JUSTICE & CORPORATE ACCOUNTABILITY PROJECT

PROYECTO JUSTICIA Y RESPONSABILIDAD CORPORATIVA

THE *'CANADA BRAND'* IN AFRICA

HUMAN RIGHTS AND ENVIRONMENTAL CONFLICT IN EXTRACTIVE INDUSTRIES



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The authors are solely responsible for the contents of this report, including any errors or omissions.

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PHOTO & DESIGN CREDITS

Cover Page:	Barrick Gold Corp.'s African Mine (Bloomberg).
Displacement:	Homes near a copper and cobalt mine site in Kolwezi, Democratic Republic of the Congo (Michel Lunanga, Getty Images).
Security and Violence:	Barrick security guards and a Tanzanian police officer facing off against villagers (Geoffrey York, The Globe and Mail).
Labour and Deadly Accidents:	A worker at the Tsumeb Mine, Namibia (Samuel Schlaefli).
Corruption:	A Royal Mounted Police vehicle. The RCMP, Canada's national police force, are responsible for investigating corruption of foreign officials in Canada (Adobe).
Silencing Critiques and Suppressing Investigations:	Protest signs outside the Western Cape High Court (Centre for Environmental Rights).
Extractive Industries in Conflict-Affected Areas:	Niger-France-Mali Hostages (AFP).
Environmental Impacts:	Workers at the Tsumeb Mine, Namibia (Samuel Schlaefli).
Economic Diplomacy:	The Canadian High Commission in Dar es Salaam, Tanzania (High Commission of Canada in Tanzania).
Back Cover:	North Mara Gold Mine, Tanzania (RAID UK).

This report was designed by Brnesh Berhe, a graphic designer based in Edmonton, Alberta.

I. EXECUTIVE SUMMARY

This report documents credible allegations of human rights abuse and environmental damage involving Canadian mining, oil, and gas companies that operate in Africa. The cases included in this report:

- involve 23 Canadian companies in 17 African countries;
- date from 1996 to the present; and
- feature companies that range from cash-strapped juniors to large multinationals.

The report describes international standards for corporate conduct, which many of the extractive companies featured in this report claim to respect. The document compares corporations' alleged conduct to these standards. The international standards set out in this report are voluntary, and there is no effective mechanism for their enforcement. For years, international authorities, civil society organizations, and impacted workers and communities have raised concerns about this accountability gap. Repeatedly, these groups have called on the Canadian government to regulate multinational companies and to provide meaningful avenues of redress for those who are harmed by Canadian companies and their affiliates. This report demonstrates the urgent need for such mechanisms. It builds on our 2016 report, *The "Canada Brand": Violence and Canadian Mining Companies in Latin America*, which has been widely cited as a reference for policy analysis.[1]

OUR FINDINGS

DISPLACEMENT

- We document 12 cases involving the displacement of local communities to make way for Canadian extractive projects. The scale of the displacements is staggering: according to police, 200,000 people were affected at Sutton Resource's Bulyanhulu mine in Tanzania; nearly 17,000 people at IAMGOLD's Essakane mine in Burkina Faso; 36,700 people at Barrick Mining's Kibali mine in the Democratic Republic of the Congo and 22,000 households at its North Mara mine in Tanzania; and hundreds of additional families across multiple Zambian mines operated by First Quantum Minerals.

- Displaced populations, among them small-scale miners and subsistence farmers, report losing their livelihoods, land, and food security, with many falling further into poverty.

- We found documentation that verified over 300,000 people being displaced by Canadian extractive companies. The numbers come from police reports, news reports, and company records. But we could not find documentation for the majority of the projects in our report; therefore, the actual number of displacements may be considerably larger.

[1] Imai, Shin and Gardner, Leah and Weinberger, Sarah, The 'Canada Brand': Violence and Canadian Mining Companies in Latin America (December 1, 2017). Osgoode Legal Studies Research Paper No. 17/2017, available at SSRN: https://ssrn.com/abstract=2886584 or http://dx.doi.org/10.2139/ssrn.2886584.

SILENCING CRITIQUES AND SUPPRESSING INVESTIGATIONS

- Canadian mining companies have benefitted from two problematic techniques that can have the effect of intimidating and silencing critics: Strategic Lawsuits Against Public Participation (SLAPP suits) and the suppression, criminalization, and censoring of journalists and human rights defenders.

- Barrick Gold sued a small Quebec publishing house when it released a book critical of the company's operations in Tanzania. The judge rebuked the company's aggressive tactics, suggesting that Barrick sought not merely to restore its reputation, but to intimidate its critics. The judge ordered Barrick to pay $143,000 towards Écosociété's legal expenses because Barrick engaged in "protracted procedural tactics that would financially burden the defendants."

- In Tanzania, in 2024, at a meeting involving senior officials and Barrick Gold's CEO, the Tanzanian government announced a new directive that required NGOs and human rights activists to seek government approval before engaging with populations living near mine sites.

EXTRACTIVE INDUSTRIES IN CONFLICT-AFFECTED AREAS

- We document two cases, in the Democratic Republic of the Congo and Sudan, where Canadian firms provided support to armed forces accused of committing human rights violations against civilian populations.

- In Mali, Barrick Mining Corporation, B2Gold Corporation, and Allied Gold operate mines co-owned by the government. The companies have sustained these operations amid a prolonged armed conflict, two military coups, and compelling allegations of human rights abuse by their partner, the government of Mali.

ENVIRONMENTAL IMPACTS

- Canadian extractive companies are frequently accused of exposing African workers and communities to dangerous pollutants.

- Examples include arsenic trioxide stockpiled near populated areas by Dundee Precious Metals in Namibia; uranium waste improperly stored by Barrick in Zambia; and years of toxic leakage into a river used for human and animal consumption from Barrick's North Mara mine in Tanzania. The Zambian auditor general reported that emissions from the Mufulira smelter exceeded legal limits by as much as 850 times while co-owned by First Quantum Minerals.

SECURITY AND VIOLENCE: THE NORTH MARA MINE

- Corporate activity can lead to violent conflict. At the North Mara mine in Tanzania, owned by Barrick Mining, security forces have allegedly killed almost 100 people and injured many more. According to a recent study, North Mara is one of the deadliest mines on the continent. Company lawyers have described the mine site as an “armed encampment.”

- African Barrick Gold acknowledged that its security forces at the mine raped 14 women and provided them with compensation.

WORKERS: CONSCRIPTION, CONFLICT AND DEADLY ACCIDENTS

- We document alleged violations of worker rights at Canadian mines, including the use of forced labour, fatal accidents due to foreseeable and inadequately addressed hazards, and the failure to respect collective bargaining.

- The Bisha mine was a joint venture involving Nevsun Resources and the notoriously repressive government of Eritrea. The project was allegedly constructed using forced labour. In 2014, former mine workers began class proceedings against Nevsun in British Columbia. The parties settled out-of-court in 2020.

CORRUPTION

- Canadian extractive companies are accused of serious acts of corruption, including bribing government officials, committing securities fraud, and offering employment to silence critics in Africa.

- Although Canada has legislation that makes the bribery of foreign public officials a criminal offence, the Organisation for Economic Co-operation and Development describes its enforcement as “exceedingly low.” For example, Kinross Gold was fined US$950,000 by the US Securities and Exchange Commission in 2018 for violating bribery laws, but Export Development Canada provided the company with up to $850 million in loans from 2012 to 2019.

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ECONOMIC DIPLOMACY: CANADIAN SUPPORT TO EXTRACTIVE COMPANIES

- The Canadian government uses foreign policy, development assistance, diplomatic resources, and public financing to promote and defend the Canadian extractive sector in Africa, with apparent disregard for allegations of human rights violations or illegal conduct.

- Canadian embassy officials aggressively lobbied the Tanzanian government to secure the removal of hundreds of thousands of people from a mining concession owned by a Canadian company. No compensation or other supports were provided to those who were displaced.

- Kinross Gold was fined US$950,000 by the US Securities and Exchange Commission in 2018 for violating bribery laws, but Export Development Canada, a Crown corporation, provided the company with up to $850 million in loans from 2012 to 2019.

II. MAP OF FEATURED EXTRACTIVE PROJECTS*



*Project locations are approximate and are not to scale.

	Parent Company	Project	Country
1	Allied Gold Corporation	Sadiola	Mali
2	Anvil Mining	Dikulushi	Democratic Republic of Congo
3	B2Gold Corporation	Fekola	Mali
4	Banro Corporation	4.1 Twagiza	Democratic Republic of Congo
		4.2 Namoya	Democratic Republic of Congo
5	Barrick Mining Corporation	5.1 North Mara	Tanzania
		5.2 Bulyanhulu	Tanzania
		5.3 Loulo-Gounkoto	Mali
		5.4 Lumwana	Zambia
		5.5 Kibali	Democratic Republic of Congo
6	DiamondWorks Ltd.	6.1 Koidu	Sierra Leone
		6.2 Yetwene	Angola
7	Dundee Precious Metals	Tsumeb	Namibia
8	East Africa Metals Inc.	8.1 Da Tambuk	Ethiopia
		8.2 Mata Bula	Ethiopia
9	First Quantum Minerals	9.1 Kansanshi	Zambia
		9.2 Sentinel	Zambia
		9.3 Mufulira	Zambia
		9.3 Kolwezi	Zambia
10	Griffiths Energy International	Mangara and Badila	Chad

	Parent Company	Project	Country
11	IAMGOLD Corporation	Essakane	Burkina Faso
12	Ivanhoe Mines	Kamoa-Kakula	Democratic Republic of Congo
13	Kinross Gold Corporation	13.1 Tasiast	Mauritania
		13.2 Chirano	Ghana
14	Lucara Diamond Corporation	Karowe	Botswana
15	Nevsun Resources Ltd.	Bisha	Eritrea
16	Reconnaissance Energy Africa	Okavango	Namibia
17	Rex Diamond Mining Corporation	Sierra Leone Properties	Sierra Leone
18	SEMAFO (Endeavour Mining)	Boungou	Burkina Faso
19	Sherritt International	Ambatovy	Madagascar
20	Sutton Resources Ltd.	Bulyanhulu	Tanzania
21	Talisman Energy Inc.	Heglig	Sudan
22	Tiomin Resources Inc.	Kwale	Kenya
23	Trevali Mining Corporation	Perkoa	Burkina Faso

III. INTRODUCTION

Canada promotes itself as a global leader in human rights, environmental stewardship, and international cooperation. In 2014, then International Trade Minister Ed Fast described the "Canada brand" as "environmentally, ethically and socially responsible business practices".[1]

Yet behind this image lies a striking contradiction: Canadian extractive companies operating abroad have repeatedly been accused of committing or enabling serious human rights abuses and environmental harms. These allegations reveal a persistent "Canada Brand"— a pattern of repeated harm and impunity that undermines the responsible business conduct strategy promoted by the Government of Canada and the corporate social responsibility standards these companies claim to uphold.

This report is the second of its kind from the Justice and Corporate Accountability Project (JCAP) documenting alleged human rights violations by Canadian extractive companies overseas. Our 2016 report, *The "Canada Brand": Violence and Canadian Mining Companies in Latin America*, exposed troubling links between Canadian mining operations and hundreds of incidents of violence across the region.[2] The present report extends that analysis to Africa, where Canadian mining companies have become major players since the 1990s. With the liberalization of African economies in the wake of structural adjustment programs in the 1980s,[3] Canadian companies secured favourable regulations and extensive economic-diplomatic support,[4] positioning themselves as an important source of foreign investment.[5] Over the past 15 years, Canada has also leveraged its foreign aid programs to advance the interests of Canadian extractive companies in resource-rich African states, often at odds with the democratic development, environmental and humanitarian objectives of development assistance.[6]

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[1] In 2014, then International Trade Minister Ed Fast described the "Canada brand" as "environmentally, ethically and socially responsible business practices," (Shawn McCarthy, "Ottawa vows to protect 'Canada brand' with social responsibility policy," The Globe and Mail (November 14, 2014), [https://perma.cc/U3YD-QYXM]). JCAP's 2016 report on Canadian mining companies in Latin America (infra note 2) revealed the contradiction in this description. This report expands upon this paradoxical framing in the African context.

[2] Shin Imai, Leah Gardner, and Sarah Weinberger, *The 'Canada Brand': Violence and Canadian Mining Companies in Latin America* (December 1, 2017), Osgoode Legal Studies Research Paper No. 17/2017, available at SSRN: https://ssrn.com/abstract=2886584 or http://dx.doi.org/10.2139/ssrn.2886584

[3] World Bank, *Strategy for African Mining*, World Bank Technical Paper No 181, Africa Technical Development Series, Mining Unit, Industry and Energy Division (1992), https://documents1.worldbank.org/curated/en/722101468204567891/pdf/multi-page.pdf. [https://perma.cc/E4KE-8F3C].

[4] Paula Butler, *Colonial Extractions: Race and Canadian Mining in Contemporary Africa* (University of Toronto Press, 2015).

[5] Government of Canada, "Canadian Mining Assets" (January 2025), https://natural-resources.canada.ca/minerals-mining/mining-data-statistics-analysis/minerals-mining-publications/canadian-mining-assets.[https://perma.cc/BFE3-P7JF]

[6] Kim Mackrael, "Commercial motives driving Canada's foreign aid, documents reveal," The Globe and Mail (January 8, 2014), https://www.theglobeandmail.com/news/politics/commercial-interests-taking-focus-in-canadas-aid-to-developing-world/article16240406/ [https://perma.cc/58SV-EHJN]; Sidney Coles, *CESO-CIRDI SUMM Gender Mainstreaming Project, Ministry of Mining and Petroleum, Government of Ethiopia* (June

Alongside this investment, however, have come the same pattern of allegations that we found in our documentation of Canadian mining in Latin America: forced evictions, displacement, environmental destruction, corruption, and the silencing of critics. Similarly, victims of these alleged violations are typically unable to seek redress or access remedy, either in their home country or in Canada, due to the limited and ineffective grievance mechanisms available to them. The evidence gathered in this report demonstrates that these allegations are neither isolated nor exceptional. Rather, they suggest a habitual *modus operandi,* and form part of a wider and deeply troubling pattern in which Canadian extractive companies benefit from weak regulatory environments abroad and limited accountability mechanisms at home, often operating with impunity, and with either the tacit or explicit endorsement of the Government of Canada and local governments.

By compiling and corroborating incidents across multiple countries from the mid-1990s to the present day, this report seeks to show how the "Canada Brand" extends to Africa, a region that is often overlooked or disregarded in Canadian policy discussions. Building upon our 2016 findings, this report further illustrates how the "Canada Brand" encompasses not only violence but also militarization, forced displacement, environmental harms, the silencing of critique, labour violations, corruption, and the exploitation of Canadian economic diplomacy.

These allegations present a multi-dimensional view of the overseas operations of Canadian extractive companies, and the failures of Canada's business and human rights ecosystem to either mitigate or remedy these harms.

THE IMPORTANCE OF CHRONICLING CANADIAN EXTRACTIVISM IN AFRICA

Africa has been subject to sustained intervention by foreign actors seeking to exploit its natural and human resources. The slave trade robbed the African continent of millions of people, beginning with the Portuguese coastal trading in the late 15th century and peaking with the mass trafficking of enslaved peoples in the 18th century before concluding in the late 1800s. Foreign interference in Africa intensified over the eighteenth and nineteenth centuries, culminating in the 1884 Scramble for Africa, which divided the continent into colonies controlled by European empires. Although formal colonization gradually ended in the mid-twentieth century, often through a mix of violent and peaceful means, African nations have remained subordinate to powerful economic and political interests within an unequal global order.[7]

Since the end of the Second World War, Canada has sought to position itself as a global leader in promoting human rights, environmental stewardship, international cooperation, and development assistance. Canada played an influential role in drafting the Universal Declaration of Human Rights, creating United Nations peacekeeping forces, advancing the rights of women

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20, 2021), at 25-26, https://www.dropbox.com/scl/fi/4kw0u7f8e6h1r7surz7l5/CESO_Consultant_Report_MMoP_Ethiopia.pdf?rlkey=w4rnb6lfhi5qs5xwzn6saqzhk&st=b0wumd1t&dl=0. [https://perma.cc/A2M8-VRUM]

[7] Walter Rodney, *How Europe Underdeveloped Africa* (London: Verso Books, 2018).

and girls, offering sanctuary to refugees, and supporting development in some of the world's poorest regions.[8]

The Canadian extractive industry also promotes itself as a world leader in responsible extraction. The Mining Association of Canada, for example, notes that Canadian mining companies operate in more than 100 countries and that the association plays an important role in promoting responsible mining.

> Healthy dialogue continues over the need to ensure that mining projects in the developing world respect human rights, the environment, and public health and safety. As one of the world's most successful mining countries, Canada has an important role to play in this area. [9]

We wish to contribute to this dialogue by noting that, despite these commitments, numerous Canadian extractive companies operating abroad appear to have failed to uphold the international human rights standards that Canada espouses, including in Africa.

The public perception of mining underscores these concerns. A 2023 study by the International Council of Mining and Metals surveyed approximately 30,000 people in 32 countries about the extent to which different sectors were "fulfilling their responsibility to society." Health care ranked highest, with a score of 33, while mining was placed at the very bottom, with a score of -12. Outside urban areas, where the impacts of extractive projects are most directly felt, the rating fell to -22 among village respondents.[10] These findings highlight the profound trust deficit surrounding the mining sector globally, a deficit that is acutely reflected in the African contexts examined in this report.[11]

A study of community attitudes toward Barrick's North Mara mine provides a concrete example of the depth of community animosity toward mining companies, even when the companies claim to provide significant Corporate Social Responsibility (CSR) benefits. The results of the study, published in 2026, showed that community members living around the mine viewed Barrick as having "low integrity, commitment and competence to undertake effective CSR initiatives for their social, economic and environmental sustainability, hence low social legitimacy." On a scale of 10, Barrick was rated 2.1 for social legitimacy, 2.1 for corporate integrity, 1.8 for corporate commitment, and 1.8 for corporate competence. [12]

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[8] Government of Canada, "Canada's approach to advancing human rights," https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/advancing_rights-promouvoir_droits.aspx?lang=eng [https://perma.cc/BY58-4R25]

[9] Mining Association of Canada, "International CSR", https://mining.ca/our-focus/international-csr/.[https://perma.cc/LD39-3UES]

[10] GlobeScan, *Understanding Perceptions of Mining: Insights from General Public Respondents* (December 2023), https://pimcore.icmm.com/website/publications/pdfs/icmm/2023-globescan-radar.pdf?cb=77113. [https://perma.cc/9ZWH-DRFX].

[11] Ibid.

[12] Adonijah Abayo, "Message Authenticity, Source Credibility and the Publicised Social Performance for Social Legitimacy: The Case of Barrick Gold, Tanzania" (March 2026), Journal of Governance and Security, vol 1, at 8, https://journals.iaa.ac.tz/index.php/JGSS/article/view/619/238.[https://perma.cc/3PRD-Y6K9]

CANADA'S POLICY GAP

Canada is a world leader in raising capital for mining projects. There are about 1100 mining companies listed on the TSX and TSXV stock exchanges in Canada, which accounts for 40% of the world's public mining companies.[13] In addition, there are almost 400 mining companies listed with the Canadian Stock Exchange.[14] The 1500 companies listed outstrips Canada's closest rivals: the three exchanges in the United States, have 525 companies listed,[15] and London has 362 companies on its list. [16]

In our view, this leading role in extractive financing should be accompanied by some responsibility. However, despite mounting evidence and international criticism, Canada remains unwilling to adopt the binding regulations necessary to govern its extractive sector abroad. Nearly a decade after our 2016 report documented violence linked to Canadian mining companies in Latin America, Canada continues to fall short in addressing the overseas harms caused by the private sector, including in Africa.

Canada still relies on voluntary, non-enforceable codes of conduct in the absence of mandatory human rights and environmental due diligence legislation, including the federal government's *Responsible Business Conduct Abroad* strategy.[17] In terms of access to remedy, Canada has had two state-based non-judicial grievance mechanisms that have faced considerable criticism: the Canadian Ombudsperson for Responsible Enterprise (CORE) and the National Contact Point (NCP) mandated under the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct*. The CORE was established in 2019 to review the overseas operations of Canadian oil, gas, and mining companies. The office, which lacked independence from government and the investigatory powers necessary to function as an effective ombudsperson, was closed in 2026.[18] The NCP, housed within Global Affairs Canada, can accept complaints about Canadian companies operating abroad. Despite its accessibility, the NCP's case history reveals its shortcomings as an accountability mechanism. Since it opened in 2000, Canada's NCP has received 29 complaints – 22 of which involved the extractive sector – but has not delivered

[13] "~40% Of The World's Public Mining Companies Are Listed On TSX And TSXV," Toronto Stock Exchange https://www.tsx.com/en/listings/listing-with-us/sector-and-product-profiles/mining [https://perma.cc/HTE8-SUXU]

[14] Canadian Securities Exchange, https://thecse.com/listing/listed-companies/.

[15] United States (3 Exchanges), Revenue Watch, http://data.revenuewatch.org/listings/us/ [https://perma.cc/NS9Y-DVTZ].

[16] London Stock Exchange, Revenue Watch, , http://data.revenuewatch.org/listings/london/ [https://perma.cc/9P6R-XS7B].

[17] Government of Canada, *Responsible Business Conduct Abroad: Canada's Strategy for the Future* (2022).

[18] Darren Major, "Carney says feds are eliminating watchdog that oversees companies operating abroad," CBC (June 11, 2026), https://www.cbc.ca/news/politics/carney-eliminating-canadian-ombudperson-for-responsible-enterprise-9.7232539.[https://perma.cc/NR24-3JET]

meaningful outcomes for complainants.[19] A 2016 joint review by Above Ground, MiningWatch Canada, and OECD Watch found that, among other concerns: the NCP imposes a high and often opaque threshold for advancing complaints; it rarely makes findings of breach or non-compliance with the OECD Guidelines; most complaints do not result in mediation or agreement; there is no systematic follow-up or monitoring of recommendations; and the trade consequences for non-participating companies are negligible in practice.[20] These trends reflect both procedural flaws and a broader lack of institutional will to challenge corporate power and influence. The persistence of these gaps underscores the urgent need for meaningful reform if Canada is to align its actions with its professed commitments to uphold human rights, protect the environment, and promote responsible business conduct. Both the CORE and the NCP are discussed further in the Economic Diplomacy. Examples of NCP complaints are discussed in the Forced Evictions and Labour chapters.

OUR APPROACH

RESEARCH PROCESS

To produce this report, JCAP collaborated with law students and volunteer lawyers who conducted research, identified themes, and verified findings. Under the supervision of Professors Shin Imai and Sara Ghebremusse, the law students drafted the case studies and searched the SEDAR[21] and *ESTMA* (*Extractive Sector Transparency Measures Act*)[22] databases to compile information reported by companies. Researchers also drew on independent sources, including media reports, publications by human rights organizations, statements from government bodies or international organizations, and published decisions of courts or other adjudicative bodies that have heard complaints related to the alleged harms, to draft their findings.

Draft chapters were shared with peer reviewers knowledgeable about the themes and incidents to further verify the findings. Companies still in operation were contacted for comment. All responses were incorporated into the report.

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[19] Canada's National Contact Point, "About the National Contact Point for Responsible Business Conduct," https://www.international.gc.ca/trade-commerce/ncp-pcn/about-a-propos.aspx?lang=eng. [https://perma.cc/6R7H-XD2B].

