludes that too little has been done to strengthen regulations in developed countries on toxic waste dumping and thus to prevent similar disasters to from happening again.

Amnesty International subsequently prepared a legal brief and a 5,000 page dossier, containing evidence that Trafigura's London-based staff may have conspired to dump the waste in breach of the UK Criminal Law Act 1977. This included emails between various UK-based staff members as well as Trafigura's founder and CEO. The case was presented to the Director of Public Prosecutions (DPP), the Metropolitan Police, the Crown Prosecution Service and the Environment Agency in March 2014. The Metropolitan Police did not respond and the Crown Prosecution Service passed the legal brief on to the Environment Agency.

After lengthy delays, the Environment Agency agreed to look at the evidence in November 2014, following the threat of a judicial review from Amnesty International. The Agency issued its final decision not to investigate in March 2015, citing what it believed would be the large costs and minor benefits of undertaking the task. This was despite the Agency's acknowledgment that, if the allegations were true, a serious offence had been committed.

Amnesty International note that their interaction with the DPP, CPS, Environment Agency and Metropolitan Police indicates a reluctance to take action to hold multinationals to account, while also revealing that UK authorities may lack the capability and resources to investigate corporate crime. As a result Amnesty International has recommended a review of the UK regulatory framework in relation to the adequacy of investigatory measures to hold UK-registered companies accountable for causing or contributing to illegal acts abroad. Salil Shetty, Secretary General of Amnesty International, said:

*"It's time that Trafigura was made to face full legal accountability for what happened. People in Abidjan were failed not just by their own government but by governments in Europe who did not enforce their own laws. Victims are still waiting for justice and there are no guarantees that this kind of corporate crime will not happen again."*<sup>3</sup>





## INDONESIA: BHP BILLITON AND ALLEGATIONS OF LAND GRABBING

**THE COMPANY:** BHP Billiton, an Anglo-Australian mining, metals and petroleum company, the world's largest mining company by 2013 revenues. 2014 profits: \$15.2 bn

**UK CONNECTION:** Listed on the London Stock Exchange and with a major management office in London

**THE COMMUNITY:** Indigenous people in Maruwei village, Borneo, Indonesia, who make a living by cultivating rice, rubber and other crops on customary land.

**SUMMARY:** *Maruwei residents say they were tricked and intimidated in relation to BHP Billiton's acquisition of an area of their land in a decade-long "land grabbing" process to clear the area for the first stage of the IndoMet coal project. Locals are currently attempting to gain legal ownership of their ancestral land. Since mining operations started, villagers have reported problems with flooding, water pollution leading to health problems, and access to water. BHP Billiton claims that IndoMet Coal has dealt with all land access and compensation issues in accordance with Indonesian regulatory requirements.*

According to a Global Justice Now (GJN; formerly World Development Movement, WDM) report published in September 2013<sup>1</sup>, BHP Billiton, the largest coal mining company operating in Indonesia, holds a 75 per cent stake in the IndoMet project, a coal venture established with Indonesian coal firm Adaro Energy, the country's second-largest producer of thermal coal. The IndoMet project includes seven concessions that span an area of over 3500 square kilometres and straddle the provinces of Central Kalimantan and East Kalimantan on the Indonesian island of Borneo.

GJN estimates that BHP Billiton used about £110m raised in London for IndoMet, in addition to millions of pounds of investment from Barclays. As a FTSE 100 member, almost every pension holder in the UK has money invested in BHP. Adaro Energy received £245m from a coalition of UK banks, including HSBC and Standard Chartered.

Top photo: Clearing for a coal mine, Central Kalimantan forest.  
Credit: Andrew Taylor, WDM





Coal stockpiles line the riverbank where children play, Central Kalimantan. Credit: Andrew Taylor, WDM

Maruwei village is situated close to several coal concessions that have been granted by the Indonesian government in the Murung Raya Regency of Central Kalimantan, including BHP Billiton's Haju mine, the first stage of the IndoMet project. Many residents in Maruwei told GJN researchers that they do not benefit from the presence of the mine and are generally opposed to its further expansion. Problems faced by local people since the beginning of mining operations near their village include loss of land, health issues, flooding, water pollution, and income inequality among the villagers. Lack of access to water was their most common complaint.

*"We receive all the negatives of the mining but very little of the benefits. Only those that work for them get the benefits. We will receive the full impact of the waste when BHP start dumping. The forest will be gone and we will lose our rubber trees."*

*Erly Aisha, resident of Maruwei village<sup>2</sup>*

Two articles published in the Jakarta Globe on 14 June 2015 reported on the Maruwei villagers' attempt to secure legal ownership of their ancestral land, and described the process employed by BHP Billiton to acquire the land.<sup>3</sup>

According to the Maruwei village secretary, in 2005 more than 70 Maruwei families spent months clearing an area of 16 square kilometres of their customary forest which was to be compulsorily acquired for the mine, in the belief that they were entitled to compensation. A BHP Billiton representative had also said that the company would be "more appreciative" of land that was logged. Despite this, at a meeting between village leaders, government and company representatives to discuss payment, villagers were informed that the land they had cleared was technically "state forest" and that BHP would make only "goodwill payments" of Rp 1 million (worth around \$103 at the time) per hectare.

