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Rights and
Accountability
in Development

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Violence Ongoing at Barrick Mine in Tanzania: MiningWatch Canada and RAID (UK) Complete Human Rights Assessment

A human rights assessment conducted between late June and mid- July 2014 at UK-listed African Barrick Gold's (ABG) North Mara Gold Mine Ltd. (North Mara mine) in Tanzania by MiningWatch Canada (MiningWatch) and the British NGO, Rights and Accountability in Development (RAID), confirms reports of ongoing excessive use of force by police guarding the mine, resulting in deaths and serious injuries of villagers from the surrounding area.

Desperately poor villagers reportedly commonly pay mine security and police to gain access to waste rock dumps and the pits hoping to collect rocks containing gold. Police are paid by the company to protect the mine – (in addition to the mine's own security guards) – despite their reputation for corruption and the use of excessive force, including shootings causing deaths and injuries at the mine over many years.

“We interviewed more than 30 victims and their family members,” says Catherine Coumans of MiningWatch Canada. “Most of them had been shot by police or assaulted by the mine's own security guards within the last five years.” During the visit Mining Watch Canada and RAID also had meetings with ABG staff at the mine and with its NGO partner, Search for Common Ground.

“We are deeply concerned not only about the clear patterns we discern in the excessive use of force at the mine,” says Patricia Feeney of RAID, “but also about the intimidation, persecution, and the invasion of privacy suffered by victims and their families in the aftermath of violence by mine security.”

RAID and MiningWatch are preparing a detailed report of their findings for the UN Working Group on Business and Human Rights and for the Board of the Voluntary Principles on Security and Human Rights. ABG's parent company, Toronto-listed Barrick Gold Corporation, is a member and the UK and Canadian governments are participants of the initiative.¹

¹ Established in 2000, the Voluntary Principles on Security and Human Rights are a set of principles designed to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights.

Findings include:

In regard to the Tanzanian authorities and police

- Incidents of use of lethal force by police securing the mine site appear high. Based on data collected from health staff in local medical facilities, over the two month period immediately preceding the NGOs' visit, at least ten victims allegedly died from fatal gunshot wounds at the mine.
- Three of the men interviewed had been subjected to arbitrary arrest by police on allegedly trumped-up charges related to incidents at the mine. Too poor to pay a bribe to secure their release, two of them spent years in pre-trial detention (a common occurrence in Tanzania). The charges against them were dismissed when their cases eventually came to trial.
- A Committee of Inquiry report, prepared for the District Commissioner of Tarime, regarding the fatal shootings by police on 16 May 2011 of five prospectors (known locally as 'intruders'), is deeply flawed. The Committee was given just seven days to complete its investigation and submit its findings. The report does not contain any interviews with the victims of violence, their families or eye witnesses. Seven of the 24 people interviewed were police or mine security and four were community relations officers paid by the mine (others were customary elders and local officials). None of the report's recommendations relate to use of force by mine security or by police that guard the mine.

In regard to African Barrick Gold

- ABG's investigations into security incidents at the mine - which are regulated by Barrick's Mine Investigations policy - are another cause of concern and appear to constitute a gross invasion of privacy. Instances reported to us suggest that ABG investigators are given regular access to the medical records of victims of violence by mine police and they routinely question and photograph seriously injured people awaiting treatment in nearby hospitals and clinics, as well as their family members.
- Barrick's Mine Investigations policy also appears to seek to exercise and retain control over information to protect the interests (legal and otherwise) of the company: staff involved are told that they should 'where documents are involved, always obtain the original and not a copy' [paragraph 6.7]; investigations into deaths on the mine site 'MUST be conducted in accordance with the directions of the Office of the General Counsel (OCG)' [paragraph 5.1.2]; all 'Category A' investigations (those concerning, for example, injuries or deaths to illegal miners), 'will be undertaken for the dominant purposes of obtaining legal advice and/or preparing for legal proceedings for prosecutions for and on behalf of ABG'. The resulting reports will be labelled 'Confidential and Privileged' [paragraph 5.1.2].
- ABG's grievance mechanism for victims of violence by police or mine security does not appear to be rights-compatible, although ABG deny this and claim to have reviewed its grievance mechanism to ensure compliance. ABG's use of legal waivers means that compensation is dependent on the victims signing away their rights to pursue civil legal action against the company. Participants in the program interviewed by MiningWatch and RAID not only expressed dissatisfaction with the remedy they had been offered, but also confirmed that they had not understood when they signed the compensation agreements that they had lost the right to pursue their claims in legal proceedings against the North Mara mine and Barrick/ABG. ABG has stated by letter that it is committed to improving the grievance mechanism and has already taken various steps to ensure it satisfies the relevant UN Guiding Principles.
- Contrary to Barrick's claim in its letter to Mining Watch Canada and RAID (of 11 March 2014) the remedy program is not widely publicized. Furthermore, instead of the programme being implemented by a separate, arms' length organisation, it is directly under ABG's control, and

involves ABG's legal counsel in London. Application of the remedy program is both selective and less than impartial. Interviewees, many of whom are illiterate, confirmed that they were encouraged to sign documents in English (a Swahili version was only given to them a month later), which a Barrick employee and a retired judge paid by Barrick, advised them on. While the company has provided compensation and obtained legal waivers from claimants who had been clients in a law suit brought by London-based law firm, Leigh Day, other victims and their families that were interviewed have not been offered any compensation.

- Human rights defenders interviewed, who have tried to investigate and report on human rights abuses at the North Mara mine, allege that they have suffered violence and threats of violence to themselves and their families.

Shortly after MiningWatch and RAID completed the human rights assessment of the North Mara mine, Inspector General of Police (IGP) Ernest Mangu and Home Affairs Minister Mathias Chikawe toured the mine for the first time.² Mangu assured that “strong disciplinary measures would be taken against any police officers engaging in unethical practices when assigned to guard the mine” and Chikawe “declared zero tolerance against unethical police officers.” It is essential that such statements are followed by effective action to curb the violence and that appropriate measures are taken to prosecute police officers and others responsible for human rights violations.

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Related Documents (available at www.miningwatch.canada and www.raid-uk.org):

- 1) Memorandum of Understanding between RPC (Tarime-Rorya Special Zone) and successors, Tanzania Police Force, Community Policing Unit (PHQ) and North Mara gold Mine Limited concerning Provision of Assistance in Providing Community Policing Services and Maintaining Law and Order in and around the North Mara Gold Mine (8 July 2010).
- 2) African Barrick Gold (ABG) Mine Investigations Group, Investigations Policy, May 2010.
- 3) The Report of the Inquiry into the Death of Five People on 16 May 2011 shot by the police at the North Mara mine, District Commissioner of Tarime, 13 June 2013.
- 4) Letter to Brad Gordon, Chief Executive Officer, African Barrick Gold Plc from MiningWatch Canada and RAID dated 24 February 2014.
- 5) Letter from Deo Mwanyika, Vice President, Corporate Affairs, African Barrick Gold to MiningWatch Canada and RAID dated 11 March 2014.
- 6) Letter to Jamie C. Sokalsky, President and Chief Executive Officer, Barrick Gold and Deo Mwanyika Vice President, Corporate Affairs, African Barrick Gold from MiningWatch Canada and RAID dated April 22, 2014.
- 7) Letter from Deo Mwanyika, Vice President, Corporate Affairs, African Barrick Gold to MiningWatch Canada and RAID dated 1 July 2014 (but received electronically on 8 July 2014).

² <http://allafrica.com/stories/201407160933.html>