[20] Above Ground, MiningWatch Canada, and OECD Watch, *'Canada is back.' But still far behind* (November 2016), https://aboveground.ngo/wp-content/uploads/2017/01/Canada-is-back-report-web.pdf [https://perma.cc/BD7B-JFRQ].

[21] SEDAR Plus, https://www.sedarplus.ca/home/.

[22] *Extractive Sector Transparency Measures Act* Data Portal, https://natural-resources.canada.ca/minerals-mining/services-mining-industry/extractive-sector-transparency/links-estma-reports [https://perma.cc/NT5Y-G5RD]

STANDARDS OF EVIDENCE AND VERIFICATION

Every allegation documented in this report comes from a reliable academic or journalist or is corroborated by at least two independent sources where possible. JCAP did not independently investigate each alleged violation; rather, our researchers assessed and synthesized existing documentation including company self-reporting, journalistic investigations, academic research, reports by international non-governmental organizations, UN communications, court decisions, and regulatory filings.

Throughout the report, we take care to distinguish between allegations that remain contested and facts that have been established through judicial or regulatory processes. Company responses are reproduced or summarized wherever they were available. In certain chapters, such as the security and violence chapter, this distinction is especially significant: while Barrick Mining Corporation has consistently denied responsibility for violence at its North Mara mine in Tanzania, independent investigations by organizations including Human Rights Watch,[23] Rights and Accountability in Development (RAID),[24] and MiningWatch Canada[25] have produced extensive corroborating documentation for over more than a decade.

Where case studies involve companies that are no longer in operation – such as Banro Corporation and Trevali Mining Corporation – we note that we were unable to obtain responses from the companies.

Because this is a desktop study with no interviews and no field studies, we may not have the full story. We are happy to consider additional information to provide a more complete picture, as long as the information meets the standards set out above.

INTERNATIONAL FRAMEWORKS AND BENCHMARKS

Each thematic chapter uses one or more established international standards to evaluate company conduct. These include the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*,[26] the *IFC Performance Standards on Environmental and Social*

[23] Human Rights Watch, "Tanzania: Police Linked to Killings at Gold Mine: Ensure Independent Investigations; Prosecute Those Responsible" (June 12, 2024), https://www.hrw.org/news/2024/06/12/tanzania-police-linked-killings-gold-mine. [https://perma.cc/ZYK6-364D]

[24] RAID, *Briefing Paper: Barrick's Tanzania Gold Mine One of the Deadliest in Africa* (November 2022), at 12, https://raid-uk.org/wp-content/uploads/2023/04/barrick_gold_north_mara_tanzania_press_briefing_november_2022.pdf. [https://perma.cc/AG49-QD2T]

[25] MiningWatch Canada, *Reported Violence against Indigenous Kuria by Mine Police at Barrick Gold's North Mara Gold Mine during 2023-2024* (October, 2024), at 5, https://miningwatch.ca/sites/default/files/brief_northmara_2024.pdf. [https://perma.cc/9AWK-WEPA]

[26] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023), https://mneguidelines.oecd.org/mneguidelines/, [https://perma.cc/29LV-UNDJ]

Sustainability,[27] the *UN Guiding Principles on Business and Human Rights*,[28] the *ILO Declaration on Fundamental Principles and Rights at Work*,[29] the *UN Basic Principles and Guidelines on Development-Based Evictions and Displacement*,[30] the *UN Declaration on the Rights of Indigenous Peoples*,[31] the *Voluntary Principles on Security and Human Rights*,[32] and the *African Charter on Human and Peoples' Rights*.[33] Where relevant, we also reference the OECD Convention on Combating Bribery of Foreign Public Officials and Canada's domestic implementing legislation, the *Corruption of Foreign Public Officials Act* (*CFPOA*).[34]

We use these standards not because they are perfectly enforced (as this report makes abundantly clear, they often are not), but because the companies in question have, in many cases, publicly committed to adhering to them. The gap between stated commitments and documented practice is one of the central concerns of this report.

The conduct of Canadian companies operating in Africa may also contravene several international human rights instruments, including guidance from the African Commission on Human and Peoples' Rights. In 2018, the commission adopted guidance regarding the application of the *African Charter on Human and Peoples' Rights* in the context of the extractive industries.[35] The working group that developed the guidelines observed:

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[27] International Finance Corporation, *IFC Performance Standards on Environmental and Social Sustainability* (January 1, 2012), https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standards-en.pdf [https://perma.cc/UNS9-SJDC].

[28] Office of the United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights* (2011), https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. [https://perma.cc/W3PT-B6MX]

[29] *ILO Declaration on Fundamental Principles and Rights at Work* (1998), https://www.ilo.org/sites/default/files/2024-04/ILO_1998_Declaration_EN.pdf. [https://perma.cc/TA79-7XZF].

[30] United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, *Basic Principles and Guidelines on Development-Based Evictions and Displacement*, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18 (2007), https://www.ohchr.org/sites/default/files/Guidelines_en.pdf.[https://perma.cc/79JQ-6DKV]

[31] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples* (2007), https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf. [https://perma.cc/W3MT-DMNN]

[32] The Voluntary Principles Initiative, *Voluntary Principles on Security and Human Rights* (2000), https://www.voluntaryprinciples.org/wp-content/uploads/2023/10/Voluntary-Principles_ENGLISH.pdf, [https://perma.cc/5967-TF7Z].

[33] *African Charter on Human and Peoples' Rights* (1981), https://achpr.au.int/en/charter/african-charter-human-and-peoples-rights/, [https://perma.cc/AX7J-5ZM5]

[34] *Corruption of Foreign Public Officials Act*, SC 1998, c 34.

[35] African Commission on Human and People's Rights, *State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment* (2018), https://achpr.au.int/en/node/845 [https://perma.cc/9S5C-HSA4]; Organization of African Unity, *African (Banjul) Charter on Human and Peoples' Rights* (1981), https://www.african-court.org/wpafc/wp-

> [t]he extractive industry is a sector that has come to play an increasingly significant role in the economies of a growing number of African countries. Despite its potential and, at times, actual contribution to improved living conditions of citizens, the extractive industries in many parts of the continent is fraught with major issues impacting on the environment and on the wellbeing of people living in their areas of operation. The lack of, or weak national regulatory regimes governing the role of the industry on the continent, as well as the sector's inadequate observance of human and peoples' rights and environmental and transparency standards have meant that the operations of extractive industries often result in various human and peoples' rights issues. These human rights abuses include dispossession of land and accompanying displacement of people in the areas of new discoveries of gas, soil and minerals, weak or poorly beneficial terms of concession, environmental degradation affecting the livelihood and health of people living adjacent to these areas, violation of labour rights, lack of transparency about and egregious abuse by national actors of revenues received from the extractive industries and evasion of taxes. Similarly, as experiences from various parts of the continent show, the extractive industry has contributed to or otherwise prolonged or exacerbated internal armed conflicts.[36]

CORPORATE DATA

Data for each company were compiled using SEDAR filings, *ESTMA* disclosures, annual information forms, and other publicly available corporate documents. Where companies underwent name changes or corporate restructurings during the period covered by the report, we note those changes in the relevant chapters. For example, Barrick Gold Corporation changed its name to Barrick Mining Corporation in May 2025; that change is noted throughout, though we refer to the company as "Barrick" for brevity. SEMAFO, which was acquired by Endeavour Mining in 2020, is identified by its name at the time of the incidents described.

OVERVIEW OF THE CHAPTERS

The report is organized into eight thematic chapters, each addressing a distinct category of alleged harm. Taken together, they document the multi-dimensional nature of the "Canada Brand" in Africa.

Chapter 1, "Displacement," documents how extractive projects across Africa have displaced communities, subsistence farmers, artisanal miners, and urban residents. The chapter examines 12 projects owned by nine Canadian companies in Burkina Faso, the Democratic Republic of the

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content/uploads/2020/04/AFRICAN-BANJUL-CHARTER-ON-HUMAN-AND-PEOPLES-RIGHTS.pdf [https://perma.cc/AX7J-5ZM5].

[36] African Commission on Human and People's Rights, State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment (2018), at iv, https://achpr.au.int/en/node/845. [https://perma.cc/9S5C-HSA4]

Congo, Kenya, Madagascar, Tanzania, and Zambia. It reveals a persistent pattern: inadequate prior consultation, compensation that leaves affected communities poorer, destruction of livelihoods dependent on artisanal mining and subsistence agriculture, and sharp divergences between company accounts of "compliant" resettlement processes and the experiences documented by researchers and non-governmental organizations on the ground. The aggregate numbers are striking – from approximately 200,000 people displaced at the Bulyanhulu mine then owned by Sutton Resources (according to police reports), to 22,000 households displaced by Barrick's North Mara mine in Tanzania to nearly 17,000 people relocated by IAMGOLD's Essakane mine in Burkina Faso, where many relocated families were subsequently unable to feed themselves because the new land was unsuitable for the subsistence agriculture and artisanal mining on which they depended.

Chapter 2, "Security and Violence: The North Mara Mine", focuses on Barrick Mining Corporation's North Mara Gold Mine in Tanzania, which NGO researchers have described as one of the deadliest industrial mines in Africa. According to news reports, security forces and police linked to the mine have killed an estimated 96 people since Barrick acquired it in 2006, with hundreds more injured. The chapter examines the formal relationship between the mine and the Tanzania Police Force, established through a memorandum of understanding (worth approximately CDN$3 million per year). The chapter evaluates whether this arrangement complies with the *Voluntary Principles on Security and Human Rights* and the IFC's *Good Practice Handbook on the Use of Security Forces*, and documents serious concerns about police violence, corruption, and impunity.

Chapter 3, "Workers: Conscription, Conflict, Deadly Accidents", examines incidents involving 11 Canadian mines grouped under three categories: working conditions, accidents, and worker security. Key cases include Nevsun Resources' Bisha mine in Eritrea, where corporate documents filed in Canadian court proceedings reveal that company executives were aware that a contractor was using conscripted labour and that this practice had been flagged as a risk for years before a class action lawsuit was initiated; Trevali Mining's Perkoa zinc mine in Burkina Faso, where eight miners were killed in a flood that company executives had advance warning of through industry risk assessments, leading to criminal convictions for involuntary manslaughter; and SEMAFO's Boungou mine in Burkina Faso, where repeated jihadist attacks culminated in a November 2019 convoy ambush that left 39 dead and 60 wounded, raising serious questions about whether the company had adequately evaluated and responded to known security risks to workers. At the Bulyanhulu mine in Tanzanian 1,000 to 1,500 workers were dismissed after raising complaints about working conditions.

Chapter 4, "Corruption", examines seven companies that faced allegations of bribery or corruption in connection with their African operations. The chapter situates these cases within Canada's weak enforcement record: the OECD's 2023 monitoring report on Canada found enforcement of the *CFPOA* "exceedingly low," noting that in 25 years only two individuals had been convicted for foreign bribery and four companies sanctioned. Cases documented include: the only Canadian extractive company conviction under the *CFPOA* – Griffiths Energy International, which pleaded guilty to paying a $2 million bribe to the wife of Chad's ambassador to Canada; RCMP investigations into Ivanhoe Mines and ReconAfrica that have produced no charges; a US Securities and Exchange Commission finding against Kinross Gold at its mines in Mauritania and Ghana that was not matched by any enforcement action in Canada; and internal Acacia Mining emails (obtained by *The Globe and Mail*) showing that company officials identified potentially corrupt payments to Tanzanian government officials but did not disclose this to shareholders.

Chapter 5, “Silencing Critiques and Suppressing Investigations”, examines how companies and the governments that support them have used legal and extra-legal tools to suppress criticism and obstruct human rights investigations. The chapter documents SLAPP suits brought by Barrick Mining against a small French-language Quebec publisher (demanding $6 million for a book published by a company worth a small fraction of that amount, prompting a Quebec court to order Barrick to pay $143,000 in legal costs *to the publisher* on account of its “protracted procedural tactics”); by Banro Corporation against the same publisher; and by First Quantum Minerals against the South African non-governmental organization Southern Africa Resource Watch, which produced a report documenting environmental and human rights concerns at the company’s Kansanshi mine. The chapter also examines the systematic suppression of journalism and NGO access around Barrick’s mines in Tanzania, including the detention and deportation of journalists, a two-year publication ban imposed on one of Tanzania’s leading investigative journalists, and a 2024 government directive, announced at a joint meeting with Barrick’s president, requiring all NGOs and human rights monitors to obtain prior government approval before visiting communities near mine sites.

Chapter 6, “Extractive Industries in Conflict-Affected Areas”, examines how Canadian companies have operated in war zones and politically volatile contexts where the international human rights framework “cannot possibly be expected to function as intended,” in the words of UN Special Representative John Ruggie. Case studies include: DiamondWorks, whose personnel arranged for South African mercenaries to clear rebel forces from diamond concessions in Sierra Leone and Angola in exchange for mining rights; Anvil Mining, which provided logistical support such as planes, trucks, and payments to soldiers during a 2004 army operation in the DRC that resulted in the extrajudicial killing of more than 100 civilians, a massacre the African Commission on Human and Peoples’ Rights later ruled gave rise to corporate liability; Talisman Energy, which operated an oil joint venture in Sudan whose infrastructure was used for bombing raids and gunship attacks against civilians during the civil war; and Barrick Mining, B2Gold Corporation, and Allied Gold, whose mines in Mali collectively supplied more than half of the ruling military junta’s tax revenue in 2022 while the government was accused of massacring hundreds of civilians.

Chapter 7, “Environmental Impacts”, documents allegations against six Canadian extractive companies involving inadequate environmental assessments, threats to biodiversity, and improper handling of hazardous waste and pollution. Key cases include Dundee Precious Metals, which shipped high-arsenic copper ore from Bulgaria (where regulations prevented smelting it) to its smelter in Namibia, where it accumulated one of the largest stockpiles of arsenic trioxide in the world in a landfill situated above the town of Tsumeb’s drinking water aquifer. Swiss researchers reported “massive” arsenic exposure among local residents and workers in 2025, and UN special rapporteurs subsequently wrote to the governments of Namibia, Canada, China, and the UK expressing their “most serious concern” about the situation. The chapter also documents ReconAfrica’s controversial oil and gas exploration in the Okavango River watershed in Namibia, which threatens one of the world’s most ecologically sensitive areas and has generated an extraordinary volume of legal challenges, investor class action settlements, and UN interventions. At the North Mara mine there were documented complaints about leakage from the tailings ponds and waste rock storage areas that resulted in poorer health and deteriorated water quality.

Chapter 8, “Economic Diplomacy: Canadian Government Support to Extractive Companies”, documents how Canada’s foreign policy and development assistance infrastructure has been systematically deployed to support the commercial interests of Canadian extractive companies,

at times in ways that appear to conflict with Canada's stated commitments to human rights. Drawing on reported access-to-information documents, the chapter shows that Canadian diplomats have lobbied foreign governments on behalf of companies facing serious human rights allegations, appeared to leverage foreign aid as a bargaining tool (as in the Barrick-Tanzania tax dispute), praised companies later found to have used forced labour (as in the Nevsun case), and arranged meetings with local officials for companies under RCMP investigation (as in the ReconAfrica case). The chapter also documents Canada's continued promotion of investor-state dispute settlement mechanisms in Africa that restrict host governments' ability to regulate in the public interest, and documents over $337 million in Global Affairs Canada international assistance funding for projects that explicitly aim to increase investment in and around extractive sectors in Africa.

TERMINOLOGY AND SCOPE

Throughout this report, the term "Canadian company" refers to a company incorporated in Canada and listed on a Canadian stock exchange. As the chapters on conflict and economic diplomacy make clear, some of these companies have limited operational connections to Canada beyond their legal domicile and stock exchange listing. We nonetheless use the term "Canadian" because the companies access Canadian capital markets, receive Canadian government support including Export Development Canada financing and diplomatic advocacy, and are subject to Canadian law. It is precisely this nexus between Canadian legal status and Canadian government support – combined with the absence of Canadian legal accountability for extraterritorial conduct – that this report seeks to examine.

The report covers incidents documented through the research process, which concluded on August 15, 2026. Events after that date are not addressed, though the structural conditions that give rise to the "Canada Brand" – the absence of mandatory due diligence legislation, the limited powers of the CORE and the NCP, and the priority given to commercial interests in Canadian economic diplomacy – remain in place at the time of publication.

INDIGENOUS PEOPLE IN AFRICA

The concept of "Indigenous people" is particularly complex in the African context.[37] Unlike in the Americas, Australia, and New Zealand, European colonization generally did not result in settlers displacing or becoming numerically dominant over African populations. As a result, some African states have resisted distinguishing particular communities as Indigenous, maintaining that all Africans are indigenous to the continent and were subjected to colonial rule. Yet, this position can obscure important differences in the historical experiences, and political, economic, and social inequalities experienced by communities within African states.

[37] The discussion in this section draws from Shin Imai and Kate Gunn, "Indigenous Belonging: A Commentary on Membership and Identity in the United Nations Declaration on the Rights of Indigenous Peoples," in *Oxford Commentaries on International Law: A Commentary on the United Nations Declaration on the Rights of Indigenous Peoples* (Oxford University Press, June 9, 2013), https://ssrn.com/abstract=2360323.

The Working Group on Indigenous Populations/Communities of the African Commission on Human and Peoples' Rights addressed this issue in its pioneering analysis of indigeneity in Africa. In its 2005 report, the Working Group rejected the view that identifying particular Indigenous peoples in Africa required determining which communities were the continent's "first inhabitants." Instead, it approached indigeneity as a framework for understanding relationships of inequality and domination within African states:

> The indigenous movement in Africa has grown as a response to the policies adopted by independent post-colonial African states. As argued by Mohamed Salih, post-colonial African states have in many respects continued the suppression, dispossession and discrimination that was initiated by the colonial regimes: "Most post-independent African states were no less cruel towards their indigenous populations than the colonialists." [38]

The African Commission on Peoples and Human Rights recognized the Endorois community in Kenya as Indigenous in 2009 and subsequently identified four key characteristics of Indigeneity within the African context:

(i) occupation and utilization of a specific territory;
(ii) the voluntary maintenance of cultural distinctiveness;
(iii) self-identification as a separate community, along with recognition by other groups; and
(iv) experiences of subjugation, marginalization, dispossession, exclusion, or discrimination.[39]

Indigenous status is significant in the extractive industry because companies are required to obtain the free, prior, informed consent of Indigenous peoples[40] before initiating projects on their territories. However, many African governments do not recognize the existence of Indigenous peoples within their borders, and there is no comprehensive registry of Indigenous groups across the continent. One potential reference is the members of the Indigenous Peoples of Africa Coordinating Committee, established in 1997 and comprising 135 Indigenous groups from 21

[38] African Commission on Human and Peoples' Rights and International Work Group for Indigenous Affairs, *Report of the African Commission's Working Group of Experts on Indigenous Populations/Communities: submitted in accordance with the "Resolution on the Rights of Indigenous Populations/Communities in Africa"* (ACHPR and IWGIA, 2005), at 92, https://achpr.au.int/en/special-mechanisms-reports/report-african-commissions-working-group-experts-indigenous.[https://perma.cc/NX8N-MSHN]

[39] African Commission on Human and Peoples' Rights, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* (February 4, 2010), https://achpr.au.int/sites/default/files/files/2022-11/achpr4627603eng.pdf [https://perma.cc/W3NT-QHCC].

[40] OECD, *Due Diligence Guidance on Meaningful Stakeholder Engagement in the Extractive Sector* (2018), at 98, Box B.2: "If through its due diligence processes an enterprise concludes that consent is required to proceed with an activity, and the agreed process has not arrived at consent, activities should not proceed unless FPIC is subsequently forthcoming" (https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector_9789264252462-en.html), [https://perma.cc/DY6A-AZSY]

countries.[41] Membership is determined by the organization's own criteria, and individual groups may not be officially recognized by their respective states.

In this report, we use the term "Indigenous" when our sources do so, but we do not claim to have the expertise to determine which groups are truly Indigenous.

DISCLAIMER

The report highlights companies' conduct in relation to the standards discussed in each chapter, but it does not make any determinations about whether those standards have been violated. To do so, enforceable regulations would be necessary, allowing an independent body to investigate all facts and issue judgments. Currently, we can only document publicly available information about company, government, and community narratives. Additionally, it is important to clarify that this study examines company behavior in relation to international standards relevant to their conduct. We do not assess the efforts of host countries in enforcing human rights and environmental standards.

We would be happy to correct any errors or add additional perspectives to the report, as long as the information adheres to the evidence standards we have set out above.

[41] IPAACC, https://www.ipacc.org.za [https://perma.cc/8NV7-VVWR].



01

DISPLACEMENT

1. DISPLACEMENT

> *After the demolition I did not have a place to go, I've been moving from place to place. So far I have moved to three places already. The children are not going to school. Now we lack food, because the place I was growing food is destroyed. We are suffering a lot to get food. The small one now has malnutrition.*
>
> Description of displacement near Barrick Mining Corporation's North Mara mine[1]

Extractive projects worldwide often displace local communities. The case studies in this chapter examine impacts of land dispossession of various populations, including nomadic communities, communities dependent on subsistence agriculture, artisanal mining communities, and people living in towns. When the lands that these people have been living on are licensed to multinational companies, they can abruptly become trespassers in their own homes and traditional territories.

The term "displacement" is broadly used in this chapter to describe any situation where people are dispossessed of their land to accommodate extractive projects. These include instances where people are forced or involuntarily resettled, voluntarily resettled, dislocated, or relocated.

We found documentation of more than 300,000 people displaced by Canadian extractive companies. The numbers come from police reports, news reports, and company records. But we could not find documentation for the majority of the projects in our report, so the actual number of displacements is likely much larger.

This chapter describes 12 projects involving nine Canadian companies: North Mara, Bulyanhulu (discussed in relation to both its owners), Kibali, Kansanshi, Sentinel, Mufulira, Kamoa-Kakula, Reconnaissance Energy Africa's oil and gas exploration activities, Ambatovy, Essakane, Twangiza, and Kwale. In nearly every case, project development implicated three recurring issues: a lack of consultation and consent, post-relocation conditions that fell below international standards, and detrimental impacts on artisanal miners.

Although it is difficult to obtain independently verifiable information on the number of people displaced by Canadian projects, partial data – including figures published by extractive companies themselves – reveal the scale of displacement:

- **Burkina Faso**: almost 17,000 people at Essakane (IAMGOLD Corporation).

[1] Catherine Coumans, *Evicted for Gold Profits: Indigenous Kuria forced off land in expansion of Barrick Gold's North Mara Gold Mine in Tanzania* (MiningWatch Canada, December 2023), at 23, https://miningwatch.ca/sites/default/files/2023-11_EvictedForGoldProfits_NorthMara.pdf [https://perma.cc/F3MK-RB9P].

- **Democratic Republic of the Congo**: 36,700 people at Kibali (Barrick Mining Corporation); 45 households at Kamoa-Kakula (Ivanhoe Mines); and 450 households at Twangiza (Banro Corporation).
- **Kenya**: over 3,000 people at Kwale (Tiomin Resources Inc.).
- **Madagascar**: 260 families at Ambatovy (Sherritt International).
- **Tanzania**: 22,000 households at North Mara (Barrick Mining Corporation); 1,130 people at Bulyanhulu (Barrick Mining), and a Tanzanian police estimate of 200,000 at Bulyanhulu (Sutton Resources).
- **Zambia**: thousands at Kansanshi;[2] at least 600 families at Sentinel; and 120 families at Mufulira (First Quantum Minerals).