Several people said they only accepted the deal under threat of arrest, and some who expressed opposition to the compensation offer were arrested and briefly jailed for illegal logging. BHP Billiton commented to the Jakarta Globe that its activities in relation to land acquisitions in the area were "at all times undertaken in accordance with legal and ethical business practices" and that decisions were made "transparently and based on consensus decision making by landowners."



At the time of the deal, Indonesian law stipulated that land over which no one had a legal title was “state forest”, allowing the state to sell it to companies without obtaining consent from communities. The Indonesian Constitutional Court subsequently ruled that this law was unconstitutional.

Under a new provincial land rights scheme, villagers in Central Kalimantan have lodged a claim for legal title to 10 square kilometres of land within IndoMet’s vast area. Maruwei’s headman described the process of preparing the claim as a race to preserve the community’s customary land, used for cultivating rice, rubber and crops. BHP Billiton has already opened the Haju mine. In June 2015, the Business & Human Rights Resource Centre invited BHP Billiton to respond to the Kalimantan villagers’ allegations around land claims. BHP Billiton made the following statement:<sup>4</sup>

*“IndoMet Coal has conducted all land access and compensation in accordance with Indonesian regulatory requirements. The Haju mine is within a government designated State Forest area and therefore land compensation is not required by government regulation. However, after an open and extensive consultation process with community representatives, IndoMet Coal provided a goodwill payment to enable the purchase of offsetting land and capacity building measures for community members. This was done with the agreement of the local community representatives. Separately IndoMet Coal has worked with representatives of the Maruwai Village on a range of community development initiatives including installing water infrastructure to bring clean running water to the village for the first time. IndoMet Coal has also invested in a range of other health and education initiatives for the village and will continue to work closely with communities into the future.”*



Kalimantan villagers. Credit: Andrew Taylor, WDM.



Coal mine road, Central Kalimantan. Credit: Andrew Taylor, WDM



## EGYPT: VODAFONE'S INVOLVEMENT IN COMMUNICATIONS BLACK-OUT DURING 2011 REVOLUTION

**THE COMPANY:** Vodafone Group is a telecommunications company that owns networks in 21 countries and has partner networks in 40 additional countries. 2014 profits: £7.9 billion.<sup>1</sup>

**UK CONNECTION:** Headquarters in London, registered office in Newbury (UK); listed on the London Stock Exchange

**THE COMMUNITY:** Egyptian people involved in protests during the 2011 revolution.

**SUMMARY:** *More than 800 people were killed and 6,000 injured during the Egyptian revolution of 2011, when tens of thousands marched against Hosni Mubarak's authoritarian government. Protesters relied heavily on text messages and social media to organise marches. In an effort to stymie protests, the government ordered communication providers, including Vodafone, to shut down their services. Vodafone claims to have complied with government orders under duress. Human rights groups raised concerns about Vodafone's involvement in limiting Egyptian peoples' right to freedom of expression and assembly. A lawsuit seeking compensation for victims unable to access healthcare facilities due to the communications black-out was decided in favour of companies by an Egyptian court.*

In January 2011, tens of thousands of people in Egypt took to the streets to protest for democracy and against poverty, unemployment, corruption and the authoritarian rule of Hosni Mubarak's government. The countrywide protests lasted more than two weeks, and 846 people died and over 6,000 were injured during clashes with police and the military prior to Mubarak's resignation on 11 February.<sup>2</sup>

Protesters relied heavily on text messaging and social media to organise marches and demonstrations. On 27 January, protesters reported major disruption to internet, phone and social media services.<sup>3</sup> According to internet intelligence authority Renesys, "*the Egyptian government...ordered service providers to shut down all international connections to the Internet...Link Egypt, Vodafone/Raya, Telecom Egypt, Etisalat Misr, and all their customers and partners [were] off the air.*" Communications providers were also compelled to send several pro-Mubarak text messages to customers.

Top photo: protestors in Tahrir Square, Cairo. Credit: Ramy Ramoosh



The service shutdown was criticised by UN Secretary-General Ban Ki-moon, US President Obama, other government representatives, and human rights organisations. On 2 February, Human Rights First requested information from seven telecommunications firms regarding their role in the communications black-out and its impact on protesters' rights:

*"Given the importance of internet and mobile phone communications to economic, social and political life...and the damage that is done to livelihoods and the enjoyment of basic freedoms for millions of people when governments interrupt that service...it is incumbent on companies to share information about the circumstances in which catastrophic interruptions in service have taken place."*<sup>4</sup>

Vodafone was one of the companies to shut down its services in Egypt, and to respond to Human Rights First's request for information. The company said it was "formally instructed" to shut down mobile services, which it did. It added that its decision aimed to "balance the needs and safety of its employees on the ground in Egypt, its customers and the broader population of Egypt."<sup>5</sup>

Vodafone is an active member of the Telecommunications Industry Dialogue, a group of telecommunications companies formed in 2011 to address freedom of expression and privacy rights in line with the UN Guiding Principles on Business and Human Rights (UNGPs).<sup>6</sup>



Credit: Ramy Ramoosh

Amnesty International's Secretary General Salil Shetty said that it was inexcusable for Vodafone to fail to challenge the law which allowed the government to request the company to shut down its communications service.<sup>7</sup> Telecommunications companies reportedly performed practice shutdowns in 2008 and were therefore aware of the implications.<sup>8</sup>