The case studies illustrate starkly different accounts of the impacts of displacement. Non-governmental organizations (NGOs) report that, in some cases, there was no consultation with the affected population; that the new location deprived communities of food, water, and means of livelihood; and that the interests of artisanal miners were not adequately addressed. The companies, on the other hand, dispute these claims, asserting that they generally adhere to international standards and that resettlement has been successful.

1.1. LACK OF CONSULTATION AND CONSENT

The harms associated with displacement, and necessary measures to prevent them, are widely recognized across various international mechanisms. The United Nations *Basic Principles and Guidelines on Development-Based Evictions and Displacement* outline the obligations of states to forcibly resettled persons. These obligations include ensuring adequate consultation before displacement, adequate living conditions in the new location, a means for those who are evicted to maintain their livelihood, and compensation.[3] For Indigenous peoples, the *United Nations Declaration on the Rights of Indigenous Peoples* mandates that they cannot be deprived of their lands unless there is free, prior, informed consent.[4]

[2] At the time of writing, this allegation was before the courts. See section 1.4.4 below.

[3] United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, *Basic Principles and Guidelines on Development-Based Evictions and Displacement*, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18 (2007), https://www.ohchr.org/sites/default/files/Guidelines_en.pdf [https://perma.cc/A8BY-HWUR] paras 55, 60, and 63

[4] United Nations, *United Nations Declaration on the Rights of Indigenous Peoples* (2007), Article 10, https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/UNDRIP_E_web.pdf [https://perma.cc/E7DJ-LQBF].

Two multilateral frameworks also guide corporate conduct: the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct*,[5] whose alleged breaches may be raised with Canada's National Contact Point (NCP), and the International Finance Corporation's (IFC) *Performance Standards on Environmental and Social Sustainability*.[6] The IFC standards bind IFC-financed projects but are widely used across the extractive industry.

Both frameworks call for consultation before eviction.[7] The *OECD Guidelines* also require free, prior, informed consent where Indigenous peoples are affected.[8] It is important to note that indigeneity remains contested in Africa, as many states contend all Africans are Indigenous. Nonetheless, the African Commission on Human and Peoples' Rights has recognized particular subpopulations as Indigenous that are owed certain rights under international law. See the Introduction for further discussion of this topic.[9] For communities not formally recognized as Indigenous by state authorities, the African Commission has elaborated standards to protect them against forced evictions in its *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights*. These guidelines address the recognition of collective land rights, requirements for development-based displacement, and standards for consultation and consent.[10]

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[5] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023), https://mneguidelines.oecd.org/mneguidelines/ [https://perma.cc/7GCL-CGP6].

[6] International Finance Corporation, *Guidance Notes: Performance Standards on Environmental and Social Sustainability* (January 1, 2012), https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standards-guidance-note-en.pdf [https://perma.cc/498B-5QUX].

[7] Extensive guidance is provided in the 2017 OECD *Due Diligence Guidance on Meaningful Stakeholder Engagement in the Extractive Sector*, https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-meaningful-stakeholder-engagement-in-the-extractive-sector_9789264252462-en.html [https://perma.cc/P5RF-2TC7] and in the 2012 IFC Performance Standard 5, "Land Acquisition and Involuntary Resettlement" and related guidance notes (ibid).

[8] OECD, *Due Diligence Guidance*, ibid, at 98, Box B.2:

> If through its due diligence processes an enterprise concludes that consent is required to proceed with an activity, and the agreed process has not arrived at consent, activities should not proceed unless FPIC is subsequently forthcoming.

[9] See Shin Imai and Kate Gunn, "Indigenous Belonging: A Commentary on Membership and Identity in the United Nations Declaration on the Rights of Indigenous Peoples," in *Oxford Commentaries on International Law: A Commentary on the United Nations Declaration on the Rights of Indigenous Peoples* (Oxford University Press, 2013), at 9-10, https://ssrn.com/abstract=2360323 [https://perma.cc/PLC5-YQSX].

[10] African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights* (October 24, 2011), https://achpr.au.int/index.php/en/node/871 [https://perma.cc/6A65-YYGP].

1.1.1. BARRICK MINING CORPORATION

North Mara Mine, Tanzania

Barrick Mining Corporation (Barrick) (TSX: ABX), formerly Barrick Gold Corporation, operates mines in the Democratic Republic of the Congo (Kibali mine), Tanzania (Bulyanhulu and North Mara mines), Mali (Loulo-Gounkoto mine), Côte d'Ivoire (Tongon mine), and Zambia (Lumwana mine). Further information about several of these operations and Barrick's treatment of critics is included in the security and violence, labour, silencing critiques, conflict, environment, and economic diplomacy chapters.

The North Mara mine is located in northwestern Tanzania, a region home to the Kurya people. Currently, the mine is situated between seven villages, with a population of about 20,000 people.[11] The Kurya have historically relied on agriculture and livestock herding for their livelihoods.[12] Sources disagree on whether the Kurya are Indigenous in the African context.[13] If they are recognized as Indigenous, their consent would have to be obtained before they are removed from their land. Barrick disputes their indigeneity.[14]

Barrick acquired North Mara in 2006. After operating through African Barrick Gold, later renamed Acacia Mining, Barrick resumed operational control in 2019 and formed Twiga Minerals, a joint venture in which Tanzania holds a 16% interest. Barrick's Tanzanian subsidiary, North Mara Gold Mining Ltd., operates the mine.[15]

Although local residents' concerns about the mine predated Barrick's involvement,[16] successive displacements have accompanied the mine's expansion. African Barrick Gold reported that about

[11] Adonijah Abayo, "Message Authenticity, Source Credibility and the Publicised Social Performance for Social Legitimacy: The Case of Barrick Gold, Tanzania", (March 2026) Journal of Governance and Security, vol. 1, p. 7, https://journals.iaa.ac.tz/index.php/JGSS/article/view/619/238 [https://perma.cc/5U4U-52BR].

[12] Rights and Accountability in Development, *Barrick's Tanzania gold mine one of the deadliest in Africa* (November 11, 2022), at 2, https://raid-uk.org/barricks-tanzania-gold-mine-one-of-the-deadliest-in-africa/ [https://perma.cc/9LDC-4GMC].

[13] Coumans, supra note 1 at 4.

[14] Barrick Gold Corporation, "Barrick Provides Detailed Response to Unsubstantiated UN Human Rights Allegations" (June 20, 2024), at 8, https://www.barrick.com/English/news/news-details/2024/barrick-UN-human-rights-response/default.aspx [https://perma.cc/QB3T-8VX6].

[15] Barrick Gold Corporation, "North Mara / How We Operate in Tanzania," https://www.barrick.com/English/operations/north-mara/mining-with-integrity/tanzania/default.aspx [https://perma.cc/TB5H-T7ZN].

[16] Alison Goldstuck and Tim Hughes, Securing a Social Licence to Operate? From Stone Age to New Age Mining in Tanzania (South African Institute of International Affairs, February 2010), at 61, https://saiia.org.za/wp-content/uploads/2010/02/SAIIA_Research_Report_no_7.pdf [https://perma.cc/3ZH5-J65Y]; Pasience Mlowe and Onesmo Olengurumwa, *Fact Finding Mission Report. Killings Around North Mara*

10,000 families were displaced from the start of mining in 1997 through 2011.[17] In 2024, Barrick told United Nations Special Rapporteurs and members of the Working Group on the issue of human rights and transnational corporations and other business enterprises that more than 12,000 additional households had been displaced, including as a result of mine expansions between 2019 and 2022.[18]

The NGO MiningWatch Canada (MiningWatch) has been investigating displacement at the North Mara mine since 2012. In recent reports, MiningWatch found that some Kurya residents learned of the 2024 evictions only after they began. Others learned through rumours or when outside assessors appeared in the area. According to MiningWatch, the Kurya had not been consulted on the process, nor was their consent sought.[19]

Some Kurya residents reported being intimidated by outsiders involved in the eviction process.[20] Himiza Social Justice documented instances of land evaluation teams entering Kurya land without landowners' consent, in violation of Tanzanian law.[21] These teams included mine personnel, regular police, and special forces police responsible for managing unlawful demonstrations and riots.[22] MiningWatch reports that landowners who questioned the process were threatened with violence. Some were reportedly beaten.[23]

According to MiningWatch, Kurya residents were instructed to sign evaluation forms at the end of the assessment process. Although the form was written in Swahili, one of Tanzania's national languages, many residents cannot read or speak Swahili. Some residents reported that they requested the opportunity to review the document with family members who could read it. Others asked to retain a copy or to take a picture of the document with their cell phones. The Kurya report

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Gold Mine: The Human Cost of Gold (Legal and Human Rights Centre, 2011), https://justice-project.org/wp-content/uploads/2024/12/2011-LHRC-KillingsAroundNorthMaraMine.pdf [https://perma.cc/79DX-3DV4].

[17] Geoffrey York, "Barrick's Tanzanian project tests ethical mining policies," The Globe and Mail (September 29, 2011), https://www.theglobeandmail.com/report-on-business/rob-magazine/barricks-tanzanian-project-tests-ethical-mining-policies/article559188/ [https://perma.cc/L44J-VRQA].

[18] Letter from Mark Bristow, President and CEO, Barrick Gold Corporation, to Beatriz Balbin et al. (June 20, 2024), at 27, https://s25.q4cdn.com/322814910/files/doc_downloads/north_mara/Barrick_UNHRC_Response_062024.pdf [https://perma.cc/3QVW-68U3].

[19] Coumans, supra note 1, at 5-6.

[20] Ibid at 11.

[21] Himiza Social Justice, *Social and economic impacts of land acquisition by Barrick North Mara Gold Mine in Tanzania: A case study of Komarera, Kewanja and Mjini Kati villages in Tarime District, Mara Region* (April 2024), at 12, https://ipisresearch.be/wp-content/uploads/2024/07/20240723_VoicesTanzania-Himiza_North-Mara-gold-mine.pdf [https://perma.cc/X6RY-RLYD].

[22] Coumans, supra note 1, at 11.

[23] Ibid at 13.

that these requests were denied.[24] One local resident told MiningWatch that he was badly beaten by police when he refused to sign the document:

> [w]hen the mine people finished evaluating, at that time I was surrounded by police. They came and told the police 'we are done and we want him to sign.' I asked them, 'why should I sign something that I do not understand?' Then they said 'You old man, are you joking with us? Nyoko [swear word].' They started beating me. I was badly beaten that day. Then I signed without understanding what I was signing and they took a photo of me.[25]

Barrick maintains that relocation processes at North Mara "have witnessed over 95% community members being relocated by mutual and collaborative agreement."[26] The company states that 96% of project-affected people in Komarera were "fully compensated and relocated" and explains that the remaining 4% have failed to collect their compensation.[27] Barrick reports that it follows a Komarera compensation plan "agreed and approved by the Government's Chief Valuer, Village and Ward Leaders and District Commissioner."[28]

Barrick also asserts that "legacy land relocation" issues, such as those beginning in 2012, have been "closed" in collaboration with the government, community representatives, and local leadership through voluntary payments to project-affected people.[29] In June 2024, the company reported that "holdouts" would be relocated beginning the following month.[30]

Following MiningWatch's 2023 report and the 2024 letter from the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights, Barrick asked the Tanzanian Commission on Human Rights and Good Governance (CHRAGG) to investigate the displacements. According to then-Barrick CEO Mark Bristow, the CHRAGG is "an independent government department established as the national focal point for the promotion and protection of human rights in Tanzania."[31] In a three-page letter to the North Mara Mine, the CHRAGG

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[24] Coumans, supra note 1, at 13. Himiza Social Justice interviewed 19 former residents of Komarera who did not receive copies of the documents for their properties (Himiza Social Justice, supra note 21, at 12).

[25] Coumans, ibid.

[26] Barrick, supra note 14.

[27] Ibid.

[28] Letter from Mark Bristow, supra note 18.

[29] Barrick, supra note 14.

[30] Ibid.

[31] Barrick Gold Corproation, "Barrick Provides Update to Unsubstantiated Human Rights Allegations as the Tanzanian Commission For Human Rights and Good Governance Concludes Investigation" (October 7, 2024), https://www.barrick.com/English/operations/north-mara/mining-with-integrity/barrick-provides-update-to-unsubstantiated-human-rights-allegations/default.aspx [https://perma.cc/VN2N-5Z6X].

concluded that all relocated persons were paid properly and that "there were no acts of cruelty or abuse during the relocation of citizens."[32]

Despite Mr. Bristow's opinion of CHRAGG, this is not the first time the agency has discredited a foreign entity's assessment of Tanzania's human rights situation. In 2019, CHRAGG chairman, retired Judge Mathew Mwaimu – who authored CHRAGG's report into the North Mara allegations – asserted the human rights situation in Tanzania was "superb" and claimed "a section of the political class, the international community and other rights groups … were misleading people that [there] were increasing human rights violations." [33] This followed several reports by international organizations, and even the United States State Department, that described serious human rights concerns in the country.[34] Since that time, changes in leadership in Tanzania have not improved the country's human rights situation. In the 2025 elections, hundreds of demonstrators were killed or injured as they protested the election results, which found the incumbent president had been re-elected with 98% of the vote. The main opposition leader had been charged with treason before the election and was prohibited from running.[35]

1.1.2. BARRICK MINING CORPORATION
Bulyanhulu Mine, Tanzania

The Bulyanhulu site was originally owned by Sutton Resources, which obtained the concession before the disputed 1996 evictions. Barrick purchased Sutton in 1999. The scale and circumstances of those evictions are addressed in section 1.3.1 below.

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[32] The Commission for Human Rights and Good Governance, *Investigation Report on the Allegations of Human Rights Violations Against North Mara Mine In Tarime District, Mara Region* (August 13, 2024), at 2, https://s25.q4cdn.com/322814910/files/doc_downloads/north_mara/Tanzania_HRC_NorthMara_Report_13082024.pdf [https://perma.cc/9ZUZ-ZM32].

[33] Katare Mbashiru, "Human Rights Status Superb, Chrgg Says," Tanzanian Daily News (December 12, 2019), https://allafrica.com/stories/201912120515.html [https://perma.cc/6R58-DD8M]

[34] Amnesty International, *The Price We Pay: Targeted for Dissent by the Tanzanian State* (2019), https://www.amnesty.org/es/wp-content/uploads/2021/05/AFR5603012019ENGLISH.pdf [https://perma.cc/97NB-SK5Q] Human Rights Watch, *"As Long as I am Quiet, I am Safe": Threats to Independent Media and Civil Society in Tanzania* (2019), https://www.hrw.org/sites/default/files/report_pdf/tanzania1019_web_2.pdf [https://perma.cc/7U8K-JK6L] United States Department of State, Report on Tanzania (2019), at 1, https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/tanzania/ [https://perma.cc/ZW7R-ZGCB]; for a damning condemnation of the situation in Tanzania in 2024, see United States Department of State, 2024 Country Reports on Human Rights Practices: Tanzania, https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/tanzania [https://perma.cc/GLX2-83F9].

[35] "More protests in Dar es Salaam after chaotic Tanzanian election," Reuters (October 31, 2025), https://www.reuters.com/business/media-telecom/tanzania-tells-civil-servants-students-stay-home-after-chaotic-election-2025-10-30/; [https://perma.cc/73K7-B6FD] Wycliffe Muia, "Western countries press Tanzania to release bodies of post-election victims," BBC (December 5, 2025), https://www.bbc.com/news/articles/c8xdvg2ydddo [https://perma.cc/G284-BUNZ].

According to a report by the Tanzanian non-governmental organization Rafiki SDO, from 2019 to 2020, Barrick acquired 357 hectares of land, affecting 2,388 people in the villages of Lwabakanga and Kakola No. 9, including 1,130 who lost all or part of their land.[36]

In 2024, Tanzanian researchers interviewed 60 people from the two villages, representing a cross-section of the population, as well as government officials. They identified several problems with the displacement process, including a consultation that did not involve the entire impacted community:

> [t]he land acquisition process at Bulyanhulu ward was not transparent as there was no full village council and community engagement during the process. Instead, only the village chairman, community relation officer and directly affected people were engaged in the land acquisition and compensation process.[37]

According to Rafiki SDO, the impacts of the displacements included lost livelihoods; increased rates of student dropout from school, teenage pregnancies, and family separation; and reduced access to basic services, such as healthcare.[38]

We were unable to identify information regarding the 2019–2020 displacements in Barrick's securities disclosures.

1.1.3. FIRST QUANTUM MINERALS
Kansanshi Mine, Zambia

First Quantum Minerals (FQM) operates mines around the globe. In Africa, it operates in Mauritania (Guelb Moghrein mine) and in Zambia (Kansanshi, Sentinel, and Enterprise, which is

[36] Rafiki SDO, *The social-economic impact of land acquisition practices related to Bulyanhulu Gold Mine on communities in Msalala district council, Shinyanga region* (IPIS, June 2024), at 10, https://ipisresearch.be/publication/voices-from-tanzania-the-social-economic-impact-of-land-acquisition-practices-related-to-bulyanhulu-gold-mine-on-communities-in-msalala-district-council-shinyanga-region [https://perma.cc/PH86-LNXA].

[37] Ibid at 12.

[38] Rafiki SDO, supra note 36, at 4.

in development).[39] From 2000[40] to 2013, FQM also held an interest in the company Mopani Copper Mines, which operates the Mufulira mine in Zambia.[41]

In 2020, the non-governmental organization Southern Africa Resource Watch (SARW) published concerns regarding the impact of the complex on mine workers, local residents, and the surrounding environment.[42] Among other issues, SARW described grievances regarding land and resettlement around the mine, including a 2017 incident in which 60 families were removed from the village of Kyafukuma. According to SARW, these families, who occupied and cultivated village land for decades, were forcibly removed by the armed forces when the mine acquired rights to the land. Community members complain that they had not been consulted about the land transfer.[43] SARW reports that the dispossessed villagers received inadequate compensation from the company, which they accepted under duress, in the presence of armed forces and police.[44]

SARW provided the company with an opportunity to respond to its findings prior to publication. FQM characterized SARW's report as inaccurate and defamatory. The company claimed that it adhered to all regulations on land acquisition and resettlement, as well as the IFC Performance Standard on Land Acquisition and Resettlement.[45]

The law firm Leigh Day asserts that thousands of local residents have involuntarily left their homes near the mine since 2005.[46] Journalist Geoffrey York has reported that, as of January 2026, FQM

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[39] First Quantum Minerals, "Delivering global growth," https://www.first-quantum.com/English/our-operations/default.aspx [https://perma.cc/3DPP-D4ZG].

[40] First Quantum Minerals Ltd., *Preliminary Prospectus* (April 6, 2001), at 9, https://www.sedarplus.ca/csa-party/records/document.html?id=99c1d6c27ffad301989462eb25a4dfb950f9b62b8034b4f8e38e937c43bfb293 [https://perma.cc/P7F9-KRF8].

[41] FQM's 2013 Annual Information Form does not include Mopani Copper Mines in a list of the company's subsidiaries. Reports for prior years do list the company (First Quantum Minerals, *Annual Information Form As of December 31, 2013* (March 21, 2014), https://www.sedarplus.ca/csa-party/records/document.html?id=59ce7b6e34e7e2f6a800c1cc9ec85f347b31a86912c2629525dacdd1789b12d0) [https://perma.cc/9XR3-MJRQ].

[42] Southern Africa Resource Watch, *First Quantum Minerals Corporate Governance and Social Responsibility: Kansanshi Mine* (December 2020), https://www.sarwatch.co.za/resources/?_resources_search=first%20quantum [https://perma.cc/MLB6-6EUW].

[43] Ibid at 67-68.

[44] Ibid at 68.

[45] Letter from JG Theron, Werksmans Attorneys to Claude Kabemba, Southern Africa Research Watch (June 9, 2020), in Southern Africa Resource Watch, *First Quantum Minerals Corporate Governance and Social Responsibility: Kansanshi Mine* (December 2020) at 88-89, https://www.sarwatch.co.za/resources/?_resources_search=first%20quantum [https://perma.cc/MLB6-6EUW].

[46] Leigh Day, "Communities living near Zambian copper mines take legal action against mining giant First Quantum Minerals over alleged involuntary resettlement of thousands of people," (March 20, 2025), https://www.leighday.co.uk/news/press-releases/2025-news/communities-living-near-zambian-copper-

was continuing to relocate residents living near the mine.[47] FQM says that "[u]nder its policies, any resettled person should end up with a sustainable livelihood and a similar income."[48] For more on the Kansanshi mine, see the environment and labour chapters.

1.1.4. RECONNAISSANCE ENERGY AFRICA
Petroleum Exploration Projects, Namibia

Reconnaissance Energy Africa (ReconAfrica) (TSX:RECO) is a Calgary-based junior oil and gas company currently conducting exploration activities in Namibia, Angola, and Gabon. Its licence in the Okavango watershed includes lands traditionally used by the Indigenous San, raising concerns that exploration and potential extraction could damage the ecosystem and undermine the communities that depend on it.[4950]

In 2021, the UN Working Group on business and human rights, the UN Special Rapporteur on the Rights of Indigenous Peoples, and the UN Special Rapporteur on the Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, and Healthy Environment received a complaint regarding ReconAfrica from the Namibian non-governmental organization Saving Okavango's Unique Life (SOUL).[51] In response, the UN experts wrote to ReconAfrica and the governments of Namibia, Botswana, and Canada to express their concerns about the company's activity. The experts noted that ReconAfrica's exploration licence includes lands traditionally used and occupied by the Indigenous San people in Botswana. The experts explained that:

> [t]he San, who were previously evicted from their traditional territory within the Central Kalahari Game Reserve, have strongly objected to petroleum exploration and any

mines-take-legal-action-against-mining-giant-first-quantum-minerals-over-alleged-involuntary-resettlement-of-thousands-of-people/ [https://perma.cc/D7CX-QZUG].

[47] Geoffrey York, "Copper mines power an economic boom in Zambia – with toxic cost," The Globe and Mail (January 23, 2026), https://www.theglobeandmail.com/business/article-the-copper-boom-in-zambia-comes-with-a-toxic-price/ [https://perma.cc/K85X-WW2Y].

[48] Ibid.

[49] UNESCO World Heritage Convention, "Okavango Delta," https://whc.unesco.org/en/list/1432/ [https://perma.cc/A3RM-RNKV].

[50] Jeffrey Barbee and Laurel Neme, "They ripped through a protected wilderness to find oil. Instead, they found trouble," National Geographic (March 28, 2023), https://www.nationalgeographic.com/animals/article/oil-drilling-reconafrica-okavango-watershed-protected-wilderness [https://perma.cc/CPY8-Y4J4].

[51] International Human Rights Program, University of Toronto Faculty of Law, on behalf of Saving Okavango's Unique Life (SOUL), *Complaint to the Canadian Ombudsperson for Responsible Enterprise regarding Reconnaissance Energy Africa Ltd.'s human rights abuses in Namibia* (April 9, 2024), at 60, https://ihrp.law.utoronto.ca/sites/default/files/Recon%20Africa%20CORE%20Complaint_Final%20Apr%209%202024.pdf [https://perma.cc/HE4L-M9Z5].

> future extraction that may cause irrevocable damage to the fragile ecosystem and protected areas on which they depend for their physical and cultural survival.[52]

On the other hand, ReconAfrica asserts that it "engaged with local communities and a range of other stakeholders, including Traditional Authorities and Conservancies" when it developed the environmental impact assessment for its drilling and seismic programs.[53] According to ReconAfrica, it held more than 1900 “community and stakeholder engagement sessions" in local languages to "carefully track concerns and address them in follow-up sessions.”[54]
From 2021–2022, Namibia's Parliamentary Standing Committee on Natural Resources investigated ReconAfrica's consultations. The parliamentarians found that while ReconAfrica held hundreds of meetings with community representatives and local authorities, these sessions only transmitted information about the mine and did not constitute consultations. Moreover, the committee determined that despite the high number of meetings, the company did not fully inform communities. Notwithstanding these observations, the committee concluded that ReconAfrica had "overwhelming support" from local communities.[55]

For more on ReconAfrica, see the chapters on corruption, economic diplomacy, and the environment.

1.2. POST-DISPLACEMENT CONDITIONS

International human rights law acknowledges that extractive projects may at times require displacement, but mandates responsibilities throughout the process. If relocation is unavoidable, governments must uphold procedural safeguards, oversee the eviction process, and ensure both immediate and long-term support, including adequate housing, restored livelihoods,

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[52] Letter from José Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples, et al., to Misters Park and Evans, ReconAfrica (November 17), 2021, at 1, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26806 [https://perma.cc/326Y-4SWC].

[53] Letter from Reconnaissance Energy Africa Ltd. to Beatrice Balbin, Chief, Special Procedures Branch, OHCHR et al. (January 14, 2022), at 6, https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=36756 [https://perma.cc/HVW3-Y3XG].

[54] ReconAfrica, “Stakeholder Engagement,” https://reconafrica.com/esg/stakeholder-engagement/ [https://perma.cc/G4G2-SWNQ].

[55] National Assembly Standing Committee on Natural Resources, Parliament of Namibia, *Report on the Petitions by the Okavango's Unique Lifestyle (SOUL), Civil Society Organizations in Namibia and Fridays for Future of Windhoek to Stop Oil Drilling in the Okavango*, at 29, https://www.documentcloud.org/documents/22082077-parliamentary-report-on-petition-to-stop-oil-drlling-in-the-okavango-1/#document/p24 [https://perma.cc/ALU9-Z66L].

compensation, and access to effective remedies.[56] Since displacement affects multiple human rights, it should occur only in exceptional, well-justified cases.[57] It must be grounded in law, adhere to international human rights standards, promote the common good, and be reasonable and proportionate. The process should be regulated to ensure affected individuals receive full compensation and meaningful rehabilitation.[58]

The IFC *Performance Standards* require companies to meet these objectives when relocating displaced persons:

- improve, or restore, the livelihoods and standards of living of displaced persons.
- improve living conditions among physically displaced persons through the provision of adequate housing with security of tenure at resettlement sites.[59]

The case studies below show several instances where Canadian companies, despite claiming compliance with these standards, faced allegations that the displacement did not sufficiently meet the needs of displaced populations.

1.2.1. BARRICK MINING CORPORATION
North Mara Mine, Tanzania

According to MiningWatch, in 2012 the North Mara mine sought to relocate villagers in Nyangoto, Matongo, Kewanja, and Nyakunguru to expand its waste rock dumps.[60] Although their assets were assessed, villagers told MiningWatch that they did not receive compensation. Village crops and tree plantations were reportedly bulldozed by the mine. Some residents told MiningWatch they were harassed and beaten by mine security and police forces to encourage them to leave.[61]

MiningWatch reports that although a regional authority ordered the mine to compensate villagers in 2016, it did not make the payments. According to MiningWatch, some villagers eventually

[56] Committee on Economic, Social and Cultural Rights, General Comment No. 4 [1991], as well as the FAO *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*, https://openknowledge.fao.org/server/api/core/bitstreams/4e08d38d-b1f5-4c74-8478-7cbd61a1e90a/content [https://perma.cc/H2DK-GUKZ]; United Nations Human Rights Office of the High Commissioner, *Forced Evictions, Fact Sheet No.25 Rev 1*; *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context*, A/HRC/7/16, supra note 3.

[57] Basic Principles and Guidelines on Development-Based Evictions and Displacement, A/HRC/4/18 (2007), See paragraphs 55, 60, and 63, https://www.ohchr.org/sites/default/files/Guidelines_en.pdf [https://perma.cc/MRT5-UYTS].

[58] Ibid.

[59] IFC, Performance Standard 5: Land Acquisition and Involuntary Resettlement, supra note 6, para GN4, at 2.

[60] Coumans, supra note 1, at 37.

[61] Ibid at 37-38.

vacated their land without receiving compensation. Others remained, persisting in difficult conditions. These villagers lived near the waste rock and reported being barraged by blasting noise and bright lights from mine operations.[62]

Residents from the Kurya villages of Komarera and Kewanja were allegedly forcibly displaced between 2020 and 2023.[63] MiningWatch reports that this relocation, to facilitate mine expansion, had devastating effects on villagers.[64] Evicted residents claim that they received inadequate compensation for their assets and were unable to purchase replacement land or housing.[65] According to Himiza Social Justice, a Tanzanian NGO, the loss of land prevented Kurya villagers from reestablishing their agricultural and herding economy, leading to their impoverishment.[66] Community members reported taking on debt.[67] Evicted villagers told MiningWatch that they struggled to feed their families.[68]

One villager, an 80-year-old caregiver to five school-aged grandchildren, told MiningWatch:

> [a]fter the demolition I did not have a place to go, I've been moving from place to place. So far I have moved to three places already. The children are not going to school. Now we lack food, because the place I was growing food is destroyed. We are suffering a lot to get food. The small one now has malnutrition.[69]

MiningWatch reports that Kurya homes and properties were bulldozed while residents remained on the land.[70] The demolitions reportedly took place in the presence of armed police.[71] Families dispersed, relying on the generosity of neighbours and friends to provide temporary lodging. The residents of Komarera and Kewanja reported suffering deep food insecurity following their relocation.[72] According to Himiza Social Justice, the displacement damaged social bonds and severely curtailed residents' access to critical services, including health care and education.[73]

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[62] Ibid at 38.

[63] Ibid at 4

[64] Ibid

[65] Himiza Social Justice, supra note 21, at 15.

[66] Ibid at 20.

[67] Ibid at 15.

[68] Coumans, supra note 1, at 6.

[69] Ibid at 23.

[70] Ibid at 20.

[71] Ibid, at 19. This practice is confirmed by Himiza Social Justice (Himiza Social Justice, supra note 21, at 13).

[72] Coumans, ibid, at 22.

[73] Himiza Social Justice, supra note 21, at 16.

Barrick asserts that, between 2020 and 2022, 6,916 "project-affected people" were displaced and 6,617 were "fully compensated and relocated."[74]

Government, legal, academic, and risk-management reviews published between 2014 and 2026 reinforce concerns about whether North Mara's relocations adequately restored livelihoods. A Tanzanian government delegation reported unresolved compensation, underinvestment in water and schools, and a lack of alternative employment,[75] while a 2017 International Commission of Jurists delegation (which included former Supreme Court of Canada Justice Ian Binnie) contrasted the mine's wealth with the surrounding poverty.[76] In 2023 and 2026, researchers from the University of Dodoma and the Institute of Accountancy in Arusha interviewed local residents and found that participants viewed Barrick corporate social responsibility initiatives negatively.[77] Meanwhile, Synergy Global Consultants continued to rate land issues, grievance mechanisms, and potential human rights abuses at the mine as high risk.[78]

1.2.2. BARRICK MINING CORPORATION

Kibali Mine, Democratic Republic of the Congo

Kibali is Africa's largest gold mine.[79] Located in northeastern DRC, it is a joint venture involving Barrick (45%), British company AngloGold Ashanti (45%), and the Congolese parastatal Société

[74] Barrick, supra note 14.

[75] Letter from E.C. Maswi, Permanent Secretary, Ministry of Energy and Minerals, The United Republic of Tanzania, to Mr. Deo Mwanyika, Vice President, African Barrick Gold (November 19, 2014), at 3, https://raid-uk.org/wp-content/uploads/2023/04/mem_problems_at_north_mara_nov_2014_c.pdf [https://perma.cc/4Z5L-9UFZ].

[76] International Commission of Jurists, *The International Commission of Jurists concludes visit to North Mara mine in Tanzania* (September 1, 2017), at 2, https://www.icj.org/wp-content/uploads/2017/09/Tanzania-BHR-mission-North-Mara-News-Features-article-2017-ENG.pdf [https://perma.cc/H5N8-LJJQ].

[77] Adonijah Abayo, "Message Authenticity, Source Credibility and the Publicised Social Performance for Social Legitimacy: The Case of Barrick Gold, Tanzania," *Journal of Governance and Security* 1, no. 1 (2026): 1-18, at 7, https://journals.iaa.ac.tz/index.php/JGSS/article/view/619/238 [https://perma.cc/3PRD-Y6K9]; Immaculate O. Gillo, Odass Bilame and Emiliana A. Assenga, "Corporate social responsibility practices: insights from North Mara gold mine, Tanzania," *International Journal of Research In Business and Social Science* 12, no. 6 (2023): 79-90, at 84, https://www.ssbfnet.com/ojs/index.php/ijrbs/article/view/2795/1940 [https://perma.cc/637J-PJPU].

[78] Synergy Global Consulting, *North Mara Gold Mine Independent Assessment* (September 2022), at 5, https://www.mmtcpamp.com/North_Mara_Gold_Mine_Limited_Synergy_Assessment_report_Exec_Summ_May_2020.pdf [https://perma.cc/PQ9S-WGHD].

[79] Barrick Gold Corporation, "Africa's Largest Gold Mine Probes Significant New Discoveries" (October 8, 2024), https://www.barrick.com/English/news/news-details/2024/africas-largest-gold-mine-probes-significant-new-discoveries/default.aspx [https://perma.cc/F7B2-DSA7].

Minière de Kilo-Moto (10%). Barrick operates the mine.[80] In 2022, Barrick reported that the project had resettled approximately 36,700 people from 7,504 households.[81]

In 2010, the provincial government authorized two "exclusion zones" within the concession, including Mege and part of Bandayi, two settlements near the town of Durba.[82] Barrick said the mine relocated the zone's residents to Kokiza in 2013 [83] in accordance with international standards[84] and that the area was then unoccupied. Dutch NGO PAX reports that in October 2021, after residents of Bandayi rejected undeveloped replacement plots and Mege residents were told that they would not be evicted, authorities demolished homes in both communities. PAX attributes the operation to sustained lobbying by Barrick and Kibali staff. [85]

PAX reports that in October 2021, churches, schools, health clinics, and more than 2,500 homes in Mege and Bandayi were demolished under the supervision of armed forces and police. Residents reported beatings, the loss of belongings, and being left without shelter. By late 2024, many displaced Bandayi residents remained poor and homeless, describing the loss of housing, gardens, and subsistence production.[86] One former resident of Bandayi told PAX:

> [n]ow I'm completely out of balance. I no longer have a home. Living conditions are getting harder and harder. Now I have to figure out how to earn something to pay the rent. I was so comfortable at home: there was so much, I had a garden... I had almost everything at home; I [used to] have a 25 x 60 [-meter] plot. The children and my wife used to plant cassava, amaranth... lots of things. We had no

[80] Barrick Gold Corporation, "Kibali," https://www.barrick.com/English/operations/kibali/default.aspx [https://perma.cc/7DDG-BZ4P].

[81] Barrick Gold Corporation, *Technical Report on the Kibali Gold Mine, Democratic Republic of the Congo* (March 18, 2022), at 23, https://s25.q4cdn.com/322814910/files/doc_downloads/operations/kibali/Barrick_Kibali_Technical_Report_2022.pdf [https://perma.cc/D9WX-MFGK].

[82] PAX Netherlands Peace Foundation*, Giant Evictions, Giant Profits: Forced Evictions and Serious Abuses at the Democratic Republic of Congo's Kibali Gold Mine* (December 2024), at 14-15, https://paxforpeace.nl/wp-content/uploads/sites/2/2024/12/2024_Giant-Evictions-Giant-Profits_ENG.pdf [https://perma.cc/GJ8M-LGZF].

[83] Letter from Cyrille Mutombo, DRC Country Manager, Barrick Gold Corporation to Rolien Sasse, Executive Director, PAX (November 22, 2024), https://s25.q4cdn.com/322814910/files/doc_downloads/kibali/PAX_Response_22112024.pdf [https://perma.cc/89JP-FDCV].

[84] PAX, supra note 82, at 10. PAX reports a series of grievances by local people involved in the resettlement process.

[85] Ibid at 4, 27, 30.

[86] Ibid at 30.

> problems. Now we're tenants, we don't really have a space. We [need to] buy everything. Life is complicated.[87]

According to Barrick, the people who were evicted from Mege and Bandayi in 2021 settled in the area illegally, after the exclusion zone had been established approximately 10 years prior.[88] Barrick claims that because their occupation was illegal, these people did not have a legitimate claim for compensation when they were forcibly removed in 2021.[89]

PAX, however, challenges Barrick's assertions. After talking to local residents, reviewing documents and videos, and analyzing satellite images, PAX states that the exclusion zone was not completely emptied of its residents in 2013. They report that some residents of Mege and Bandayi stayed until they were forced out in 2021. PAX also notes that some newcomers to these neighborhoods after 2013 were unaware of the exclusion zone designation. Many residents of Mege and Bandayi at the time of the 2021 eviction had owned land there for years, with some inheriting plots passed down through generations. Others claimed to have purchased land after 2013 through processes overseen by local authorities.[90]

PAX describes inconsistencies in the mine's reporting on these issues. For example, mine documents and statements reportedly acknowledge the legitimacy of the Mege community between 2014 and 2020, after the 2013 resettlement process.[91] Mege villagers interviewed by PAX report receiving compensation from the mine for damage caused to their property after 2013 from the construction of a road and mining exploration activities.[92]

PAX also questions the legality of the exclusion zone used to justify the 2013 and 2021 displacements. In a letter to PAX, Barrick explains that the legal instrument authorizing the exclusion zone, a "Provincial Arrêté," was signed in May 2010.[93] However, according to PAX, under the DRC's national mining code, only the national government has authority to establish exclusion zones.[94]

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[87] Ibid at 42.

[88] Letter from Mark Bristow, President and CEO, Barrick Gold Corporation to Ms van Doodewaard, Director Programs, PAX (October 25, 2022). (PAX, supra note 82, at 53).

[89] Letter from Cyrille Mutombo, supra note 83.

[90] PAX, supra note 82, at 14-16, 20-21.

[91] Ibid at 22-23.

[92] Ibid at 22.

[93] Letter from Cyrille Mutombo, supra note 83.

[94] PAX, supra note 82, at 14.

1.2.3. FIRST QUANTUM MINERALS

Sentinel Mine, Zambia

Reports on the number of people displaced by the Sentinel mine vary. In 2015, Reuters reported that almost 1000 families had been relocated.[95] The same year, ActionAid said that 600 households had been resettled and that a further 2000 faced displacement.[96] In a 2019 report, the NGO Swedwatch put the figure at 570 households, or approximately 4,000 people.[97] In an undated response to the Swedwatch report, First Quantum said that it relocated almost 600 households when it developed the Sentinel copper mine in 2013.[98] The company described the resettlements as involuntary.[99] In 2025, law firm Leigh Day reported that up to 4,000 local residents living near the Sentinel mine had been forced to leave since 2012.[100]

In its 2019 report,[101] Swedwatch found that resettled individuals' incomes fell, and they experienced food insecurity, lost access to markets and forests, received inadequate compensation, faced diminished purchasing power as incoming mine workers drove up prices, and suffered harm to water and crops, with social cohesion weakened because relocated families were divided between two resettlement areas.[102]

Residents also reported poor-quality drinking water; in July 2018, tests found iron levels in three of five boreholes used by relocated households exceeded Zambian regulatory limits (in one case, almost 33 times the legal limit). The Zambian government attributed the iron to local soil, not the

[95] Magdalena Mis, "Women pay the price for Zambia mining expansion," Reuters (September 14, 2015), https://www.reuters.com/article/lifestyle/women-pay-the-price-for-zambia-mining-expansion-idUSKCN0RF02C/ [https://perma.cc/LV98-HSH2].

[96] Action Aid Zambia, *Impacts of Mining Extractive Industries on Women in Zambia* (Action Aid, 2015), at 23, https://actionaid.nl/wp-content/uploads/2017/10/20150608-Impacts-of-Mining-on-Women-in-Zambia_Revised-Report.pdf [https://perma.cc/QF69-5KRG].

[97] Linda Scott Jakobsson, *Copper With A Cost – Human rights and environmental risks in the mineral supply chains of ICT: A case study from Zambia* (SwedWatch and Make ICT Fair, May 2019), at 39, https://swedwatch.org/wp-content/uploads/2021/01/copper-with-a-cost-94zambia191210.pdf [https://perma.cc/E47F-EPKS].

[98] First Quantum Minerals Ltd., First Quantum Minerals Ltd. response to Swedwatch's report "Copper with a cost – Human rights and environmental risks in the minerals supply chains of ICT: A case study from Zambia," https://swedwatch.org/wp-content/uploads/2019/05/FQM-response-to-report.pdf [https://perma.cc/D2GR-ZM5G].

[99] First Quantum Minerals Ltd., *Trident Project, North West Province, Zambia NI 43-101 Technical Report* (May 31, 2015), at 169, https://www.sedarplus.ca/csa-party/records/document.html?id=e151b1749d61fe0e3aea246de1c0647e7540ab95cf932a11cb840dbc810eff19 [https://perma.cc/MH32-7MG8].

[100] Leigh Day, supra note 46.

[101] Jakobsson, supra note 91.

[102] Ibid at 39-44.

mine. In 2019, Swedwatch reported that FQM had begun drilling deeper boreholes to bypass higher concentrations of iron.[103]

FQM told Swedwatch that in the absence of Zambian legislation regulating resettlement, it followed the IFC Performance Standard on Land Acquisition and Involuntary Resettlement.[104] In 2015 the company reported that an independent audit found the resettlement process largely exceeded best practice.[105] FQM declined Swedwatch's request for a copy of the audit.[106]

Swedwatch stated:

> [i]t is encouraging that FQM has acknowledged the importance of taking on a constructive and inclusive approach towards local communities and has created a grievance mechanism in line with IFC standards. Further, it is positive that FQM has provided compensation to resettled community members, developed community investment programmes and made investments in infrastructure with the objectives of long-term development, community resilience and livelihood restoration.[107]

However, Swedwatch concluded that despite these initiatives, the company failed to restore community members' livelihoods post-resettlement, as required under the IFC standard.[108]

FQM later told JCAP that its relocation plans were industry-leading and that its overall effects were broadly positive, while acknowledging the process's complexity and its continuing engagement obligations.[109] For more on the Sentinel mine, see the labour chapter.

1.2.4. IVANHOE MINES
Kamoa-Kakula Project, Democratic Republic of the Congo

Ivanhoe Mines (Ivanhoe) (TSX: IVN) operates three mines in Africa: the Kamoa-Kakula and Kipushi mines in the Democratic Republic of the Congo, and the Platreef project in South Africa. For more on Ivanhoe, see the chapter on corruption.

[103] Ibid at 45.

[104] Ibid at 39.

[105] FQM, supra note 99.

[106] Jakobsson, supra note 91, at 49.

[107] Ibid at 49.

[108] Ibid at 50.

[109] Letter from John Gladston, Director Corporate Affairs, First Quantum Minerals Ltd, to Shin Imai, Justice and Corporate Accountability Project (June 30, 2026), at 5. For the full text of the letter, see Appendix C.

The Kamoa-Kakula copper mine is a joint venture between Ivanhoe, Chinese company Zijin Mining, Hong Kong-based Crystal River Global Limited, and the government of the Democratic Republic of the Congo (DRC). The project, which is located in southern DRC, features a very large deposit of high-grade copper.[110]

Ivanhoe's mine in the DRC began production in 2021 after 45 households were evicted in 2017. Ivanhoe reportedly conducted extensive consultations with the community and implemented several measures consistent with the IFC *Performance Standards*. However, several problems arose at the resettlement site, including a lack of water, electricity, and sewage disposal. The school that was promised did not materialize until 2021. The company says that the problems have now been addressed.

In 2017, 45 households were relocated for mine development. A joint investigation by Amnesty International (Amnesty) and the Congolese human rights organization Initiative pour la Bonne Gouvernance et les Droits Humains (IBGDH) found that the resettlement failed to meet either Congolese law or international human rights standards.[111]

Amnesty and IBGDH reported that the housing provided to resettled families lacked running water and electricity. Houses were not connected to a sewage system and could not accommodate large families. One woman told Amnesty and IBGDH:

> [w]hen we arrived here, they had already built these small houses (…). They were empty and we had to scramble to find the bed, chairs, and everything else. No electricity. There is a toilet but no shower, and the holes are 2 meters deep, they were filled after two years.[112]

Resettled residents reported disputes with the mine over access to safe water. Although residents were relocated in 2017, the local school was not operational until 2021, and a health clinic did not open until 2023.[113] Amnesty and IBGDH report that while community consultation processes regarding resettlement were robust before the relocations, the mine's engagement with local communities fell sharply afterwards.[114]

Kamoa Copper, the joint venture entity that operates the Kamoa-Kakula mine, told Amnesty that "involuntary relocation and the subsequent resettlement of affected people with their goods, as

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[110] Ivanhoe Mines, "Operations & Projects," https://www.ivanhoemines.com/what-we-do/operations-projects/kamoa-kakula-mining-complex/ [https://perma.cc/4QLA-K4R7].

[111] Amnesty International and Initiative pour la Bonne Gouvernance et les Droits Humains, *Powering Change or Business as Usual?* (September 11, 2023), at 81, https://www.amnesty.org/en/documents/AFR62/7009/2023/en/ [https://perma.cc/33AJ-FWP7].

[112] Ibid at 85.

[113] Ibid at 86.

[114] Ibid at 88.

well as economic displacement, are inevitable" with mine developments the size of Kamoa.[115] The company reported that in 2017 its relocation standards were benchmarked to international best practice.[116] Kamoa Copper further disclosed that it found it challenging to implement the UN Basic Principles on Evictions at Kamoa-Kakula due to the region's lack of electricity.[117] However, Amnesty and IBGDH note in their report that the company overcame this challenge by developing modern mining facilities and comfortable accommodations for its staff.[118]

Kamoa Copper told Amnesty that the size of replacement housing was determined by a resettlement working group that included representatives from project-affected persons. The company stated that concerns about water had been addressed.[119]

In its 2023 Annual Information Form, released several months after the Amnesty / IBGDH report, Ivanhoe reported that it "sought to adhere" to the IFC's Performance Standard on Land Acquisition and Involuntary Settlement at Kamoa-Kakula.[120] In the same report, the company revealed that it had resettled a total of 155 households at Kamoa-Kakula, as part of a multi-phased resettlement plan that was "in process."[121]

1.2.5. SHERRITT INTERNATIONAL
Ambatovy Mine, Madagascar

Sherritt International Corporation (Sherritt) (TSX:S) currently has mining operations in Canada and Cuba. In 2007, the company obtained a 40 percent interest in the Ambatovy nickel project in

[115] Letter from Adriaan Vermeulen, Managing Director, Kamoa Copper, to Mark Dummett, Head of Business and Human Rights, Amnesty International (May 9, 2023), at 1. The letter was provided to the Justice and Corporate Accountability Project by Ivanhoe Mines on January 16, 2025 https://www.dropbox.com/scl/fi/5tabqq6wkl6otipsoabdj/Ivanhoe-20230509_Kamoa-response-to-Amnesty-International-letter-dated-25-April-2023.pdf?rlkey=64job1arusjwbajn5tmwloi9b&st=hpggrkcz&dl=0, [https://perma.cc/9YKL-JKPP].