Human rights groups remain concerned about telecommunications companies' interactions with authoritarian governments where civil and political rights are particularly vulnerable. Advocates, including Access Now,<sup>9</sup> have called on Vodafone to implement clear policies and practices to prevent similar situations, highlighting Bahrain, China and Malaysia as high risk environments.<sup>10</sup>



Protestors at Tahrir Square, Cairo. Credit: Ahmed Abd El-Fatah

Egyptian Centre for Housing Rights filed a lawsuit in Egypt against Etisalat, Mobinil and Vodafone seeking compensation for damages suffered by activists during the communications shutdown. Salma Hassan, an activist who participated in the protests said she "saw people bleed to death because there was no way to contact anyone...[o]ur mobiles were turned off." While the court called on government authorities to provide compensation to domestic mobile providers for losses during the shutdown, it found that the companies were not liable.<sup>11</sup> The plaintiffs raised concerns that the court decision was linked to the government's desire to maintain good relations with companies at the expense of victims.<sup>12</sup> Despite some speculation about potential lawsuits in the US against mobile service providers, including Vodafone, no such cases have been pursued.<sup>13</sup>





## BANGLADESH: GCM RESOURCES' ALLEGED IMPACTS ON INDIGENOUS PEOPLES

**THE COMPANY:** GCM Resources is a British mining company formerly known as Asia Energy and Global Coal Management, established to explore and mine the Phulbari Coal Project. 2014 profits: Loss of £1.3 million.<sup>1</sup>

**UK CONNECTION:** Headquarters in the UK; listed on London Alternative Investment Market.

**THE COMMUNITY:** Local people, including 23 indigenous tribes concerned about impacts of planned coal mine in Phulbari, Bangladesh.

**SUMMARY:** *Local communities are deeply concerned about the potential impacts of GCM Resources' planned 50 square kilometre open-pit coal mine, which threatens to displace thousands of people and destroy some of Bangladesh's most fertile agricultural land. In 2006 three people died and many more were injured when paramilitaries fired on peaceful protests against the mine. In 2012, two NGOs brought a complaint to the UK National Contact Point for the OECD Guidelines for Multinational Enterprises (UK NCP). After a two-year inquiry, the UK NCP found GCM Resources to be in partial breach of the Guidelines but ignored the potential future impacts of the project, stating that it could only consider actions that had already taken place. A re-examination of the case, recommended by the UK NCP's Steering Committee has yet to take place.*

GCM Resources was established in 2003 as Asia Energy to exploit and mine the Phulbari Coal Project. The company obtained a mining contract originally awarded to BHP Billiton in 1998. The plan for a massive open-pit coal mine in the Phulbari region of Bangladesh has been criticised for serious potential human rights impacts on local communities. Estimates by UK NGO Global Justice Now (GJN) suggest that up to 220,000 people could be displaced, several indigenous peoples' villages would be destroyed, and approximately 50,000 indigenous people would be impoverished.<sup>2</sup> Additionally, turf farmers would be forced off their land, the local water table depleted and water courses polluted, depriving communities of their livelihoods and limiting their access to water.

In 2006, paramilitary officers opened fire on a major protest against the mine. GJN reported that three people were killed and more than 200 injured. In February 2012, seven UN human rights experts called for an immediate halt to the project, highlighting threats to fundamental human rights, including the rights to water, food, adequate housing, freedom from extreme poverty and the rights of indigenous peoples.<sup>3</sup>

The experts raised concerns about the project's lack of transparency and legitimacy, referring to repression of human rights defenders peacefully protesting against the mine.

GCM Resources argues that the mine will foster growth and development in the Phulbari region and for the Bangladeshi population by generating 4,800 megawatts of power, which would help meet local energy needs<sup>4</sup> and provide about 17,000 jobs.<sup>5</sup> The company contests estimates of the number of people who would be displaced, stating that approximately 40,000 would have to be resettled and laying out plans to undertake this process.<sup>6</sup> The company also says it would provide benefits for the population, such as improved water quality and living conditions, and that it will undertake a human rights impact assessment.<sup>7 8</sup>

On 19 December 2012, GJN and International Accountability Project brought a complaint to the UK OECD National Contact Point (UK NCP) on behalf of affected people in four sub-districts of Phulbari<sup>9</sup> and alleging severe human rights abuses of indigenous people from 23 different tribal groups.<sup>1</sup> GCM Resources appealed to have the complaint rejected, but the UK NCP agreed to consider the matter in June 2013.



Above and cover photo: Phulbari protestors. Credit: Rumana Hashem of Phulbari Solidarity Group

The UK NCP issued its final assessment 18 months later, stating that GCM Resources “*did not apply practices or systems that foster confidence and mutual trust with the local communities*”.<sup>11</sup> However, the UK NCP rejected the majority of alleged breaches, as it examined only breaches between September 2011, when the of OECD Guidelines for Multinational Enterprises were updated to include a chapter on human rights, and December 2012, when the allegations were made.<sup>12</sup>

Rumana Hashem, co-ordinator of Phulbari Solidarity Group and an eye-witness to the 2006 protests against the project, said:

*“This report is contradictory. The internal review of the investigation affirmed that the OECD [G]uidelines apply to human rights abuses that would occur if the project went ahead but the final report failed to advise their company to stay away from this devastating project. Despite the failure of the UK government to hold this UK-based company to account, it is clear that the people of Phulbari will resist GCM’s project going ahead.”<sup>13</sup>*

International Accountability Project and GJN were similarly concerned with the shortcomings of the UK NCP’s process and submitted a request for a review.<sup>14</sup> The NCP Steering Board review found that the final statement did not adequately address the full scope of the complaints due to a “procedural error” and recommended that the NCP re-examine the case.<sup>15</sup> To date no re-examination has taken place.