[116] Ibid at 4.

[117] Ibid.

[118] Amnesty International and Initiative pour la Bonne Gouvernance et les Droits Humains, supra note 111, at 89

[119] Letter from Adriaan Vermeulen, supra note 115, at 4.

[120] Ivanhoe Mines, *Annual Information Form. For the year ended December 31, 2023* (March 27, 2024), at 39, https://www.ivanhoemines.com/wp-content/uploads/IVN_AIF_31-Dec-2023_v9a-CLEAN_formatted_Final_FILED.pdf [https://perma.cc/6S5X-RSHP].

[121] Ibid at 24.

Madagascar.[122] Three years later, the company reported that 260 households had been resettled from the mine site in a process consistent with World Bank guidelines and policies.[123]

In 2012, an association of small farmers and a fruit company filed a complaint with the European Investment Bank (EIB) regarding the mine. The EIB is a public institution owned by the member states of the European Union, which co-financed the project. The complainants alleged that resettled residents were given poor quality housing and lacked access to health facilities. The complaint alleged that household livelihoods were not restored after resettlement.[124]

The EIB complaints mechanism examined issues related to compensation, including the mine's failure to fully pay owed compensation, the exclusion of commercial assets from eligible compensation, small replacement plots with poor soil quality, and inconsistent compensation payments. Weaknesses in the mine's income restoration strategy caused many households to leave the resettlement zones.[125]

The complaints mechanism concluded that the resettlement process did not comply with the *Performance Standards* at the time of the complaint. However, according to the EIB, remedial action taken by the mine brought the process into compliance by 2016–2017.[126] In 2020, Sherritt sold its interest in the mine.[127]

Refer to the environment and economic diplomacy chapters for more information on Sherritt.

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[122] Ambatovy, "History of the project," https://ambatovy.com/en/who-we-are/history/ [https://perma.cc/XC5K-ANHZ].

[123] Sherritt International Corporation, *Annual Information Form For the year ended December 31, 2009* (March 26, 2010), at 19, https://www.sedarplus.ca/csa-party/records/document.html?id=632bed11b3d7aafb639e08b2360649d1f63211f89de9a5518257cfaf3be30d6b [https://perma.cc/59XE-WZ97].

[124] European Investment Bank Complaints Mechanism, *Ambatovy Nickel Project, Madagascar, Complaint SG/E/2012/04, Conclusions Report* (March 19, 2018), at 34-35, https://www.eib.org/attachments/complaints/2018-03-19-sg-e-2012-04-ambatovy-conclusions-report-en.pdf [https://perma.cc/4RAE-WVEJ].

[125] Ibid at 34, 36.

[126] Ibid at 35.

[127] Sherritt International Corporation, *2020 Annual Information Form* (March 17, 2021), at 8, https://www.sedarplus.ca/csa-party/records/document.html?id=91de68d1c8566299e6c1ef5f8a758b386647bfe98261f2f57f9b4bdbdbbb53d1 [https://perma.cc/JF3E-L4YU].

1.2.6. IAMGOLD CORPORATION
Essakane Mine, Burkina Faso

IAMGOLD Corporation (IAMGOLD) (TSX: IMG) has three operating gold mines: Essakane in Burkina Faso; Westwood in Quebec, Canada; and Côté in Ontario, Canada. For more on IAMGOLD, see the economic diplomacy and labour chapters.

In 2009, IAMGOLD acquired the Essakane mine from Orezone Gold, another Canadian company. The open-pit project received a 650 km² concession – about the size of Toronto – and the mine itself occupies about 100 km².[128] More than 13,000 people in 2,981 households were relocated before operations began in 2010;[129] later moves brought the total to almost 17,000 people by 2013.[130]

IAMGOLD maintained that it adhered to the IFC's Performance Standards during the relocation process, and mitigation measures included "rebuilding homes, relocation compensation, restoration of fields and pasture restoration, and a livelihood development program."[131] While IAMGOLD has not disclosed additional details about the move, community members (many of whom are illiterate) were informed and signed or thumb-printed to indicate consent, according to the environmental monitoring site EJ Atlas. Initially, community members seemed pleased with receiving concrete houses, some compensation, and support for settling into a new life.[132] However, signs of dissatisfaction soon emerged, as noted by researchers W.R. Nadège Compaoré and Tongnoma Zongo:

> [o]n March 19, 2012, … the people of Dori, in northeastern Burkina, along with other surrounding communities in Essakane, erected barricades at the entrance of the town to prevent access to IAMGOLD's vehicles, arguing that the company did not keep its initial promises to the local communities.[133]

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[128] IAMGOLD Corporation, "Essakane Gold Mine," https://www.iamgold.com/English/operations/essakane-gold-mine-burkina-faso/default.aspx [https://perma.cc/SP6X-Q7P8].

[129] IAMGOLD, "2014 Health, Safety and Sustainability Report," https://web.archive.org/web/20160708155817/http://iamgold-hssreport.com/2014/society.phpa [https://perma.cc/9NG2-R56E].

[130] IAMGOLD, "2014 Health, Safety and Sustainability Report," ibid.

[131] Ibid.

[132] EJ Atlas, "Attempting Social Responsibility at Iamgold's mine, Burkina Faso," https://ejatlas.org/conflict/gold-and-water-rush-in-burkina-fasos-essakane-mine. [https://perma.cc/JA2Q-GVR2].

[133] W.R. Nadège Compaoré and Tongnoma Zongo, "Canadian Mining in Burkina Faso: Artisanal and Small-scale Mining (ASM) Delegitimation as Structural Displacement," in *Capitalism and Dispossession: Corporate Canada at Home and Abroad*, David P. Thomas and Veldon Coburn, eds, (Fernwood Publishing, 2022), 217-218.

In its Global Reporting Initiative report for 2014, IAMGOLD asserted that the displacement caused "no significant disputes."[134]

At Essakane, new settlements included concrete houses, schools, and improved infrastructure, but reports identified problems with housing, land, water, and compensation for common grazing areas. More fundamentally, displacement deprived people of access to cultivation, grazing, and artisanal mining;[135] the replacement land was reportedly poorly suited to agriculture and pastoral livelihoods.[136]

From May to November 2014, FIAN, an international aid organization based in Germany, interviewed residents and held meetings in the relocated communities.[137] FIAN found that the lives of the displaced people had deteriorated substantially. Residents spoke about having to sell their goats and cattle to survive and always being hungry. One woman quoted in the report said:

> [w]e had fields, but our good fields were taken away by IAMGOLD ... With the fields today, we cannot even have a grain of millet. We cannot even close the season with the harvest. We cannot even have 10 tubs of millet ... A field of stones, water cannot seep into the ground. When you sow the seeds, they die because of lack of water before they sprout.[138]

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[134] EJ Atlas, supra note 132.

[135] FIAN International and FIAN Burkina Faso, *Women's Perspectives on the Impact of Mining on the Right to Food: The Human Right to Adequate Food and Nutrition of Women and Children of Communities Affected by Mining and Displacement in Essakane, Burkina Faso* (2015), at 26, 27, 51, https://www.fian.org/files/files/Essakane.pdf [https://perma.cc/CRM8-2HP8].

[136] In email correspondence to FIAN in March 2013, IAMGOLD spoke to the water issue, stating that:

> Resettled communities were provided equivalent or improved access to water with the resettlement process. Any shortages could be attributed to increases in local population, the 2011 drought and an increase in the sale of water to small scale mining. Of the two communities that have experienced water quality issues, we have consistently provided potable water to meet community needs. Simultaneously, we have been working diligently towards a permanent solution.

The company provided infrastructure for potable water in 2024 (Le Economiste du Faso, "IAMGOLD Essakane SA offre une infrastructure d'adduction d'eau potable de 200 millions de FCFA au village Essakane site," January 29, 2024).

[137] FIAN, supra note 135, at 4.

[138] Ibid at 28. FIAN reports: "IAMGOLD was asked in writing to provide a response in relation to this specific allegation; while IAMGOLD's reply stated that there were 'a number of areas in which 'facts' have been cited which are either incorrect or which are contextually incomplete,' a response in regards to this specific allegation was not provided by IAMGOLD," (footnote 24).

Journalist Marco Chown Oved found many of the new concrete houses empty because residents could not make a living. Village council president Talatout Boukari summarized the problem: "You can build a house out of gold for me, but if I can't feed my family, I'm not going to live in it."[139]

1.2.7. BANRO CORPORATION

Twangiza Mine, Democratic Republic of the Congo

Banro Corporation (Banro) was a gold mining company headquartered in Toronto. It operated two gold mines in the Democratic Republic of the Congo: Twangiza in South Kivu province and Namoya in Maniema province. In 2017, the company was unable to meet its financial obligations and was granted creditor protection. The following year it was delisted from the Toronto Stock Exchange. In 2019 one of its principal shareholders, a Chinese investment fund, took control of the Twangiza mine.[140]

Banro states that it resettled 122 households between May and June 2010,[141] and an additional 83 households in 2011[142] to make way for the Twangiza mine. A local activist estimated that more than 450 families were removed to build the project.[143] Some families were provided with replacement homes in an area called Cinjira. According to the activist, the houses were small and poorly constructed. The relocated families lacked access to potable water, and food was expensive in the new location. Relocated residents were not provided with adequate compensation. Some abandoned the area in search of a better life elsewhere.[144]

Another community representative reported that the relocated population lacks food security and suffers from hunger. Residents lack access to health services, school attendance has declined,

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[139] Marco Chown Oved, "After the Gold Rush," The Toronto Star (December 1, 2014), https://projects.thestar.com/news/world/2014/12/01/burkina_faso_after_the_gold_rush.html [https://perma.cc/RCZ2-6NFA].

[140] Ben Radley, *Disrupted Development in the Congo: The Fragile Foundations of the African Mining Consensus* (Oxford Academic Books, 2023), Chapter 3, https://academic.oup.com/book/55332 [https://perma.cc/WD3M-653N].

[141] Banro Corporation, *Annual Information Form For the financial year ended December 31, 2010* (March 29, 2011), at 24, https://www.sedarplus.ca/csa-party/records/document.html?id=320de30659afd029b26cfd0ef866e7b130c661f4837098d5401a0d713015d143 [https://perma.cc/WFK6-4U4H].

[142] Banro Corporation, *Annual Information Form For the financial year ended December 31, 2011* (March 26, 2012), at 27, https://www.sedarplus.ca/csa-party/records/document.html?id=5f82d4df329799a75a89f6d609ee4ee14466540034b8cd211ad4c1a23b58a69d [https://perma.cc/2FMK-PEEB].

[143] Interview with Peter Mugisho Matabishi, The Congo Tribunal, Democratic Republic of the Congo, http://www.the-congo-tribunal.com/hearings/case/2.html [https://perma.cc/CM73-J3TT].

[144] Ibid.

and the divorce rate has risen.[145] Community members complain that the mine is polluting local water bodies. They claim that toxic water is killing their livestock.[146]

One local man claimed that the company dug up graves and discarded human remains.[147] Another reported that Banro damaged graves while building roads.[148]

In a 2015 securities filing, Banro claimed it had a "good track record[149] with involuntary resettlement of local residents, reporting "positive results."[150]

1.2.8. TIOMIN RESOURCES INC.
Kwale Mineral Sands Project, Kenya

Tiomin Resources Inc. (Tiomin) was a mineral exploration and development company. Its interests in Africa consisted of four Kenyan mineral sands projects (Kwale, Kilifi, Vipingo, and Mambrui).[151]

In 2005, Tiomin received approval from the Kenyan government to develop a titanium strip mine in the Kwale district, near Kenya's southern coast.[152] The project required the relocation of over 3000 residents from the villages of Maumba and Nguluku. The Kenyan government offered the villagers a compensation package, to be paid by the company, that included replacement land and monetary payment for land, crops, buildings, and grave sites.[153] The villagers challenged the

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[145] Ibid.

[146] Ibid; Testimony of Zilahirwa Chakirwa before The Congo Tribunal, Bukavu, Democratic Republic of the Congo, http://www.the-congo-tribunal.com/hearings/case/2.html. [https://perma.cc/WWQ2-U5GG].

[147] Testimony of Zilahirwa Chakirwa, ibid.

[148] Interview with Peter Mugisho Matabishi, supra note 143.

[149] SRK Consulting, *NI 43-101 Technical Report, Mineral Resource and Reserve Update, December 31, 2014*, *Twangiza Gold Mine, Democratic Republic of the Congo* (July 29, 2015), at 9, https://www.sedarplus.ca/csa-party/records/document.html?id=66c0c3894175ca555adda5599bd5ab7d32c0dff3a447188d2f9bdfaca711cb0a [https://perma.cc/PT9H-PHN5].

[150] Ibid at 157.

[151] Vaaldiam Mining Inc., *2009 Annual Information Form* (March 26, 2010), at 19, https://www.sedarplus.ca/csa-party/records/document.html?id=3c53b7d7ed8d0f02badbf6641b538c308f64fb95b896475c87d939e39d84caed [https://perma.cc/Q6QV-B4KB].

[152] Tiomin Resources Inc., "Tiomin Resources announces financing of Cdn $5 million Over-allotment provision to increase to Cdn $7 million" (February 18, 2005), https://www.sec.gov/Archives/edgar/vprr/0500/05006108.pdf [https://perma.cc/QAA4-4KHJ].

[153] Willice O. Abuya, "What is in a Coconut? An Ethnoecological Analysis of Mining, Social Displacement, Vulnerability, and Development in Rural Kenya," African Studies Quarterly 14, Issues 1 & 2 (2013), at 1-2, https://asq.africa.ufl.edu/wp-content/uploads/sites/168/Abuya-2013.pdf [https://perma.cc/GH2Y-GBJL].

eviction and the compensation package in a series of unsuccessful lawsuits.[154] In 2007, they were bulldozed off their land.[155]

Evicted villagers were deeply unhappy about the land they received. Some complained they were given deeds to replacement land that didn't exist. In other cases, multiple people were reportedly given deeds to the same parcel of land. Still others complained that the land they received was uninhabitable.[156] Some evicted villagers received neither compensation nor replacement plots for the land they lost.[157]

Villagers also expressed anger about the compensation they received for lost crops. They were especially indignant about the amount paid for their coconut trees, which was reportedly below fair market value. Coconut trees play a central role in the local subsistence economy and have enormous cultural value.[158] One villager said:

> [t]he compensation rate for the coconut tree was very bad! Ksh299 [ca. US$3.80] per tree? That was very bad. This is an intergenerational plant, and it can grow for up to a hundred years! And look here, every three weeks, from the sale of the fruits per tree, one can get Ksh300. How can one then peg a one off payment at Ksh299 per tree? Wasn't this madness?[159]

In 2010, Tiomin sold the Kwale project to an Australian company, Base Iron Ltd.[160] Base Iron's Kenyan subsidiary denied that villagers were forced to relocate and claimed that all displaced villagers were adequately compensated.[161] In 2023, Base Iron announced it would close the mine at the end of 2024.[162] The Kenya Human Rights Commission and evicted residents called on the company to resolve outstanding grievances, including those concerning land and relocation,

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[154] Ibid at 2.

[155] Ibid at 1.

[156] Lilian Odhiambo, "Relocated for a Mine Project, Kenyans Say Compensation Was Unfair or Missing," Global Press Journal (October 23, 2016), https://globalpressjournal.com/africa/kenya/many-kenyans-relocated-mine-project-say-compensation-unfair-missing/ [https://perma.cc/ZB2W-JCET].

[157] These individuals may have lacked formal title to their land, relying instead on customary ownership (Odhiambo, ibid).

[158] Abuya, supra note 153, at 12.

[159] Ibid at 10.

[160] Reuters, "Tiomin to sell Kenya assets to Australia's Base Iron" (February 25, 2010), https://www.reuters.com/article/tiomin-idUSSGE61O0LC20100225/ [https://perma.cc/Q6F4-5BHG].

[161] Odhiambo, supra note 156.

[162] Base Resources, "Kwale Operations to complete mining at end of 2024" (October 30, 2023), https://s3.ap-southeast-2.amazonaws.com/assets.baseresources.com.au/wp-content/uploads/sites/2/2024/01/23082743/Kwale-Operations-to-complete-mining-at-end-of-2024.pdf [https://perma.cc/2Q5L-7ZYA].

before shuttering the project.[163] Evicted villagers also demanded that the Kenyan government return their land once the company departed. [164] In 2024, the National Environmental Management Agency warned the site was severely contaminated and unfit for human habitation. It advised that the clean-up could take up to 50 years to complete.[165]

1.3. IMPACTS ON ARTISANAL MINING

The *OECD Guidelines* and *IFC Performance Standards* recognize that an area might already be mined by artisanal miners, and awarding a concession could displace them.[166] These guidelines mirror the *African Charter on Human and Peoples' Rights'* call for signatories to "adopt human rights, safety, and environmental standards that protect individuals and communities involved in and dependent on artisanal mining."[167]

Despite its characterization as criminal activity, artisanal and small-scale mining can contribute significantly to local economies:

> [a]rtisanal gold mining is an economic activity that is as important as agriculture and livestock management and thus is an important economic asset for …, particularly for the rural communities. It also helps reduce rural exodus and greatly contributes to generating foreign currency for the national economy.[168]

[163] Agnetta Okwemba, "The Kenya Human Rights Commission and residents renew calls for Base Titanium to address complaints before mining closure in Kwale," Coast Times Digital (August 12, 2024), https://coasttimesdigital.com/knchr-residents-renew-calls-for-base-titanium-to-address-complaints-before-mining-closure-in-kwale/ [https://perma.cc/Z8XT-9CC2].

[164] Shaban Omar, "Kwale Residents want Titanium land back," People Daily (December 23, 2024), https://peopledaily.digital/news/kwale-residents-want-titanium-land-back [https://perma.cc/P68Q-9R8A].

[165] Mishi Gongo, "NEMA warns Base Titanium mining land poses health risks," The Eastleigh Voice (August 16, 2024), https://eastleighvoice.co.ke/base%20titanium/69347/nema-warns-base-titanium-mining-land-poses-health-risks [https://perma.cc/4EG5-M3A5].

[166] OECD, supra note 5, at 109; IFC, supra note 6, at Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts, para GN17.

[167] African Commission on Human and People's Rights, State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment (2018), at para 45, https://achpr.au.int/en/node/845 [https://perma.cc/7YEQ-9SM7].

[168] Djibril Gueye, Small-Scale Mining in Burkina Faso (International Institute for Environment and Development, 2001), at 26, https://www.iied.org/sites/default/files/pdfs/migrate/G00717.pdf [https://perma.cc/T2P6-9GXW].

It is estimated that there are roughly 44,680,000 artisanal miners globally.[169] Across different African countries, estimates range from 200,000 to nearly 2 million miners.[170] Industrial mining displaces (and often criminalizes) this economic activity, and there are not enough jobs in the mines to compensate for the lost income stream. In Tanzania, for example, there were only about 30,000 jobs in large-scale mining in 2015, meaning that 95% of mining employment was in small-scale and artisanal mining.[171]

1.3.1. SUTTON RESOURCES LTD.

Bulyanhulu Mine, Tanzania

Sutton Resources Ltd. (Sutton) (VSE: STT) was a mineral exploration company incorporated in British Columbia.[172] In 1999, it was purchased by Barrick Gold.[173] Kahama Mining Corporation Limited (Kahama Mining or KMCL), a subsidiary of Sutton Resources, received a licence for a gold mine in Bulyanhulu in 1994. It was one of the world's largest gold deposits at the time,[174] but the area was already being mined by hundreds of thousands of artisanal miners. Their eviction was one of the largest and most controversial in Africa. The events are well documented, but there are sharply different accounts of what happened.

According to research by Dennis Tessier, local farmers likely discovered gold around 1975.[175] At first, the gold was extracted through small-scale artisanal mining, which reportedly coexisted with

[169] "Find Data," Delve, accessed March 29, 2025, https://www.delvedatabase.org/data [https://perma.cc/55FS-AD28].

[170] Ibid.

[171] Adrian Poignant, "Small-scale Mining and Agricultural Development: Evidence from Northwestern Tanzania," (April 12, 2022), at 7, https://ssrn.com/abstract=4082121 [https://perma.cc/EL7N-235E].

[172] Sutton Resources Ltd., Long Form Prospectus (June 23, 1997), at i, https://www.sedarplus.ca/csa-party/records/document.html?id=f6b49cf19df25d4b748c2351fce5988ba7370a0a150740b51330ee0c115f5a40 [https://perma.cc/NE4X-XH4G].

[173] "Barrick completes Sutton takeover," CBC News, March 29, 1999, https://www.cbc.ca/news/business/barrick-completes-sutton-takeover-1.187893 [https://perma.cc/24CR-RLAC].

[174] Dennis Tessier, The Challenge of the Mines: The Role of Stakeholder Engagement in the Sustainable Development of Tanzania's Gold Mining Sector, A Case Study of Shinyanga, (MA diss., University of Dar es Salaam, 2005), at 64, https://miningwatch.ca/sites/default/files/the_challenge_of_the_mines_0.pdf [https://perma.cc/4JL2-V7P9]. For another overview, see Siri Lange, "Gold and Governance: Legal Injustices and Lost Opportunities In Tanzania" African Affairs 110, no. 439 (2011): 233-252, https://academic.oup.com/afraf/article-abstract/110/439/233/163839?redirectedFrom=fulltext [https://perma.cc/G7E8-EWP4].

[175] Tessier, ibid, at 65.

local farmers.[176] From 1980, the number of artisanal miners increased and with it, problems arising from the lack of any central authority to ensure sanitation, security, and mine safety.[177]

Rather than attempt to remove the miners, the government took a series of steps to legitimize their presence and collect the gold. In 1990, the central bank decided to buy their gold[178], and in 1993 government officials began to further legitimize their operations by creating an elected Small Scale Miners Committee (Miners Committee) to represent the miners' interests. In 1993, the central bank bought $40 million of gold from artisanal miners.[179]

Following international pressure to open its mining industry to foreign investment, Tanzania granted the Bulyanhulu concession to Kahama Mining. In December 1995, Benjamin Mkapa was elected president, and on July 30, 1996, he ordered that the miners be evicted. Hundreds of thousands of people suddenly became "illegal squatters."[180]

That day, Tanzanian police announced via radio that people had one day to move out.[181] Tanzanian newspapers described mass confusion as people scrambled to move their belongings.[182] The Canadian High Commission[183] and Sutton[184] said that the evictions were orderly and that there was no violence from state forces. Days after, the Tanzanian NGO, the Lawyers' Environmental Action Team (LEAT), reported that 52 miners had been buried alive when the police and Sutton moved in to fill the hand-made mining shafts.[185]

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[176] Ibid at 60-61, 66.

[177] Ibid at 66-69.

[178] Stephen Kerr and Kelly Holloway, "The Men Who Moil for Gold," The Varsity and the Atkinsonian, April 15, 2002, at 2, https://miningwatch.ca/sites/default/files/Bulyanhulu.pdf [https://perma.cc/D5BT-GC5T]; Letter from Kent Thompson to Kathleen Mahoney, June 7, 2022, [https://perma.cc/D3NW-GU9Q]; also see Samwel J. Kabote and Elliott P. Niboye, "Socio-economic Effects of Large-scale Gold Mining on Artisanal Miners in Tanzania: Experiences from Bulyanhulu Gold Fields," Draft Report presented to REPOA (2013), https://www.repoa.or.tz/documents_storage/GD10.pdf [https://perma.cc/G2WA-FWJU].

[179] Kerr and Holloway, ibid, at 2; Letter from Kent Thompson to Kathleen Mahoney, June 7, 2022, at 3, https://perma.cc/D3NW-GU9Q.

[180] Kerr and Holloway, ibid, at 2.

[181] Tessier, supra note 174, at 100.

[182] Kerr and Holloway, supra note 178, at 2.

[183] Communication from Verona Edelstein, Document 296730, August 7, 1996, at 61-63, https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT]; Kerr and Holloway, ibid, at 2.

[184] Allan Robinson, "Barrick rejects allegation of human rights abuse" Globe and Mail , September 27, 2001, https://www.theglobeandmail.com/report-on-business/barrickrejects-allegation-of-human-rights-abuse/article4153777/ [https://perma.cc/FT59-RCZR].

[185] Brian Hutchinson, "Barrick's African tribulations: Canadian company takes bum rap for deaths of miners," National Post, December 29, 2001, at 4, [https://perma.cc/A6V9-H236]; see also Allan Lissner, "Someone

A subsequent investigation by police concluded there was no reliable evidence that anyone had been buried alive. However, the police said, "if there are people who were buried inside the pits even after the police announcements and after all the precautions had been taken, it is obvious that that person/persons have themselves to blame."[186] In 2002, Judge Mark Bomani, a former attorney general for Tanzania, called for an inquiry into the allegations around the Bulyanhulu evictions, telling a reporter, "[a]llegations have been made time and again that a number of people were buried alive at these gold mines in Bulyanhulu … Either these killings occurred and someone is trying to hide something, or these deaths never took place, in which case society needs to know why such allegations have been made."[187] The Compliance Advisor Ombudsperson (CAO) of the International Finance Corporation, which investigated the evictions at Bulyanhulu in 2022 as a project funder, examined these allegations and found that it was not presented with any evidence of the killings. However, the CAO also noted that it "did not undertake a full-scale inquiry, nor did it engage in the techniques of human rights investigation which would be necessary to try and prove or disprove many of the allegations repeated in the complaint, such as the exhumation of closed mine shafts, for example."[188]

Estimates of the number of people affected by the eviction order vary widely. Sutton Resources estimated that there were between 30,000 and 400,000 individuals in the area at that time.[189] The Tanzanian police reported 200,000 people evicted,[190] while Barrick later claimed the number was "substantially less than 7,000."[191] The CAO estimated that there were between 200 and 2,000.[192] These discrepancies likely stem from the lack of a standard method for counting displaced people, with different populations recorded at different times. The CAO and Barrick seem to focus on the miners evicted in August 1996, whereas others include larger community members, such as

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Else's Treasure - Tanzania," PraxisPictures, 2009-2011, https://www.praxispictures.org/tanzania [https://perma.cc/6SCV-4R2K].

[186] A.A. Mwamunyange (for Inspector General of Police), "Allegations Of Deaths In Mine Pits At The Bulyanhulu Gold Mines, Shinyanga Region," Press Release, August 21, 1996, https://www.dropbox.com/scl/fi/nfnztz02qsb22ed1ikcbr/Bulyanhulu-police-report-1996.pdf?rlkey=39718dad9bpcwoavw6gviza5h&st=bi2ckytq&dl=0 [https://perma.cc/3E98-QS9K].

[187] "New Call for Inquiry Into Bulyanhulu Allegations", UN Integrated Regional Information Networks, (March 6, 2002), https://allafrica.com/stories/200203060432.html [https://perma.cc/KT8N-R4F7].

[188] Compliance Adviser Ombudsman, *Assessment Report Summary: Complaint regarding MIGA's guarantee of the Bulyanhulu Gold Mine, Tanzania* (October 2002), at 2, https://www.cao-ombudsman.org/sites/default/files/downloads/bulyfinal.Englishpdf.pdf [https://perma.cc/WH8V-UCSD].

[189] Thompson letter, supra note 178, at 3.

[190] A.A. Mwamunyange (for Inspector General of Police), "Allegations Of Deaths In Mine Pits At The Bulyanhulu Gold Mines, Shinyanga Region," Press Release, August 21, 1996, https://www.dropbox.com/scl/fi/nfnztz02qsb22ed1ikcbr/Bulyanhulu-police-report-1996.pdf?rlkey=39718dad9bpcwoavw6gviza5h&st=bi2ckytq&dl=0 [https://perma.cc/3E98-QS9K].

[191] Thompson letter, supra note 178, at 3.

[192] CAO, supra note 188, at 5.

businesspeople and women mentioned earlier. Some estimates also consider those who left due to eviction orders in 1995.

The CAO concluded in its 2002 report that the evictions did not follow the *IFC Performance Standards*, which require compensation and replacement land.[193] Ultimately, only 42 agricultural families were deemed eligible for compensation. However, reports indicate that "the valuation exercise was rushed and almost arbitrary, supervised by officials from the mining company," and that each family received less than $100 for losses to their crops, grazing lands, and houses.[194]

For more details about Canadian support to Sutton Resources, see the economic diplomacy chapter.

1.3.2. BARRICK MINING CORPORATION

North Mara Mine, Tanzania

Before large-scale mining began at North Mara, some artisanal miners held government-recognized special mining leases. When their land was transferred to industrial mining, eligible leaseholders received royalty payments. Barrick reports that it paid nearly $23 million in such royalties between 2020 and 2023.[195] The adequacy of the original compensation remains disputed, however. Mary Rutenge, a lecturer at Tanzania's Mzumbe University, writes:

> [s]mall-scale miners who had government licenses had previously owned most of the land in question. The company's acquisition of their land destabilized their livelihoods, and the company did not compensate them adequately.[196]

Moreover, the royalty arrangement does not benefit all villagers who depend on mining. A local Kurya leader told UK NGO RAID:

> [o]ur people rely on gold but the thing is, people have nowhere to go to access rocks because the mine has expanded so extensively. It has taken a vast area, displacing people and then expecting people to survive.[197]

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[193] Ibid at 8; also see Kabote and Niboye, supra note 178, at 19.

[194] Lange, supra note 174, at 245.

[195] Letter from Mark Bristow, supra note 18, at 15,

[196] Marion Guégan and Cécile Schilis-Gallego, "Silence is golden for a Tanzanian mine," Forbidden Stories (June 17, 2019), https://forbiddenstories.org/silence-is-golden-for-a-tanzanian-mine [https://perma.cc/82S3-MYX7].

[197] Rights and Accountability in Development, Barrick's Tanzania gold mine one of the deadliest in Africa (November 11, 2022), at 10, https://raid-uk.org/barricks-tanzania-gold-mine-one-of-the-deadliest-in-africa/ [https://perma.cc/KNF9-A2JU].

MiningWatch reports that some community members, seeking to replace lost livelihoods, enter the mine's waste-rock dumps to search for stones containing trace amounts of gold.[198] Mine security personnel have allegedly responded violently to people found on mine property. See the security and violence chapter for more information.
In 2025, the Tanzanian government and Barrick announced initiatives to support small-scale miners near North Mara by issuing licenses[199] and providing training.[200]

1.3.3. BANRO CORPORATION

Twangiza Mine, Democratic Republic of the Congo

In 2005, Banro began intensive exploration activity at Twangiza. At the time, the area supported thousands of artisanal miners, who extracted gold from local riverbeds and underground shafts. According to researcher Sara Geenen, the company's activity negatively impacted these miners. They had not been consulted on Banro's plans and protested the company's presence, sometimes violently.[201]

Banro responded to the disruption by establishing a dialogue process, through which it encouraged the artisanal miners to abandon their trade. The miners were offered a choice between short-term employment with a company subcontracted by Banro and participation in a skills training program. Hundreds of miners accepted the company's offer. However, according to Geenen, in 2011 most of the miners who had accepted jobs were laid off. In addition, those who participated in training programs found few alternative employment opportunities. As a result, hundreds of miners reoccupied Banro's concession and resumed artisanal mining, albeit under precarious conditions.[202]

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[198] Catherine Coumans, Submission to the United Nations Working Group on the Use of Mercenaries In regard to the relationship between private military and security companies and extractive industry companies from a human rights perspective in law and practice (MiningWatch Canada, March 2019), at 2, https://miningwatch.ca/sites/default/files/submission_to_the_united_nations_working_group_on_the_use_of_mercenaries_march_2019_final_4_recommendations.pdf [https://perma.cc/2LDZ-624A].

[199] "Rollout of govt–Barrick scheme for small-scale miners gathers speed," The Citizen, November 16, 2025, https://www.thecitizen.co.tz/tanzania/business/rollout-of-govt-barrick-scheme-for-small-scale-miners-gathers-speed-5266862 [https://perma.cc/N4KF-PXWZ].

[200] "Govt launches two-week Barrick-supported training for artisanal miners in Mara region," Lake Zone Watch (June 22, 2025), https://www.lakezonewatch.com/2025/06/govt-launches-two-week-barrick.html?m=1 [https://perma.cc/HRH9-FECT].

[201] Sara Geenen, "Dispossession, displacement and resistance: Artisanal miners in a gold concession in South-Kivu, Democratic Republic of Congo," Resources Policy 40 (2014): 90-99, https://www.sciencedirect.com/science/article/abs/pii/S0301420713000172 [https://perma.cc/4HXN-2QLT].

[202] Sara Geenen, "Dispossession, displacement and resistance: Artisanal miners in a gold concession in South-Kivu, Democratic Republic of Congo," Resources Policy 40 (2014): 90-99, https://www.sciencedirect.com/science/article/abs/pii/S0301420713000172 [https://perma.cc/S2T5-KCC6].

More information about Banro is included in the corruption, labour, and silencing critique chapters.

1.4. ACCESS TO JUSTICE

Given the widespread disruption caused by land dispossession and displacement, those affected in our case studies have turned to domestic grievance mechanisms to address their complaints. While many of these mechanisms exist, numerous cases highlight the difficulties in seeking justice for displacement due to resource extraction. Common issues include victims' lack of access to legal representation, the focus on foreign profits, and the limited effectiveness of transnational complaints processes in Canada.

1.4.1. BARRICK MINING CORPORATION

North Mara Mine, Tanzania

In August 2022, 32 landowners from Komarera and Kewanja, affected by the 2020–2023 evictions at the North Mara mine, began legal action against the mine, securing a restraining order to protect their property. In December 2022, an additional 22 landowners sued. The protection order was subsequently lifted, and the properties were destroyed shortly afterwards.[203]

Barrick claims that most of the court cases described above were initiated by people who accepted and received compensation. The company claims that the lawsuits are an attempt by these individuals to increase the amount of compensation they receive.[204]

1.4.2. BARRICK MINING CORPORATION

Kibali Mine, Democratic Republic of the Congo

In 2022, over a thousand residents of Bandayi initiated legal action against the mine and the Congolese state, seeking reparations for alleged human rights violations stemming from the evictions. The Congolese court dismissed the case, arguing that the complainants were required

[203] Catherine Coumans, Evicted for Gold Profits: Indigenous Kuria forced off land in expansion of Barrick Gold's North Mara Gold Mine in Tanzania (MiningWatch Canada, December 2023), at 9, https://miningwatch.ca/sites/default/files/2023-11_EvictedForGoldProfits_NorthMara.pdf [https://perma.cc/66VF-D8KR].

[204] "MiningWatch Canada's Allegations of Forced Evictions at North Mara," Barrick Gold Corporation, December 13, 2023, https://www.barrick.com/English/operations/north-mara/miningwatch-canada-allegations-of-forced-evictions/default.aspx [https://perma.cc/FP32-KUEU]

to prove that they were unable to reach an amicable settlement with the defendants before engaging the courts. PAX reports that residents of both Bandayi and Mege tried to engage in dialogue with the mine following the evictions, but they say this proved impossible.[205]

In 2022, the Canadian National Contact Point (NCP) also received a complaint regarding the mine. The complainant, who reportedly represented residents of Bandayi and Mege, argued that Barrick caused or contributed to adverse human rights impacts associated with both the 2021 evictions and the violent suppression of protesters in Durba. Barrick denied these allegations and asserted that the mine was compliant with the OECD Guidelines. The complainant sought mediation to reach agreement with Barrick regarding compensation for the victims of these events. The NCP offered to facilitate a dialogue regarding the evictions. However, during an initial exchange between the parties in 2023, the NCP observed “the reiteration of previously expressed positions and information, and little initiative to achieve a basis for more focused and productive dialogue on potential resolution of the issue at hand.”[206] The NCP concluded that offering to facilitate further dialogue or mediation was unlikely to resolve the issue. The NCP issued its final report in May 2024.[207]

In 2023, AngloGold Ashanti, one of Barrick's joint venture partners in the Kibali project, incorporated in the United Kingdom. The following year, the complainant described above lodged a second complaint concerning the 2021 forced eviction, this time with the UK NCP. Following an initial assessment, the office accepted the complaint, finding that "some of the issues raised in the complaint seem to be material and substantiated." The UK NCP offered the parties mediation in 2025. At the time of writing, the NCP process was on-going.[208]

[205] PAX Netherlands Peace Foundation, Giant Evictions, Giant Profits. Forced Evictions and Serious Abuses at the Democratic Republic of Congo's Kibali Gold Mine (December 2024), at 45, https://paxforpeace.nl/wp-content/uploads/sites/2/2024/12/2024_Giant-Evictions-Giant-Profits_ENG.pdf [https://perma.cc/4ZGZ-38CD].

[206] Global Affairs Canada, Canada's National Contact Point final statement: Barrick Gold and individuals from Bandayi and Mege, Democratic Republic of Congo (May 17, 2024), https://www.international.gc.ca/trade-commerce/ncp-pcn/2024-05-17-barrick-gold.aspx?lang=eng [https://perma.cc/8YSJ-PTH8].

[207] Ibid.

[208] "Initial assessment: a complaint against AngloGold Ashanti PLC raised by individuals from the Democratic Republic of Congo," UK National Contact Point, accessed May 20, 2026, https://www.gov.uk/government/publications/individuals-from-drc-complaint-to-uk-ncp-about-anglogold-ashanti-plc/initial-assessment-a-complaint-against-anglogold-ashanti-plc-raised-by-individuals-from-the-democratic-republic-of-congo#next-steps [https://perma.cc/X5DK-EMVZ].

1.4.3. FIRST QUANTUM MINERALS

Mopani Mine, Zambia

In 2001, Oxfam Canada, the Zambian NGO DECOP, and other partner organizations filed a complaint with Canada's NCP regarding FQM. The complainants argued that Mopani Copper Mines (Mopani) breached the *OECD Guidelines* by forcibly evicting communities of subsistence farming communities from land at the Mufulira mine site and by refusing to engage in dialogue with these communities or civil society organizations.[209]

The NCP convened a dialogue process involving FQM, civil society organizations, and local community leaders. The parties reached agreement on three fronts: Mopani would stop the evictions; Mopani, DECOP, and the local government would work to resettle the farmers on land they could legally own; and Mopani and civil society organizations would sustain a dialogue.[210] However, several years after the agreement was reached, The Umuchinshi Initiative, a Canadian human rights organization, reported that the company had breached all three of its terms.[211] In 2006, Mopani reportedly resumed its evictions, forcibly displacing approximately 120 families. According to The Umuchinshi Initiative, no replacement land was provided for the individuals who were evicted.[212]

In its letter to JCAP, FQM wrote that it was a minority shareholder in Mopani and "neither operated, nor had any management control over activities" at the complex. The company emphasized that according to the OECD National Contact Point, it participated constructively and in good faith in the dialogue process concerning Mufulira and that the matter was concluded satisfactorily.[213] See the environment chapter for more on the Mufulira mine.

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[209] OECD Watch, "Oxfam Canada vs. First Quantum Mining," https://www.oecdwatch.org/complaint/oxfam-canada-vs-first-quantum-mining/; [https://perma.cc/M5CK-JHW4] Cory Wanless et al., *Can the OECD Guidelines Protect Human Rights on the Ground? A Case Study. The Evictions at Mufulira by First Quantum Minerals / Mopani Copper Mines* (The Umuchinshi Initiative), https://ihrp.law.utoronto.ca/utfl_file/count/documents/WorkingGroup_Clinic/Mining%20Case%20Study.pdf [https://perma.cc/Z6XW-R8DJ]

[210] OECD Watch, ibid.

[211] Wanless et al., supra note 209.

[212] Ibid.

[213] Letter from John Gladston, supra note 109.

1.4.4. FIRST QUANTUM MINERALS

Kansanshi and Sentinel Mines, Zambia

In March 2025, British law firm Leigh Day announced it had taken legal action in the UK against FQM on behalf of Zambian farming and fishing communities. The plaintiffs in the action allege they were pushed off their land near the Kansanshi and Sentinel mines. Many of these people claim that they face “severe hardship and poverty.”[214]

Lawyer Walker Syachalinga explains:

> [r]esettled communities in Solwezi and Kalumbila say they have had their livelihoods devastated as a result of FQM’s resettlement. We believe the resettlement breaches Zambia’s Constitution and its laws on land ownership, mining and the environment. Despite FQM’s public statements to the contrary, we believe the resettlement has also failed to comply with international standards which it says it complies with. Our clients believe they have been treated appallingly and are calling for action to right these wrongs.[215]

Litigation has also been initiated in Zambia regarding displacement. The plaintiffs in those suits seek compensation for lost land.[216]

Leigh Day reports that FQM generated profits of $1.3 billion in 2024 alone. According to the firm, the Kansanshi and Sentinel mines were responsible for roughly half a billion of this income.[217]

The company added that allegations made by Leigh Day are "without merit and do not reflect the reality on the ground."[218]

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[214] Leigh Day, supra note 46.

[215] Ibid.

[216] See *Maini Joseph Mudimina & Others v Kansanshi Mine PLC*, https://www.dropbox.com/scl/fi/o4du9jpts6cyw62ufrswa/Zambia-App-149-2010-Kansanshi-Mine-PLC-and-Maini-Joseph-Mudimina-Others-24th-August-2011-Musonda-JS.pdf?rlkey=ffnf9jvxt4q9p7y40dzutm6ww&st=1r9ccn6f&dl=0 [https://perma.cc/MVN9-XTGR]. *Caesar Mali, Kifimbo Benson & 162 Others v Solwezi Municipal Council and Kansanshi Mining PLC*, [https://perma.cc/MVN9-XTGRhttps://www.dropbox.com/scl/fi/d019yuxdbb082chw5ikxl/2021-HV-06-Caesar-Mali.pdf?rlkey=e8mj4cjxpv9cbaa8w88er76be&st=j59tixde&dl=0 [https://perma.cc/4JKJ-XYJH]. We are unaware of the outcomes of these suits.

[217] Leigh Day, supra note 46.

[218] Letter from John Gladston, supra note at 109.

02

SECURITY AND VIOLENCE:

The North Mara Mine



2. SECURITY AND VIOLENCE: THE NORTH MARA MINE

The delegation was struck by the richness of the mine and the poverty of the surrounding areas.

International Commission of Jurists (2017) [1]

For an eyewitness, it's difficult to reconcile this cycle of violence with the avowed community-friendly policies of the mine's parent company …. why does Barrick continue mining in a place where bloodshed and corruption seem inescapable?

Geoffrey York, The Globe and Mail (2011) [2]

Barrick Mining Corporation (Barrick) (TSX: ABX) is among the world's largest mining companies. Its African operations include mines in the Democratic Republic of the Congo (Kibali), Tanzania (Bulyanhulu and North Mara), Mali (Loulo-Gounkoto), Côte d'Ivoire (Tongon), and Zambia (Lumwana). More information about Barrick can be found in the conflict, economic diplomacy, environment, displacement, labour, and silencing critique chapters.

Opened in 1996, the North Mara mine is situated amid seven villages. By 2022, an estimated 22,000 households had been displaced by the mine. After an overview of relevant international standards and Barrick's corporate structure in Parts 1 and 2, Part 3 of this chapter describes how the mine has been lucrative for its owners even as widespread poverty has persisted in the seven villages. According to numerous sources, this poverty has led to "intrusions" on the mine site by Tanzanians seeking to extract traces of gold from the huge piles of waste rock discarded by the mine. To prevent the intrusions, the mine built concrete barriers and used barbed wire to keep people out, but the intrusions nonetheless continued. As recently as January 2025, lawyers for Barrick described the mine as an "armed encampment" with almost daily violent interactions between the intruders and Tanzanian police.[3]

Violence has long been a part of the North Mara gold mine's history. This chapter summarizes reports of deaths and injuries in and around the mine, including an estimate of almost 100

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[1] International Commission of Jurists, *The International Commission of Jurists concludes visit to North Mara mine in Tanzania* (September 1, 2017), at 3, https://www.icj.org/wp-content/uploads/2017/09/Tanzania-BHR-mission-North-Mara-News-Features-article-2017-ENG.pdf [https://perma.cc/B2NX-5NHE].

[2] Geoffrey York, "Barrick's Tanzanian project tests ethical mining policies," The Globe and Mail (September 29, 2011), https://www.theglobeandmail.com/report-on-business/rob-magazine/barricks-tanzanian-project-tests-ethical-mining-policies/article559188 [https://perma.cc/C2XV-WRSB].

[3] Geoffrey York, "Barrick mine site in Tanzania has become 'armed encampment,' company says," The Globe and Mail (January 5, 2025), https://www.theglobeandmail.com/business/article-barrick-mine-site-in-tanzania-has-become-armed-encampment-company-says/?login=true [https://perma.cc/5FMG-QCU6].

Tanzanians killed and hundreds more injured by mine security and the Tanzanian police since Barrick took over in 2006. As we outline in Part 4, Tanzanian government inquiries, Tanzanian NGOs, international NGOs, and journalists have all separately reported on these deaths. We recount recent reports from villagers who say that the police are violent both when they enter the mine to remove intruders and outside the mine as they detain people whom they accuse of having intruded on the site. Barrick denies responsibility for police actions, despite contracting the police to provide mine security,[4] as the force is under its own "chain of command."

Part 5 concludes the chapter with a sketch of four lawsuits launched in relation to the North Mara mine. Ultimately, this chapter asks whether the arrangement between the mine and the Tanzanian police complies with international standards and what responsibility the mine and Barrick, as the parent company, bear for the alleged abuses at North Mara.