Christine Haigh of GJN says that based on her organisation’s experience, “*the OECD guidelines and complaint procedure are far from effective in holding multinational corporations to account*”. The complainants are disappointed in the UK NCP’s failure to re-examine the case and remain concerned about on-going abuses of free, prior and informed consent, and the high risk of further violence.<sup>16</sup>





## PALESTINE: G4S SUPPLYING SECURITY SERVICES AND EQUIPMENT TO ISRAELI AGENCIES LEADING TO ALLEGED ABUSES

**THE COMPANY:** G4S was formed in 2004 through the merger of the UK security company Securicor and the security business of the Danish company Group 4 Falck. G4S operates in over 110 countries and employs 623,000 people globally,<sup>1</sup> making it one of the world's largest private sector employers and the largest security company by revenue. 2014 profits: £152 million.<sup>2</sup>

**UK CONNECTION:** G4S was incorporated in 2003 as a UK public limited company. It has registered offices in the UK and is listed on the London Stock Exchange.

**THE COMMUNITY:** Palestinian prisoners in Israel and the West Bank, as well as other Palestinians in the Occupied Palestinian Territories (OPT).

**SUMMARY:** *G4S has been providing, through its Israeli subsidiary, security services and equipment to Israeli checkpoints in the OPT, to prisons allegedly abusing Palestinians inside Israel and in the OPT, and to private businesses in settlements. A complaint to the UK National Contact Point for the OECD Guidelines for Multinational Enterprises (UK NCP) by Lawyers for Palestinian Human Rights (LPHR) against G4S was partly upheld in June 2015. The company denies involvement in any human rights abuses.*

In March 2011, the NGOs Who Profits and the Coalition of Women for Peace published a report on private security companies and the Israeli Occupation,<sup>3</sup> focusing on the Israeli branch of the UK security company G4S. The report identified four types of activities performed by G4S Israel that “illustrate” the involvement of the company in the Israeli Occupation: the provision of security equipment and services to incarceration facilities holding Palestinian political prisoners inside Israel and in the occupied West Bank; the delivery of security services to businesses in settlements; the provision of equipment and maintenance services to Israeli military checkpoints in the West Bank; and the provision of security systems for Israeli police headquarters in the West Bank.

In 2004 an Advisory Opinion of the International Court of Justice stated that the security and justice policies of the Israeli government, in particular the policy of maintaining those parts of its Wall (or “separation barrier”) located in the Occupied Territories of the West Bank and Gaza Strip, are contrary to international humanitarian and human rights laws.<sup>4</sup>

Top photo: Beit Iba Checkpoint. Credit: Kashfi Halford





Qalandia  
Checkpoint.  
Credit: SP

Following protests against G4S's involvement in the Occupied Palestinian Territories, the Financial Times reported in April 2013<sup>5</sup> that G4S had confirmed its plan to quit key contracts in Israel "when they terminate in 2015". The company said:

*"(...) to ensure that G4S Israel business practices remain in line with our own business ethics policy, we would aim to exit the contracts which involve the servicing of security equipment at a small number of barrier checkpoints, a prison and a police station in the West Bank area (...)"*

G4S stated, however, that it would continue to service security systems in commercial and government sites inside Israel, including jails housing Palestinian inmates, after 2015. Human rights protests renewed again at the company's annual general meeting in June 2014, after which G4S declared that it will end all Israeli prison contracts by 2017 and that the move "would also include prison service contracts all over Israel".<sup>6</sup>

In November 2013, Lawyers for Palestinian Human Rights (LPHR) submitted a complaint to the UK NCP alleging that G4S contributed to serious human rights abuses, including the detention and imprisonment of children in Israeli prison facilities.

The complaint says that many prisoners claimed that they were subjected to torture and/or cruel and degrading treatment. The complaint adds that G4S and its Israeli subsidiaries<sup>7</sup> "provide equipment and services to checkpoints in the Wall constructed by Israel predominantly within the West Bank including East Jerusalem, to the Erez crossing located at the border between Gaza Strip and Israel, and to Israeli Prison Service (IPS) prisons and detention centres in Israel and in the West Bank."<sup>8</sup>

In May 2014, the UK NCP accepted some aspects of this complaint for further examination and issued a final statement in June 2015. This stated that G4S had not met the specific obligation to seek to address impacts of its business relationships with the Israeli government, and that this caused the company's actions to be "technically inconsistent" with two other provisions obliging them to respect human rights. However, the UK NCP also stated that it did not find any broad failure by G4S to respect the human rights of people on whose behalf the complaint was made. The statement went on to make recommendations to G4S.<sup>9</sup>

Shortly after the UK NCP statement was published, the Business & Human Rights Resource Centre received a letter from LPHR criticising G4S's public response to the UK NCP statement, followed by a series of responses and a rejoinder from G4S and LPHR respectively.<sup>10</sup> An excerpt from G4S's second response:<sup>11</sup>