2.1. INTERNATIONAL STANDARDS ON SECURITY SERVICES FOR MINES

The 2018 guidance from the African Commission on Human and Peoples' Rights for extractive industries on the application of the *African Charter on Human and Peoples' Rights*[5] includes the following regarding security:

> [c]ompanies [...] bear responsibility for the activities or actions of those that act on their behalf or to their benefit including the private security companies they use for securing their facilities and personnel. Accordingly, they should ensure that such activities or actions undertaken on their behalf or to their benefit do not cause harm or result in interference in the enjoyment of protected rights. Where such activities or actions result in curtailment or interference with the rights protected in the African Charter, the company on whose behalf or to whose benefit those activities or actions have been taken should bear administrative, civil and/or criminal responsibility as applicable.[6]

[4] This is how an Ontario court characterized the legal relationship between the North Mara mine and the Tanzania Police Force (*Matiko John v. Barrick Gold Corporation*, 2024 ONSC 6240, para 8).

[5] Organization of African Unity, *African (Banjul) Charter on Human and Peoples' Rights* (1981). https://treaties.un.org/doc/Publication/UNTS/Volume%201520/volume-1520-I-26363-English.pdf [https://perma.cc/AX7J-5ZM5].

[6] African Commission on Human and People's Rights, *State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment* (2018), at para 62, https://achpr.au.int/en/node/845 [https://perma.cc/G222-WDYQ].

Other international standards governing the use of security services at mines include: the *Voluntary Principles on Security and Human Rights* (*Voluntary Principles)*,[7] the International Finance Corporation's *Good Practice Handbook: Use of Security Forces: Assessing and Managing Risks and Impacts Guidance for the Private Sector in Emerging Markets* (*IFC Security Guidance*),[8] and the World Gold Council's *Conflict-Free Gold Standard* (*Gold Standard*).[9]

All three standards stipulate that companies should ensure that their private security providers and the public police protecting their mines adhere to international human rights standards. According to the *Voluntary Principles*,

> [a]lthough governments have the primary role of maintaining law and order, security and respect for human rights, [c]ompanies have an interest in ensuring that actions taken by governments, particularly the actions of public security providers, are consistent with the protection and promotion of human rights.[10]

The *Voluntary Principles* provide guidance to companies on the use of private security personnel and their relationships with national police. The principles were developed in 2000 through a multi-stakeholder initiative that included governments, extractive companies, and NGOs. For example, the Government of Canada, Barrick Mining Corporation, and Human Rights Watch are all members. While the only mechanism includes a complaints process, it is restricted to members (i.e., there is no process for complaints from communities or individuals who are adversely affected by private security forces employed by extractive companies).[11] In 2013, Amnesty International and Oxfam America left the initiative, citing the absence of an effective accountability system.[12]

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[7] The Voluntary Principles Initiative, *Voluntary Principles on Security and Human Rights* (2000). https://www.voluntaryprinciples.org/wp-content/uploads/2023/10/Voluntary-Principles_ENGLISH.pdf. [https://perma.cc/89LH-ASLZ]

[8] International Finance Corporation, *Good Practice Handbook – Use of Security Forces: Assessing and Managing Risks and Impacts Guidance for the Private Sector in Emerging Markets* (2017), https://www.ifc.org/content/dam/ifc/doc/mgrt/p-handbook-securityforces-2017.pdf [https://perma.cc/4PTM-6J5P].

[9] World Gold Council, *Conflict-Free Gold Standard* (2012), https://www.gold.org/sites/default/files/documents/Conflict_Free_Gold_Standard_English.pdf [https://perma.cc/6667-YR8A].

[10] Voluntary Principles, supra note 7, at 4.

[11] The Voluntary Principles Initiative, *The Voluntary Principles on Security and Human Rights Governance Rules* (2021), Appendix 2, https://www.voluntaryprinciples.org/wp-content/uploads/2021/05/VPI-Governance-Rules-adopted-April-9-2021.pdf [https://perma.cc/5967-TF7Z].

[12] Amnesty International, "Amnesty International withdrawal from the Voluntary Principles on Security and Human Rights," (June 3, 2013), https://www.amnesty.org/en/documents/IOR40/003/2013/en [https://perma.cc/MU5W-NEJP]; Business and Human Rights Centre, "Oxfam leaves Voluntary Principles for Security and Human Rights multi-stakeholder initiative," (April 16, 2013), https://www.business-humanrights.org/en/latest-news/oxfam-leaves-voluntary-principles-for-security-and-human-rights-multi-stakeholder-initiative [https://perma.cc/V8UC-6B98].

The International Finance Corporation issued the *IFC Security Guidance* in 2017[13] to emphasize that private security and public police must adhere to international human rights standards. No mechanism exists to process complaints about a failure to meet the standards set out in the *IFC Security Guidance*.

The World Gold Council's *Gold Standard* was introduced in 2012 to help ensure that gold does not contribute to armed conflict and human rights violations. However, the organization does not independently certify or accredit a company's compliance with the standard: "[c]onformance with the Conflict-Free Gold Standard is solely a matter for implementing companies and their assurance providers."[14] In other words, companies themselves certify their compliance, and there is no external mechanism for complaints. Barrick is a member of the World Gold Council.

Since the Voluntary Principles, IFC Security Guidance, and Gold Standard lack independent enforcement mechanisms, litigation has emerged as an alternative grievance mechanism for victims of North Mara security forces. Refer to Part 7 for details on lawsuits seeking to hold Barrick and its subsidiaries accountable for alleged human rights violations committed by North Mara security.

2.2. CORPORATE OWNERSHIP OF THE NORTH MARA MINE

Commercial gold development at the North Mara site began in 1996. From 2003 to 2006, the mine was operated by the Canadian mining company Placer Dome. Barrick acquired the mine when it purchased Placer Dome in 2006.[15]

In 2010, Barrick established a United Kingdom subsidiary, African Barrick Gold, to own its African assets.[16] Four years later, it was renamed Acacia Mining (Acacia).[17] In 2017, Acacia and the Government of Tanzania became embroiled in a tax dispute (see the chapter on economic diplomacy). As part of its strategy to resolve this dispute, Barrick delisted Acacia in 2019 and took

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[13] IFC, supra note 8.

[14] World Gold Council, "Responsible Gold Mining Principles (RGMPs) Implementation and Assurance," https://www.gold.org/industry-standards/responsible-gold-mining/rgmpstm-implementation-and-assurance [https://perma.cc/4JS5-SXY3].

[15] York, supra note 2.

[16] Barrick Gold Corporation, *Annual Information Form For the year ended December 31, 2014* (March 27, 2015), at 31, https://www.sedarplus.ca/csa-party/records/document.html?id=a5ba8b73f3ebb1a709a5a466af3b8a3059315bc9800d93be0f0cd236b358db54 [https://perma.cc/NS7R-6L7U].

[17] Cecilia Jamasmie, "African Barrick is history, changes name to Acacia Mining," mining.com (November 27, 2014), https://www.mining.com/african-barrick-is-history-changes-name-to-acacia-mining-31334 [https://perma.cc/KU86-P974].

operational control of the North Mara mine. Barrick then entered into a joint venture with the Tanzanian government, called Twiga Minerals, granting the government a 16% ownership interest in its projects in that country.[18] Barrick's Tanzania subsidiary, North Mara Gold Mining Ltd (NMGM), has operated the mine at all times.

Throughout this period, the parent company, Barrick Gold Corporation (now Barrick Mining Corporation), reported to securities regulators and investors on the activities and finances of its mines in Tanzania, and accrued profits generated by the mines. Nonetheless, Barrick, the parent company, may distance itself from the alleged human rights abuses associated with its subsidiaries in Tanzania, claiming that the subsidiaries are separate entities that operate independently of the parent company.[19]

2.3. DISPLACEMENT AND "INTRUDERS"

The North Mara mine lies in close proximity to seven villages. The boundary between the mine and the villages is often unclear, sometimes only demarcated by large rocks or a dirt road.[20] Most residents in this area are Kurya people, who traditionally depended on agriculture and pastoralism before the mine's development in 1996. Cattle husbandry was an important part of their cultural identity.[21] They have also traditionally engaged in small-scale mining.[22]

The establishment and expansion of the North Mara mine have displaced approximately 22,000 households, and further displacement is likely as the mine continues to expand.[23] As detailed further in the chapter, Himiza Social Justice, a Tanzanian non-governmental organization, reports that the loss of land has prevented displaced Kurya villagers from reestablishing their agricultural

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[18] Barrick Gold Corporation, "The Launch of Twiga Minerals Heralds Partnership Between Tanzanian Government and Barrick," (October 20, 2019), https://www.barrick.com/English/news/news-details/2019/The-Launch-of-Twiga-Minerals-Heralds-Partnership-Between-Tanzanian-Government-and-Barrick-/default.aspx [https://perma.cc/G7Q4-Z3KK].

[19] See *Matiko John*, supra note 4.

[20] RAID, *Briefing Paper: Barrick's Tanzania Gold Mine One of the Deadliest in Africa* (November 2022), at 10, https://raid-uk.org/wp-content/uploads/2023/04/barrick_gold_north_mara_tanzania_press_briefing_november_2022.pdf [https://perma.cc/P2BY-UESY].

[21] A.E. Majule, "Towards sustainable management of natural resources in the Mara river basin in Northeast Tanzania," Journal of Ecology and the Natural Environment Vol 2 (10), (2010): 213-224. http://www.academicjournals.org/jene/, [https://perma.cc/TG2L-Y54D]

[22] RAID, supra note 20 at 8; Pasience Mlowe and Onesmo Olengurumwa, *Fact Finding Mission Report. Killings Around North Mara Gold Mine: The Human Cost of Gold* (Legal and Human Rights Centre, 2011), at 4, https://justice-project.org/wp-content/uploads/2024/12/2011-LHRC-KillingsAroundNorthMaraMine.pdf [https://perma.cc/KSR3-SJME].

[23] See section 1.1.1 in the Displacement chapter for more details.

and herding economy, leading to their impoverishment.[24] Community members report taking on debt.[25] Evicted villagers told MiningWatch Canada that they struggled to feed their families.[26] Barrick denies that forced evictions took place at North Mara.[27] The company reports that displaced people were "fully compensated and relocated."[28]

The mine's "intruders" are often locals who enter the project site to scavenge for gold in the waste rock, often to supplement their incomes or support their families. The rock, deposited in large piles on mine property, contains too little gold for commercially viable extraction. However, the rock contains recoverable traces of gold that can be recovered through crushing and grinding with hand tools.

The number of intruders has fluctuated. In 2011, reports indicated that hundreds entered the mine illegally every day.[29] By 2016, however, an official with Acacia claimed that there had been a 99% reduction and that there were fewer than ten intruders per month.[30] The situation appears to have deteriorated after Barrick retook control of the mine in 2019,[31] with reports of roughly 60 invasions per month.[32] The mine has attempted to stop the intrusions with concrete barriers, barbed wire,

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[24] Himiza Social Justice, *Social and economic impacts of land acquisition by Barrick North Mara Gold Mine in Tanzania: A case study of Komarera, Kewanja and Mjini Kati villages in Tarime District, Mara Region* (April 2024), at 14, https://ipisresearch.be/wp-content/uploads/2024/07/20240723_VoicesTanzania-Himiza_North-Mara-gold-mine.pdf [https://perma.cc/URC5-F84Z].

[25] Ibid at 15.

[26] Catherine Coumans, *Evicted for Gold Profits: Indigenous Kuria forced off land in expansion of Barrick Gold's North Mara Gold Mine in Tanzania* (MiningWatch Canada, December 2023), at 13, 22, https://miningwatch.ca/sites/default/files/2023-11_EvictedForGoldProfits_NorthMara.pdf [https://perma.cc/XTT2-NSBT].

[27] Barrick Gold Corporation, "Barrick Provides Detailed Response to Unsubstantiated UN Human Rights Allegations" (June 20, 2024), at 3, https://s25.q4cdn.com/322814910/files/doc_downloads/north_mara/Barrick_UNHRC_Response_062024.pdf, [https://perma.cc/7YSC-K6TA]

[28] Ibid at 27.

[29] York, supra note 2.

[30] Geoffrey York, "Police killed 65, injured 270 at Barrick mine in Tanzania, inquiry hears," The Globe and Mail (September 22, 2016), https://www.theglobeandmail.com/report-on-business/international-business/african-and-mideast-business/police-killed-65-injured-270-at-tanzanian-mine-inquiry-hears/article32013998 [https://perma.cc/7MLQ-FXYU].

[31] Geoffrey York, "Barrick mine site in Tanzania has become 'armed encampment,' company says," The Globe and Mail (January 5, 2025), https://www.theglobeandmail.com/business/article-barrick-mine-site-in-tanzania-has-become-armed-encampment-company-says/?login=true [https://perma.cc/GP7G-JZAH].

[32] Tranquility News, "The reason Human Rights Watch should revisit its report on deaths at North Mara Gold Mine" (June 16, 2024), https://tranquilitynews.com/the-reason-human-rights-watch-should-revisit-its-report-on-deaths-at-north-mara-gold-mine [https://perma.cc/57FB-X8AR].

and an electric fence,[33] but intrusions have continued, as have the deadly clashes involving the mine's internal private security or the Tanzanian police.

In 2024, then CEO Mark Bistrow responded to concerns about mine violence raised by several United Nations special rapporteurs. He attributed the violence to a criminal syndicate, claiming that the intruders were not "poor, destitute villagers":

> Illegal mining is supported by a criminal syndicate which is responsible for encouraging and sponsoring armed, coordinated and large (between approximately 50 - 100 individuals) illegal incursions into the North Mara Gold Mine.[34]
>
> These intrusions are not by poor, destitute villagers that are trying to eke out a living and driven to desperation, nor are they the outcome of 'lost livelihoods' due to the presence or expansion of the mine. This is a coordinated criminal syndicate that operates with impunity.[35]

Evidence indicates that criminal activity was occurring at the mine. A Criminal Economies report prepared for Acacia Mining found that the mine was losing US$11.6 to US$31.65 million to corruption every year.[36] Part 4.2 examines the syndicate in greater detail. This amount far exceeds the cost of scavenged waste rock to the mine; according to the Criminal Economies report, around 2017, community members' scavenging of waste rock resulted in a loss of just US$200,000 annually.[37]

Reports spanning 2010 to 2025 consistently link incursions at North Mara to poverty and the search for gold-bearing waste rock. In 2010, Bloomberg described impoverished villagers searching the mine's daily waste output for traces of gold, against a poorly marked boundary between the mine and surrounding villages.[38] The following year, researchers from Tanzania's

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[33] In 2011, Barrick spent $14 million to build a concrete wall for 14 km around the mine. See Geoffrey York, "Deadly clashes continue at African Barrick gold mine," The Globe and Mail (August 26, 2014), https://www.theglobeandmail.com/report-on-business/international-business/deadly-clashes-continue-at-african-barrick-gold-mine/article20216197 [https://perma.cc/VHJ2-3L8D]; Letter from Mark Bristow, supra note 27.

[34] Letter from Mark Bristow, supra note 27, at 3.

[35] Ibid at 23.

[36] Europe Conflict and Security Consulting, *Criminal Economies in and around the North Mara mine* (November 17, 2017), at 3, (page 116 of the court disclosure), https://bit.ly/4h5cWmp [https://perma.cc/QNV4-ZK4Z]. This report is included in documents submitted by Barrick for a court case in the High Court of Justice in London.

[37] Ibid at 9.

[38] Bloomberg, "At Tanzanian Gold Mine Life is Cheap," (December 22, 2010), https://www.bloomberg.com/news/photo-essays/2010-12-22/at-tanzanian-gold-mine-life-is-cheap [https://perma.cc/ZLJ9-VVZ5]

Legal and Human Rights Centre reported that communities dispossessed of land previously used for small-scale mining remained in "abject poverty" despite the presence of a large multinational mine. [39] Investigating the police killing of five villagers, the researchers rejected official characterizations of the victims as "muggers". They found that the victims were local gold seekers who had reportedly arranged with police and mine security personnel to collect waste rock after blasting and were shot when security personnel turned against them during an inspection.[40]

Tanzanian officials and international observers later reached similar conclusions about the economic conditions driving incursions. Following a three-day visit in 2014, the Permanent Secretary of the Ministry of Energy and Minerals, Eliakim Maswi, linked frequent incursions to high youth unemployment and urged the mine to work with village leaders to develop alternative livelihoods.[41] In 2017, an International Commission of Jurists delegation described the region as poor, with basic infrastructure and few economic opportunities beyond subsistence farming and gold mining.[42] A 2025 Sunday Times report likewise noted that more than 80% of the Mara region's population lived on less than US$3.65 per day, concluding that villagers sought gold scraps out of desperation.[43]

Residents have explained that farming alone cannot support their families and that many possess no livelihood skills other than mining. One village leader told UK-based NGO Rights and Accountability in Development (RAID) in 2022 that people would continue entering the mine despite the risk of being shot because they needed the waste rock to survive.[44]

The paradox between the mine's wealth and local poverty, and the violence it has led to, raises questions about why the mine has opted to restrict access to its waste rock. The International Commission of Jurists has criticized the mine's original design for failing to anticipate that nearby residents would recover gold from its enormous waste piles. According to the Commission, mine operators typically deliver gold-bearing waste rock to local small-scale miners, who are incentivized to extract the gold that is of little value to the mine.[45] Community members confirmed with RAID that the mine had once distributed the rock, but had since stopped even though many

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[39] Mlowe and Olengurumwa, supra note 22, at 4.

[40] Ibid at 9.

[41] Letter from E.C. Maswi, Permanent Secretary, Ministry of Energy and Minerals, The United Republic of Tanzania, to Mr. Deo Mwanyika, Vice President, African Barrick Gold (November 19, 2014), at 3, https://raid-uk.org/wp-content/uploads/2023/04/mem_problems_at_north_mara_nov_2014_c.pdf [https://perma.cc/PW6R-FWTV].

[42] International Commission of Jurists, supra note 1, at 2.

[43] Jack Denton, "The $1bn gold mine bringing death to desperate villagers: As the price of the precious metal urges, so does kidnapping, torture and political repression in a country once seen as one of Africa's safest," The Sunday Times (August 15, 2025), https://www.thetimes.com/world/africa/article/tanzania-gold-mining-cblg309sz.[https://perma.cc/GP8D-5JAP]

[44] RAID, supra note 20, at 12.

[45] International Commission of Jurists, supra note 1, at 2.

families continued to depend on it. As one resident explained, villagers entered the site "just [...] to get waste rocks," not to steal from "the white man's house." [46]

Regardless of the minimal value of the gold contained in the waste rock, Barrick stated that it would not make the rock accessible because this "not only ignores the illegalities of such actions, but actively supports the criminal behaviours, child labour and environmental impacts of these illegal activities."[47]

2.4. ALLEGED SECURITY FORCE ABUSES AND IMPUNITY

The North Mara mine has experienced persistent violence since its opening. According to the Sunday Times, security guards or police have killed "at least 96 people" and injured hundreds more, mostly since 2006 when Barrick acquired the mine from Placer Dome.[48] In 2020, arms were taken away from the private security force at the mine, and enforcement transferred to a detachment of the Tanzania Police Force. The TPF is accused of using extreme violence and of failing to take disciplinary action against its own officers. According to an internal report from Acacia Mining, the TPF colluded with organized crime to steal from the mine it is supposed to protect.[49]

2.4.1. VIOLENCE AT THE MINE

The mine's history of violence includes an admission by African Barrick Gold that its security guards and police officers sexually assaulted 14 women near North Mara around 2011.[50] Sexual violence has also occurred at other Barrick mines. Also in 2011, a court record indicates that Nicodemu Mwita, the Chief Security Officer at the Bulyanhulu mine owned by African Barrick Gold, was dismissed. One of his officers was demanding sex from female security officers, and Mwita

[46] RAID, supra note 20, at 12; see also MiningWatch Canada, *Reported Violence against Indigenous Kuria by Mine Police at Barrick Gold's North Mara Gold Mine during 2023-2024* (October 2024), https://miningwatch.ca/sites/default/files/brief_northmara_2024.pdf [https://perma.cc/A4PH-FY88].

[47] Letter from Mark Bristow, supra note 27, at 15.

[48] Denton, supra note 43; RAID, supra note 20; MiningWatch Canada, supra note 46.

[49] Geoffrey York, "Criminal syndicate at Barrick subsidiary's mine was pocketing up to US$31-million, report found," The Globe and Mail (September 21, 2023), https://www.theglobeandmail.com/business/article-criminal-syndicate-at-barrick-subsidiarys-mine-was-pocketing-up-to [https://perma.cc/JT8H-58XJ].

[50] Geoffrey York, "African Barrick to compensate rape victims," The Globe and Mail (December 19, 2013), https://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/african-barrick-to-compensate-assault-victims/article16063262 [https://perma.cc/8LTN-6SE4].

colluded with the officer to fire the women who refused. Although the female officers complained to him, he did not report the sexual harassment to his superiors.[51]

That same year, Barrick also acknowledged a rape problem at its mine in Papua New Guinea.[52] Barrick had received reports over five years that women were being gang raped by security guards. Then CEO Peter Munk brushed off these accusations in a 2011 interview with The Globe and Mail, saying that he could not be expected to control his employees, especially in countries where "gang rape is a cultural habit."[53]

At the North Mara mine, Barrick maintained that it responded immediately to the complaints in 2011.[54] It appears, however, that compensation was not provided to the women until 2013.[55] One of the victims told reporters she received about US$8,600 and was told to sign papers she did not understand that foreclosed further action on her part.[56]

Beyond the sexual assaults, numerous reports describe deaths, injuries, and torture at the North Mara mine and in the surrounding villages. In 2010, Bloomberg News reported that "according to interviews with 27 people, including victims' relatives, witnesses, local officials, and human rights workers ... [o]ver the past two years, at least seven people have been killed at the mine and 15 seriously wounded."[57]

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[51] *Nicodemu G. Mwita v. Bulyanhulu Gold Mine Ltd*., High Court of Tanzania, High Court Labour Division at Shinyanga (November 15, 2013), https://compendium.itcilo.org/en/compendium-decisions/supreme-court-of-tanzania-labour-chamber-nicodemu-mwita-v-bulyanhulu-gold-mine-review-no-12-of-2013-15-november-2013/at_download/attachedfile [https://perma.cc/PP26-KDXY]. To our knowledge, this is the first time these incidents at the Bulyanhulu mine are being made public.

[52] Barrick, "Response to Human Rights Watch Report" (February 1, 2011), https://www.barrick.com/news/news-details/2011/Response-to-Human-Rights-Watch-Report [https://perma.cc/E6PA-PV56].

[53] Michael Posner, "Peter Munk's reflections on being a winner," The Globe and Mail (February 18, 2011), https://www.theglobeandmail.com/news/national/peter-munks-reflections-on-being-a-winner/article567172 [https://perma.cc/5N5Q-U2XK].

[54] Barrick, "Statement from Barrick Gold Corporation concerning the North Mara Mine, Tanzania" (May 30, 2011), https://www.barrick.com/English/news/news-details/2011/Statement-from-Barrick-Gold-Corporation-concerning-the-North-Mara-Mine-Tanzania/default.aspx [https://perma.cc/J4AV-FEQ2].

[55] York, supra note 49.