*"The summary of the conclusions within the report includes the term "technically inconsistent" on numerous occasions when describing where G4S actions are inconsistent with the OECD Guidelines (...) Throughout the Final Statement (and in its Initial Assessment published previously), the UK NCP repeats its view that G4S equipment and services do not play a direct part in any human rights impacts (...) The UK NCP recommends that the company works with business partners in the region to address human rights impacts, communicates to stakeholders actions taken by the company and that a contract approval process is implemented. G4S welcomes the findings of the UK National Contact Point and will to continue to work with customers and business partners to safeguard human rights and ethical standards in line with the UN Guiding Principles on Business and Human Rights and best practice."*

In addition to the allegations above, G4S has faced multiple allegations over reported human rights abuses in several countries, including use of inappropriate "restraint techniques" at detention facilities in the UK,<sup>12</sup> alleged prisoner abuse in South Africa,<sup>13</sup> and alleged attacks on asylum seekers at an Australian detention centre.<sup>14</sup>



Abu Dis Checkpoint. Credit: Kashfi Halford



Beit Iba Checkpoint. Credit: Kashfi Halford



Bethlehem wall. Credit: Michael Swan





## TANZANIA: ACACIA MINING'S ALLEGED COMPLICITY IN KILLINGS AND INJURIES

**THE COMPANY:** Acacia Mining (formerly African Barrick Gold) focuses on gold mining in Tanzania. In 2010, Acacia Mining separated from Canada's Barrick Gold, but today Barrick Gold still owns 64% of Acacia Mining. 2014 profits: \$90.4 million after tax.<sup>1</sup>

**UK CONNECTION:** Acacia Mining is a UK public company headquartered in London. The company is listed on the London Stock Exchange.

**THE COMMUNITY:** Tanzanian villagers living around the North Mara gold mine, Tarime District (Tanzania), who make a living through farming, with extra income from "illegal" gold mining.

**SUMMARY:** *Acacia Mining has been accused of using excessive force in attempts to deter local Tanzanians from entering its North Mara gold mine compound. In May 2011, police shot dead at least six people as locals tried to collect rocks bearing small amounts of gold at the site. A group of 12 Tanzanians filed a lawsuit in the UK against African Barrick Gold (now Acacia Mining) claiming that the company was complicit in the killings. Acacia Mining reached an out of court settlement with the claimants in February 2015, details of which have not been publicly disclosed. NGOs claim that many other victims of abuse – including killings, injuries and sexual harassment – do not have adequate access to remedy, principally due to flaws in the company's grievance mechanism. The company says its grievance mechanism is transparent and respectful of human rights.*

Acacia Mining, formerly African Barrick Gold, owns the North Mara gold mine located in a remote part of Tanzania characterised by limited infrastructure and poverty. There is a history of "illegal" artisanal mining at the North Mara mine that the company has sought to address. Security at the mine is provided both by internal security personnel and local Tanzanian police, contracted by the company.<sup>2</sup> The company maintains that the Voluntary Principles on Security and Human Rights is central to its security management system.<sup>3</sup>

In May 2011, police shot and killed six local people who were trying to collect gold-bearing rocks at the North Mara mine. According to NGOs, this incident is part of a wider pattern of violence: a 2014 NGO briefing cites 16 people shot dead by police and 11 people injured in 14 separate incidents between 2008 and 2012.<sup>4</sup> In addition, local human rights sources allege that there have been at least 20 new cases of deaths or serious injury at the North Mara mine since September 2014.<sup>5</sup>

In 2013, UK-based law firm Leigh Day, acting on behalf of 12 local villagers, brought a lawsuit in the UK against African Barrick Gold (now Acacia Mining) and its Tanzanian subsidiary North Mara Gold Mine Ltd.<sup>6</sup>

Top photo: locals at the site where at least five artisanal miners were shot dead in May 2011 Credit: Plenty's Paradox

The lawsuit was over deaths and injuries as a result of the excessive use of force by mine security and police, including the use of live ammunition<sup>7</sup>; six of the claims related to deaths by gunshot, while injured young men brought three claims.<sup>8</sup>

In February 2015, Acacia Mining settled the case out of court while denying the claims.<sup>9</sup> Full details of the settlement remain undisclosed.<sup>10</sup> The company's Vice-President for Corporate Affairs subsequently commented that the company arrived at the decision for the sake of maintaining good relations with the community around the mine:

*"They didn't have strong evidence to support their case, but as a company which cares, we realized that erasing past scars would be the only positive and lasting solution. So we agreed to the pact. (...) We have a clean record; we care about the people and our decision to end this case was on that basis and not admission of defeat."*<sup>11</sup>

RAID-UK and MiningWatch Canada, NGOs working with local communities, raised concerns that while out-of-court settlement benefited some of the victims, many others not included in the lawsuit were hindered from participating in the company's grievance mechanism:

*"No one has been brought to justice for the abuses and those victims who were not included in the settlement will be unable to benefit from the more generous compensation offered to those who persevered with the claim. (...) Acacia Mining should not be let off the hook about its obligations towards the many other victims of on-going mine violence."*<sup>12</sup>



Waste rubble from the North Mara mine looms over Nyamongo village. Credit: Plenty's Paradox

The NGOs noted that while Leigh Day originally represented 33 claimants, the number was rapidly reduced as the company approached some of the clients offering to sign them up to the mine's remedy programme. Individuals who signed up to the programme were also asked to sign a confidential legal waiver committing them to secrecy and giving up their right to bring future legal claims against the company. UK-based NGOs have argued that this remedy programme is not transparent and does not offer appropriate compensation for abuses.<sup>13</sup>



Credit: Plenty's Paradox

The Business & Human Rights Resource Centre invited Acacia Mining to respond to these concerns, which it did, saying that its grievance mechanism meets the UN Guiding Principles on Business and Human Rights (UNGPs). However, a RAID-UK report released in March 2015 claimed that – due to deficiencies in the UNGPs – the company's grievance mechanism is unsuited to offering redress to serious human rights abuses, as "instances of serious abuse are being privatised and dealt with 'in-house'".<sup>14</sup> In response, the company said its grievance process is a "voluntary, efficient and fair alternative to formal legal proceedings".<sup>15</sup>





## BAHRAIN: GAMMA GROUP'S FINFISHER SURVEILLANCE SOFTWARE ALLEGEDLY USED TO INFRINGE PRIVACY RIGHTS AND CONTRIBUTE TO OTHER ABUSES

**THE COMPANY:** Gamma Group International is a British-German software company with headquarters in Andover and Winchester (UK) and in Munich (Germany). Subsidiaries in Beirut (Lebanon) and Kuala Lumpur (Malaysia). 2014 profits: no public disclosure

**UK CONNECTION:** Headquarters in the UK.

**THE COMMUNITY:** Bahraini opposition and human rights advocates under surveillance by the Bahraini government.

**SUMMARY:** *Gamma Group allegedly sold surveillance technology FinFisher to Bahraini authorities who used the product to spy on political opposition and human rights advocates. Through the sale of this technology, the company is accused of aiding the government's infringement of the advocates' right to privacy, and contributing to arbitrary arrests, torture and suppression of speech. The UK NCP found that Gamma Group's actions were not consistent with international human rights obligations, and criticised the company for failing to carry out human rights due diligence before selling FinFisher to the Bahraini Government. A criminal complaint has been filed in the UK in relation to Gamma Group's provision of surveillance technology to the Bahraini and Ethiopian governments.*

Gamma Group produces the FinFisher surveillance technology, which installs itself on targets' computers from where it can relay information about their activities (including the contents of emails and Skype calls) back to the sender. This technology has allegedly been used by repressive governments to crack down on political opposition and human rights advocates.

On 22 February 2013, a group of NGOs<sup>1</sup> submitted a complaint to the UK NCP against Gamma Group raising concerns about the company's sale of surveillance technology to Bahrain. The complaint was based on allegations that the company's surveillance products were linked to human rights abuses in Bahrain, including the arrest, detention and torture of political opponents and dissidents. The NGOs submitted a parallel complaint to the German OECD National Contact Point against Gamma Group and Munich-based surveillance company Trovicor, raising concerns that used in conjunction, the two companies' products facilitated human rights abuses.<sup>2</sup>

Top: protestors at the 2011 Bahraini uprising. Credit: Mahmood Al-Yousif



The UK NCP confirmed in its final assessment on 26 February 2015 that Gamma Group has acted inconsistently with its human rights obligations outlined in the OECD Guidelines for Multinational Enterprises.<sup>3</sup> The UK NCP recommended that Gamma Group undertake human rights due diligence throughout its operations, participate in industry best practice schemes, and cooperate with remedy processes in instances when its products have been misused. The company did not engage in the UK NCP process and has not yet reacted publicly to the recommendations.

The complainants welcomed the findings but criticised the failure of the UK NCP to conclusively determine that Gamma had supplied Bahrain with the invasive tools, and expressed disappointment that the UK NCP had been unable to take a more proactive investigatory role.<sup>4</sup>

The German OECD National Contact Point (German NCP) rejected the complaint against Trovicor in December 2013, stating it could only undertake a further examination of the general risk management of Trovicor, and claiming there was a lack of evidence regarding other aspects of the complaint.<sup>5</sup> The Berlin-based European Center for Constitutional and Human Rights raised concerns about the German NCP's impartiality and transparency during the complaint process.<sup>6</sup>

Gamma Group's products are alleged to have been used by other governments to infringe on human rights.<sup>7</sup> Gamma Group and its business partners Trovicor and Elaman are alleged to have provided Ethiopian intelligence services with surveillance equipment. According to research conducted by Privacy International, the Ethiopian intelligence agency *"has used intercepted communications data to identify and punish targets it perceives as opposed to the government. Journalists, activists and average citizens widely assume that their communications are extensively monitored"*.<sup>8</sup> Business & Human Rights Resource Centre reached out to Gamma four times regarding these, and other similar allegations. The company has never provided responses.

A criminal complaint brought by Privacy International in the UK addressing the Bahrain and Ethiopian cases is currently pending.



Top left and above: protestors at the 2011 Bahraini uprising.  
Credit: Mahmood Al-Yousif





## PERU: GLENCORE MINE LINKED TO HEALTH AND ENVIRONMENTAL DAMAGE

**THE COMPANY:** Glencore Xstrata was created in May 2013 through the merger of Glencore, dedicated to the sourcing and commercialisation of raw materials<sup>1</sup> with Xstrata, specialised in mining and metals. On 20 May 2014, Glencore Xstrata changed its name to Glencore plc. Glencore is the world's third largest global mining company by market capitalisation. 2014 profits: \$2.44 bn.<sup>2</sup>

**UK CONNECTION:** Listed on the London Stock Exchange.

**THE COMMUNITY:** Local people, mostly farmers, from the province of Espinar, Cusco (Peru), who rely on the lakes and four major river basins in the area for their water and livelihoods.

**SUMMARY:** Locals and NGOs allege that Glencore's Tintaya and Antapaccay mines have led to water contamination and general environmental damage, causing negative impacts to human and animal health. Independent testing in 2011 concluded that due to contamination, water is not fit for human consumption and soil is also contaminated. Police repression during a public protest against the mine in May 2012 resulted in two deaths; several activists still face criminal charges. A Peruvian court fined the company \$84,000 for polluting pastureland near the mine. A civil case is being brought in UK courts against the company for unlawful detention and personal injury. The company denies any responsibility in the case.

In 2006, UK & Swiss-registered mining firm Xstrata purchased the Tintaya copper mine from BHP Billiton, a major Australian-British mining company. Xstrata committed to make voluntary contributions to a local development fund as part of efforts to obtain a "social license to operate" for the project. Today Glencore owns the Tintaya and Antapaccay mining projects, situated in the province of Espinar in the Southern Peruvian Andes.

Data from 2013 showed 64.7% of the population of Espinar living in poverty.<sup>3</sup> Oxfam research from 2014 noted that a Framework Agreement with Glencore Xstrata led to the "presence of a new institutional space with important financial resources that has, in certain ways, displaced municipal governments, and the rise of opposing visions of development" - one based on agricultural activities and the other on mining or extraction.<sup>4</sup>



After local groups raised concerns about contamination and the negative effects of mining on human and animal health in 2011, an independent study was conducted by an environmental engineer to examine water and soil samples taken from seven communities around the mine. The study concluded that “water is not apt for human consumption, according to the national standards set out by Peru’s environment ministry”, and that “the soils are not apt for agriculture, according to Canadian environmental quality guidelines”.<sup>5</sup>

Local people have protested against the mines on several occasions. 16 protesters were injured during clashes with the police in May 2011. In May 2012, residents organised a series of public protests in Tintaya, during which violence escalated and crowds were severely repressed by the police. On 28 May 2012, two people were shot dead and many were injured; the government declared a state of emergency. Community leaders were charged with criminal offences and several human rights defenders were beaten, threatened and illegally detained at a police station within the mining camp.<sup>6</sup> Espinar’s mayor, Oscar Mollohuanca was among those arrested. Criminal charges - including offences against public safety and “terrorism” - against some of the people detained in 2012 have still not been dismissed.



Protestors in Espinar. Credit: Peru Support Group

A number of local residents alleged that Xstrata’s private security included off-duty and retired police officials and that police forces used Xstrata vehicles during the protests. In 2013, it was revealed that the Peruvian police had signed a series of agreements<sup>7</sup> to provide at least 13 natural resource companies, including Glencore Xstrata, with paid private security.

21 Peruvian claimants are now bringing a civil case in UK against the company for unlawful detention and personal injury. The company denies any involvement in regards to these particular claims.



Peruvian police and demonstrators. Credit: The Ecologist

Two studies conducted in 2012 by the Peruvian government and Environmental Justice Organisations, Liabilities and Trade (EJOLT) with local NGO Vicaría de la Solidaridad<sup>8</sup>, showed that 100% of people living in the communities directly affected by Tintaya are exposed to highly harmful arsenic, thallium, and lead, and that the area’s water did not fulfil national safety requirements. The Business & Human Rights Resource Centre invited Xstrata to respond to the EJOLT report. This is an extract from the company’s response, provided on 21 August 2012:

*“(…) Xstrata is deeply committed to the principles of sustainable development and our organisation in Peru is no exception. Our Tintaya operation conducts comprehensive environmental monitoring and all community participatory and company monitoring activities to date have demonstrated that Tintaya operates in line with Peruvian law and Xstrata’s industry-leading standards. Tintaya retains and recycles all process water on-site and we do not discharge into local water bodies. We do not produce or use mercury, arsenic or lead in our processes. Upstream and downstream monitoring results shows that water quality is consistent and there is no impact from our mining operations. We have publicly and repeatedly rejected allegations of environmental pollution at Tintaya including river pollution (...)”<sup>9</sup>*



In January 2014 the Peruvian Court of Environmental Control fined Glencore Xstrata \$84,000 for polluting pastureland near Tintaya, failing to report the incident to the authorities, and failing to provide a report on follow-up investigation. While the company claimed that the elevated levels of copper would occur naturally, the Court argued that levels of copper in soils were 1,800 times higher than the natural concentration in the area and that the metal had spread from water being pumped through a channel by the mines.<sup>10</sup>

The Swiss Federal Council emphasised the importance of reliable and independent studies concerning the contamination of water around the Tintaya mine in June 2015, noting that the interpretation of results of previous studies have been contradictory. The Federal Council is willing to support a further study by an internationally recognised body, based on scientific methodology, the results of which all parties would acknowledge.<sup>11</sup>



Protestors in Espinar. Credit: Peru Support Group



Tintaya mine. Credit: Peru Support Group

Front page photos: (Top) Protestors and police in Espinar.  
Credit: Miguel Gutierrez; (bottom right) Tintaya mine.  
Credit: ELLA Programme

## DRC: SOCO LINKED TO HUMAN RIGHTS ABUSES IN UNESCO WORLD HERITAGE SITE

**THE COMPANY:** SOCO International is an oil & gas exploration and production company. 2014 profits: \$152.7 million pre-tax profit.<sup>1</sup>

**UK CONNECTION:** Headquarters in London; listed on the London Stock Exchange.

**THE COMMUNITY:** Up to 50,000 people living around Virunga National Park, North-Kivu region, Democratic Republic of Congo (DRC), relying on Lake Edward for their livelihoods.

**SUMMARY:** *Since 2006, SOCO International has attempted to exploit oil in Virunga National Park, Africa's oldest National Park and a UNESCO World Heritage Site. In spite of strong opposition from community members and local and international NGOs, the company has obtained authorisation from the government to operate within the Park. NGOs have reported attacks and intimidation against activist and Park rangers critical of oil exploration in the Park. The company has repeatedly denied allegations of human rights abuses around its operations in the DRC.*

and demanded that the company respect environmental standards and human rights.

Situated in a vulnerable ecosystem that is the source of the Congo and the Nile rivers, Virunga National Park is Africa's oldest National Park and a UNESCO World Heritage Site. According to Global Witness<sup>3</sup> it is a vital habitat for numerous protected species, and is home to Lake Edward, which supports the livelihoods of around 50,000 people. The NGO notes that oil exploration or exploitation in a UNESCO World Heritage Site constitutes a breach of DRC's laws and Constitution, and the Convention on World Heritage. In 2010, SOCO obtained an exploration permit<sup>4</sup> from the Congolese government and undertook exploration and production studies in Virunga.<sup>5</sup>



Above and top: Virunga. Credit: John and Melanie Illingworth.

In 2006, SOCO signed an oil production sharing contract with the Congolese government. In a January 2009 report,<sup>2</sup> Action for Development and Life (ADEV), a Congo-based NGO, claimed that SOCO's operations in the Bas-Congo Province risked "a social and environmental disaster" for the highly biodiverse area and its inhabitants,





Inhabitants of the North  
– Kivu region. Credit:  
Joseph King

After a warning from UNESCO, in March 2011 the Congolese Ministry of Environment suspended authorisations for the operation of oil concessions within the Park, and required an Environmental Assessment to determine whether or not oil should be exploited in the region. The government committed not to allow oil exploration in the Park until the results of the Environmental Assessment were released.

Despite this, in September 2011 the government authorised SOCO's request to start oil exploration in the Park.<sup>6</sup> Global Witness reported in March 2012 that SOCO had announced its intention to proceed with the exploration.<sup>7</sup>

Members of local communities and traditional authorities from the nearby towns of Lubero and Rutshuru declared their opposition to SOCO's plans.<sup>8</sup> On 25 September 2012, the UK government also expressed opposition to oil exploration in Virunga.<sup>9</sup> A number of other NGOs including World Wildlife Fund (WWF) and Greenpeace launched campaigns against the company's operations, and in February 2013 several human rights organisations claimed that oil exploitation in the Park is illegal and will not benefit Bas-Congo inhabitants.<sup>10</sup>

Global Witness<sup>11</sup> and Human Rights Watch<sup>12</sup> have reported that activists and Park rangers opposing oil exploration in Virunga have been subject to death threats, attacks and arbitrary arrests by Congolese soldiers, as well as intimidation from unknown perpetrators.

*"I was arrested by soldiers, their boss was Major Feruzi - he is in charge of securing SOCO's activities. They told me: 'You are against oil, we must hurt you.' It was very dangerous."*

*Former head of the local fishermen's union, who had requested SOCO and the government disclose more information about the oil deal.<sup>13</sup>*

The Director of the Park, Emmanuel de Mérode was shot in the abdomen and chest in April 2014, and the Chief Ranger, Rodrigue Mugaruka Katembo was arrested a few months earlier. Investigations into the attack against the Director did not lead to conclusive evidence of a connection with SOCO, and the company has repeatedly denied allegations of involvement in repressing its critics.

WWF filed a complaint with the UK NCP on 7 October 2013, alleging that SOCO had breached the Guidelines. The complaint claims that SOCO used state security forces to intimidate opponents and failed to disclose crucial information about the potential impact of its activities on people's health and the environment.<sup>14</sup> In February 2014, the UK NCP agreed to examine WWF's complaint.<sup>15</sup>

DRC's Prime Minister announced in March 2015 that his government wants to redraw the Virunga National Park's boundaries to allow for oil exploitation, noting that *"SOCO had brought the issue of the boundary to the government's attention."*<sup>16</sup>

On 2 July 2015, the Church of England decided to divest its shares in SOCO following a series of allegations of bribery, corruption and human rights abuses.<sup>17</sup> The company denied the allegations and declined to comment on the Church of England's decision. On the same day, at the 39<sup>th</sup> session of the UNESCO World Heritage Committee, around 20 civil society organisations from the North-Kivu Region in DRC called on the government to reverse its decision to redraw the Park's boundaries and to allow SOCO's operations within the Park to go ahead.<sup>18</sup>



Anti-oil protesters. Credit: Edgar Mbekemoja (via WWF)



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