[56] Marion Guégan and Cécile Schilis-Gallego, "Silence is golden for a Tanzanian mine," Forbidden Stories (June 17, 2019), https://forbiddenstories.org/silence-is-golden-for-a-tanzanian-mine [https://forbiddenstories.org/silence-is-golden-for-a-tanzanian-mine]; Jonathan Watts, "Murder, rape and claims of contamination at a Tanzanian goldmine," The Guardian (June 18, 2019) https://www.theguardian.com/environment/2019/jun/18/murder-rape-claims-of-contamination-tanzanian-goldmine.[https://perma.cc/639T-DNHC]

[57] Bloomberg, supra note 37; The East African, "Acacia Under Pressure for 'Human-Rights Violations" (June 15, 2010), https://allafrica.com/stories/201906170271.html.[https://perma.cc/AB9X-8K7K]

In 2011, the Legal and Human Rights Centre from Dar es Salaam visited surrounding villages and interviewed government officials, local leaders, and relatives of people who had been killed. Besides investigating the killing of five villagers by police, the researchers recorded 16 other deaths in 2009 and 2010.[58]

In 2016, the Tanzanian government appointed a commission to investigate conditions at the North Mara mine, which reported receiving complaints about 65 deaths and 270 injuries, allegedly at the hands of the police.[59] That year, two NGOs, MiningWatch Canada and RAID, visited the area and confirmed reports regarding the killings and injuries.[60] Acacia, on the other hand, said that there were no fatalities: "[t]here have been no fatalities at North Mara due to Acacia security personnel and no fatalities as a result of unlawful action by the police during the period they refer to."[61]

Since Barrick entered into a contract with TPF to provide mine security, the mine's private security company has a "policy of disengagement at that site." According to a 2024 assessment by the International Code of Conduct Association,[62] this means the mine's security calls TPF when there is a problem and, "[o]nce the police intervene, the matter is handed over to the police to manage."[63] As a result of this practice, human rights assessments of the mine's private security company are generally positive, as its personnel are not involved in confronting intruders.[64]

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[58] Mlowe and Olengurumwa, supra note 22, at 9.

[59] York, supra note 29.

[60] MiningWatch Canada and RAID, *Background Brief: Adding Insult to Injury at the North Mara Gold Mine, Tanzania* (September 2016), at 2-3, https://miningwatch.ca/sites/default/files/adding_insult_to_injury_north_mara_0.pdf [https://perma.cc/4D9D-PC7Q].

[61] Acacia Mining, "Response to Globe and Mail Article" (September 23, 2016, https://web.archive.org/web/20161204133230/http:/www.acaciamining.com/media/press-releases/2016/2016-09-23.aspx [https://perma.cc/J88G-2F99].

[62] The Responsible Security Association, *International Code of Conduct for Private Security Service Providers* (December 10, 2021), https://icoca.ch/the-code [https://perma.cc/SL3H-8K4C].

[63] The Responsible Security Association, *ICoCA Summary Report of Field-Based Review: SGA Tanzania, at Barrick's North Mara Gold Mine, Tanzania* (December, 2024), at 2, https://icoca.ch/wp-content/uploads/2024/12/ICoCA-SGA-Barrick-North-Mara-Summary-Statement-Final-Version.pdf?utm_source=copilot.com [https://perma.cc/6LTR-Z4ES].

[64] In addition to the ICoCA evaluation, the following evaluations look at the private security company, but do not evaluate the Tanzania Police Force: Synergy Global Consulting Ltd., MMTC-PAMP North Mara Gold Mine Independent Assessment. Ongoing monitoring of risk management – On-site assessment report, Executive Summary (September 2022), https://www.mmtcpamp.com/documents/41872/225059/22_09_12-NMGM-On-site+assessment-Synergy-report-ExecSumma¬ry-12Sep22.pdf [https://perma.cc/45V2-GKCF]; *Investigation by the Tanzanian Commission for Human Rights and Good Governance*, letter from Mathew P.M. Mwaimu, Chairperson to Melkiory Ngindo, Resident Manager, North Mara Mine (August 13, 2024) [https://perma.cc/9ZUZ-ZM32].

It is a different story with the TPF. Former mine security officers interviewed by RAID thought that police intervention made the situation worse:

> […] the tactics used by the police were regarded by the mine's security personnel as frequently disproportionate and violent. One former member of the internal security team, who had patrolled inside the mine for many years said that the police brought "conflict" and caused "more violence at the mine." Another longstanding former member of the same team told RAID that "[m]y work would have been way better without the police." He said, "if the police came, the only result would be injuries or death."[65]

A former security officer at North Mara described incidents to The Globe and Mail in which the police fired live ammunition at intruders, three of which resulted in fatalities. According to the security officer, "[o]n a regular basis, you'd see them [Tanzanian police] beating up intruders with big long sticks, shooting them, just abusing them." Barrick did not reply to multiple requests from The Globe and Mail to comment on these allegations.[66]

From 2022–2025, RAID, MiningWatch Canada, Human Rights Watch, and a Sunday Times reporter have all verified different instances of police violence at the mine. Villagers alleged: killings;[67] violent beatings and other forms of torture by the police on and off site; being detained for weeks after gunshot wounds, sometimes in degrading conditions;[68] being denied medical attention after suffering injuries;[69] and regular raids in the local villages by the police.[70]

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[65] RAID, *Briefing Paper: Police Violence at the North Mara Mine* (March 2022), at 15, https://raid-uk.org/wp-content/uploads/2023/03/barrick-north-mara-police-violence-briefing-march-2022.pdf [https://perma.cc/BT7D-5Z3P].

[66] Geoffrey York, "Barrick ordered to produce thousands of documents related to police violence at Tanzania mine," Globe and Mail (April 14, 2022), https://www.theglobeandmail.com/business/article-barrick-ordered-to-produce-thousands-of-documents-related-to-police [https://perma.cc/EA7G-FBD4].

[67] Human Rights Watch, "Tanzania: Police Linked to Killings at Gold Mine: Ensure Independent Investigations; Prosecute Those Responsible" (June 12, 2024), https://www.hrw.org/news/2024/06/12/tanzania-police-linked-killings-gold-mine [https://perma.cc/G38M-QXXW].

[68] Denton, supra note 43.

[69] RAID, "Barrick's Tanzania gold mine one of the deadliest in Africa" (November 11, 2022), https://raid-uk.org/barricks-tanzania-gold-mine-one-of-the-deadliest-in-africa [https://perma.cc/W6KT-CTXX].

[70] MiningWatch Canada, *Reported Violence against Indigenous Kuria by Mine Police at Barrick Gold's North Mara Gold Mine during 2023-2024* (October 2024), at 3, https://miningwatch.ca/sites/default/files/brief_northmara_2024.pdf [https://perma.cc/A9A4-RVK4].

Barrick denied the reports,[71] saying the allegations were "unsubstantiated"[72] and that it was not responsible for the police's actions.[73] Barrick went so far as to direct the Sunday Times reporter to report incidents to the Tanzanian Commission on Human Rights and Good Governance (CHRAGG) for investigation.[74] In the displacement chapter, we question whether the CHRAGG is an appropriate investigative body, given that it does not appear to apply international standards when evaluating whether a human rights violation has occurred.

2.4.2. POLICE CORRUPTION

According to reports from the Tanzanian Legal and Human Rights Centre in 2011, residents widely understood that certain police officers would accept bribes to allow intruders onto the mine site. The local police reportedly profited from the bribes:

> The practice of "Mchongo" in the area, making a deal with police or security for access to resources, creates perverse incentives for police officers. Villagers around the mine reportedly pay police between 30,000/= and 50,000/= per person in order for them to access the waste rock site. The "Mchongo" has been used many times and it has been a major source of income for Police officers working in the Mine site.[75]

This practice continued in subsequent years. In his 2014 letter to African Barrick Gold, E.C. Maswi, Tanzania's Permanent Secretary, Ministry of Energy and Minerals, reported hearing that "some of the Police collude with some of the intruders by allow (sic) them to enter and get low grade rocks from the mine."[76] In 2022, The Globe and Mail spoke to a former member of the mine's private security team who said that police were involved in corruption, including accepting bribes from trespassers.[77] And in 2024, a Tanzanian newspaper reported the account of a villager who

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[71] For Barrick's positions, see correspondence between Barrick and RAID, including the letter from Barrick's lawyers, Wilbert Kapinga (Bowmans Tanzania Ltd.) to Anneke Van Woudenberg (March 7, 2022), https://raid-uk.org/wp-content/uploads/2023/04/correspondence_barrick-raid_february_2022.pdf [https://perma.cc/Y978-SASS].

[72] Barrick, "Barrick Provides Update to Unsubstantiated Human Rights Allegations" (October 7, 2024), https://www.barrick.com/English/operations/north-mara/mining-with-integrity/barrick-provides-update-to-unsubstantiated-human-rights-allegations [https://perma.cc/7DJG-JCTH}.

[73] Letter from Mark Bristow, CEO, Barrick Gold to Oryem Nyeko, Human Rights Watch (June 11, 2024), https://www.hrw.org/sites/default/files/media_2024/06/Letter%20from%20Barrick%20in%20response%20to%20HRW%20-%20June%2011%2C%202024.pdf [https://perma.cc/K5J3-RVRC].

[74] Barrick, "Response to The Sunday Times" (August 17, 2024), https://www.barrick.com/English/operations/north-mara/mining-with-integrity/response-to-the-sunday-times/default.aspx [https://perma.cc/JQV2-EQ5W].

[75] Mlowe and Olengurumwa, supra note 22, at 14.

[76] Letter from E.C. Maswi, supra note 41, at 2.

[77] York, supra note 49.

was injured because the police officers who were usually bribed were not present, leading him to be attacked by other officers.[78]

In 2024, the United Nations Special Procedures asked Barrick to respond to allegations of "police solicitation for payments from community members in return for access to less secure areas of the mine, where such members can search for gold-bearing material […]."[79] Barrick did not address the issue in its reply to the Special Procedures.[80]

Despite its refusal to respond, Barrick possessed an internal report from 2017 documenting allegations that the North Mara mine had been infiltrated by a criminal gang that colluded with the Tanzania Police Force, according to reporting by The Globe and Mail. Barrick did not respond to questions from a reporter about this issue.[81] However, the report shows that the syndicate did not rely on the poor-quality waste rock accessed by the villagers. Instead, the gang moved large volumes of high-quality rock and equipment in a sophisticated operation. According to the report, the syndicate likely had a strong internal intelligence gathering capacity (commercial, operational), which included over-watch during theft operations; along with a robust operational capacity that involved the ability to detect, monitor, and to a certain extent, manipulate company counter-measures, move small and large stolen items using company and public security assets, and rapidly adjust exit routes following detection; that it included and co-opted national/international Acacia staff and contractors, private and public security personnel; and that it had an ability to manage/coordinate a network of co-opted persons.[82]

8.4.3. POLICE IMPUNITY

A recurring concern is that the police are not held accountable for human rights violations. The issue was raised in the Legal and Human Rights Centre's 2011 report: "[a]bout 50 people have been killed around the mine since 2002 yet no any (sic) perpetrator has been arrested."[83]

In 2022, when RAID asked the Tanzania Police Commissioner of Operations and Training about the allegations of violence, he said: "[t]hese people cannot complain because they are criminals."[84] RAID found no evidence of police discipline.

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[78] Tranquility News, supra note 32.

[79] United Nations, Joint Communication from Special Procedures, AL OTH 44/2024 (April 22, 2024), at 11, https://s25.q4cdn.com/322814910/files/doc_downloads/north_mara/UNHRC_Joint_Communication_22042024.pdf [https://perma.cc/RL5B-RNE3].

[80] Letter from Mark Bristow, supra note 27.

[81] York, supra note 49.

[82] Europe Conflict and Security Consulting, supra note 36 at 12.

[83] Mlowe and Olengurumwa, supra note 22, at 21.

[84] RAID, supra note 20, at 14.

After linking police officers guarding the mine to the killing of six individuals between February and May 2024, Human Rights Watch noted that authorities had made no arrests in relation to the deaths.[85]

8.5. LITIGATION

Three lawsuits alleging abuses at North Mara have been filed against Barrick and its subsidiaries in the UK and Canada. A fourth action was filed against the London Bullion Market Association regarding the certification of the gold extracted from the mine.

In the first lawsuit, filed in 2013, villagers sued Barrick's subsidiary, African Barrick Gold, in the British High Court. The plaintiffs alleged that the company was responsible for killings and injuries caused by the mine's security personnel. The company denied the allegations.[86] Before the case could be heard in England, African Barrick Gold attempted to circumvent the British court by serving papers directly on the Tanzanian complainants, requiring them to appear in a court in Tanzania. According to the British lawyers representing the villagers, "[t]hese papers demanded that our clients, who do not have Tanzanian lawyers, promptly appear before a court that is some 1,200 kilometres and a two-day bus ride away from where they live." A British judge was highly critical of African Barrick Gold, calling the tactic a "Tanzanian torpedo."[87] The company denied any intention to make a "pre-emptive strike" to force the dispute into Tanzanian courts.[88] The British court issued an injunction to prevent African Barrick Gold from continuing proceedings in Tanzania. In 2015, African Barrick Gold settled the case in Britain and paid an undisclosed sum as compensation.[89]

In 2020, plaintiffs from villages near the mine filed a lawsuit against two of Barrick's subsidiaries in the British High Court. The plaintiffs included the father of a young girl who was killed when a mine vehicle allegedly ran her over. Other villagers claimed they were beaten, shot or otherwise

[85] Human Rights Watch, supra note 67.

[86] Leigh Day, "High Court orders African Barrick Gold to stop suing Tanzanian villagers" (December 4, 2013), https://www.minesandcommunities.org/article.php?a=12514 [https://perma.cc/P8CW-Q84W].

[87] Ibid.

[88] York, supra note 49.

[89] York, supra note 49; John Vidal, "British Gold Mining Firm Agrees Settlement Over Deaths of Tanzanian Villagers," The Guardian (February 10, 2015), https://www.theguardian.com/environment/2015/feb/10/british-gold-mining-settlement-deaths-tanzanian-villagers [https://perma.cc/9Q3R-38UL]; The Citizen, "Barrick to drop case against villagers" (December 6, 2013), https://www.thecitizen.co.tz/tanzania/news/barrick-to-drop-case-against-villagers-2501436 [https://perma.cc/LL2T-D7UR].

injured by mine security.[90] In March 2024, Barrick reported that its subsidiaries reached a settlement with the claimants. The companies did not admit liability.[91]

The most recent action against Barrick was filed in Ontario in 2022 by relatives of individuals who were allegedly killed by Tanzanian police and several people who claim to have been shot or beaten by the police. They argue that Barrick is legally responsible for these harms because its head office in Ontario directly developed and implemented the security strategy at the mine.[92] Barrick claims that decisions were made in Tanzania and that there was no connection to the head office. In 2022, the Ontario Superior Court dismissed the case, ruling that it lacked sufficient connection to Ontario, that a trial would be more convenient in Tanzania, and that Tanzania had a functioning legal system capable of adjudicating the claim.[93] The decision was upheld by the Ontario Court of Appeal.[94]

A separate claim was filed in 2022 in the British High Court against the London Bullion Market Association (LBMA), which sets standards for the global precious metals industry. The association maintains a Good Delivery List (GDL) of gold refiners that meet its Responsible Gold Guidance (RGG). Only gold from GDL refiners can be traded on the London bullion market. The RGG requires refiners to undertake supply chain due diligence and to stop refining gold immediately when there are "known instances of serious human rights abuses."[95] The plaintiffs are family members of two men who were allegedly killed by mine security at North Mara. They argue that the LBMA was wrong to certify the company that refines gold produced at the North Mara mine. According to the plaintiffs, the refinery fails to comply with the RGG.[96] The LBMA claims the case is without merit.[97] The case was ongoing at the time of writing.

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[90] MiningWatch Canada and Rights and Accountability In Development, "Tanzanian Victims Commence Legal Action Against Barrick Gold in UK" (February 10, 2020), https://miningwatch.ca/news/2020/2/10/tanzanian-victims-commence-legal-action-against-barrick-gold-uk.[https://perma.cc/C954-Q65X].

[91] Barrick, "Legal Proceeding" (March 27, 2024), https://www.barrick.com/English/operations/north-mara/legal-proceeding-20240327/default.aspx [https://perma.cc/A2AG-EPRS].

[92] *Matiko John v. Barrick Gold Corporation*, Statement of Claim (February 5, 2024), https://phillipsbarristers.ca/wp-content/uploads/2026/04/2024-Statement-of-Claim.pdf [https://perma.cc/ER8H-VHPB].

[93] *Matiko John*, supra note 4.

[94] *Matiko John v. Barrick Gold Corporation*, 2026 ONCA 248.

[95] LBMA, LBMA Responsible Gold Guidance. Version 9 (November 2021), at 31, https://cdn.lbma.org.uk/downloads/responsible-sourcing/Responsible-Gold-Guidance-Version-9-Final.pdf [https://perma.cc/JP9U-SBM4]. Version 9 was the guidance in place at the time the lawsuit was filed (2018), https://cdn.lbma.org.uk/downloads/responsible-sourcing/RGGV820181211.pdf [https://perma.cc/6EPR-JWD4].

[96] Leigh Day, "Overview of Claims Against the London Bullion Market Association ("LBMA")," https://www.leighday.co.uk/media/vqzhao1s/lbma-legal-briefing-final-13-dec.pdf [https://perma.cc/7J6W-3LKB].

[97] LBMA, "LBMA Position on the North Mara Mine Claim," https://www.lbma.org.uk/lbma-position-on-the-north-mara-mine-claim [https://perma.cc/Z43B-JSD2].

03

WORKERS: CONSCRIPTION, CONFLICT, AND DEADLY ACCIDENTS



3. WORKERS: CONSCRIPTION, CONFLICT, AND DEADLY ACCIDENTS

> *From an engineering standpoint, if you're a mining company, you have a pretty good idea of what the potential worst-case scenarios are, and whether you invest in the backup systems to deal with those emergencies is a management decision.*
>
> Jamie Kneen, MiningWatch Canada[1]

In this chapter, we have grouped incidents at Canadian mines into three issues: working conditions, accidents, and worker security in conflict zones. We provide examples of company conduct, including knowingly allowing conscripted labour at the mine (Nevsun Resources in Eritrea); executives being convicted for flooding at a mine that resulted in the deaths of eight miners (Trevali in Burkina Faso); and failing to provide adequate security against an attack that left 39 mine workers dead (SEMAFO in Burkina Faso). Other companies mentioned in this chapter are Lucara Diamond Corporation, Banro Corporation, Kinross Gold, First Quantum Minerals, IAMGOLD, Barrick Mining Corporation, and Endeavour Mining Corporation.

We use four international labour-related standard sets as reference points to examine the conduct of Canadian companies.

First, the International Labour Organization (ILO) has established a set of international labour standards, including the *ILO Declaration on Fundamental Principles and Rights at Work*[2] ("ILO Fundamental Principles"), the *Occupational Safety and Health Convention*[3] ("ILO Safety"), the *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*[4] ("ILO

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[1] Alex Boyd, "Eight miners enter fourth week trapped in flooded Canadian-owned mine in West Africa," *Toronto Star,* May 9, 2022, https://www.thestar.com/news/canada/eight-miners-enter-fourth-week-trapped-in-flooded-canadian-owned-mine-in-west-africa/article_f34aa00c-b682-5102-a50c-031a26063d0d.html [https://perma.cc/6KY7-3GTK].

[2] *ILO Declaration on Fundamental Principles and Rights at Work* (1998, 2022), https://www.ilo.org/sites/default/files/2024-04/ILO_1998_Declaration_EN.pdf [https://perma.cc/TA79-7XZF].

[3] ILO, *Occupational Safety and Health Convention, 1981* (No. 155), https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C155 [https://perma.cc/W6LT-ZV75].

[4] ILO, *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (2022), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_emp/@emp_ent/@multi/documents/publication/wcms_094386.pdf [https://perma.cc/W6UK-KEXX].

Tripartite Declaration"), and the *Safety and Health in Mines Convention*[5] ("ILO Mines Convention"). As a United Nations agency, the ILO facilitates collaboration among governments, employers, and workers to develop policies and conduct research. [6]

Second, the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct*[7] are based on ILO standards and encourage multinational companies to adhere to them. The OECD, which offers policy analysis and guidance for its 39 member countries,[8] handles complaints about breaches of these guidelines through the Canadian National Contact Point (NCP).

Third, the International Finance Corporation (IFC) has established labour standards that apply to companies receiving IFC funding. These standards are 'guided' by various international conventions and instruments.[9] Although the *Performance Standards*[10] ("IFC PS") are mandatory only for IFC clients, they are generally seen as a global benchmark for all companies. The IFC is a division of the World Bank that funds private sector projects. [11]

Fourth, the African Union (AU) has an *African Charter on Human and Peoples' Rights* that addresses slavery.[12] The AU is a body comprising 55 African states.[13]

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[5] ILO, *Safety and Health in Mines Convention, 1995* (No. 176), https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312321 [https://perma.cc/294T-FE9K].

[6] See International Labour Organization, https://www.ilo.org.

[7] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023). https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html [https://perma.cc/29LV-UNDJ].

[8] See Organisation for Economic Co-operation and Development (OECD), https://www.oecd.org (accesed September 7, 2026)

[9] International Finance Corporation, *IFC Performance Standards on Environmental and Social Sustainability* (January 1, 2012), https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standards-guidance-note-en.pdf [https://perma.cc/4VRK-T6R3].

[10] Ibid.

[11] See International Finance Corporation, https://www.ifc.org/en/home [https://perma.cc/3ALK-5N9Q] (accessed September 7, 2026)

[12] Organization of African Unity, *African (Banjul) Charter on Human and Peoples' Rights* (1981), Article 5, https://treaties.un.org/doc/Publication/UNTS/Volume%201520/volume-1520-I-26363-English.pdf [https://perma.cc/AX7J-5ZM5].

[13] See African Union, https://au.int/en/overview [https://perma.cc/7QX3-W973] (accessed September 7, 2026)

3.1. WORKING CONDITIONS

Forms of coerced work, such as slave labour or conscripted labour, are clearly prohibited under the African Union's *Charter on Human and Peoples' Rights* and are also sanctioned by the *ILO Fundamental Principles, OECD Guidelines*, and the *IFC Performance Standards*.[14] We describe how this issue arose at the Nevsun mine in Eritrea, where the company knew that one of its contractors used conscripted labour.

The *ILO Fundamental Principles, OECD Guidelines*, and *IFC Performance Standards* all affirm that workers have the right to bargain collectively.[15] Whether the collective voice of labour was adequately heard was an issue at the Kinross mine in Mauritania, where there were an unusually high number of strikes – five in nine years.

The *OECD Guidelines* require employers to observe employment standards and contractual arrangements.[16] The IFC Performance Standards require that any collective dismissals comply with collective bargaining agreements.[17] In Botswana, Lucara Diamond dismissed 50 unionized workers who raised concerns about unethical conduct at the mine. A Botswana court found that the company failed to comply with the collective agreement and ordered the reinstatement of most of the workers.

All four sets of labour standards referenced above prohibit workplace discrimination.[18] At the Kinross mine in Mauritania, striking workers denounced the preferential treatment reportedly afforded to expatriate workers, as did workers at Barrick's mine in Tanzania.

In the event of significant changes to company operations that affect employment, businesses are required to provide reasonable notice to their workers and take steps to mitigate the impact of these changes.[19] A complaint was filed with the Canadian National Contact Point (NCP) alleging a breach of this requirement at a Banro mine in the Democratic Republic of the Congo. The NCP found that the company did not co-operate in addressing concerns about the lack of severance payments.

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[14] See ILO Fundamental Principles 2(b), supra note 2; OECD V, 1(d), supra note 7; IFC PS2, 22, supra note 9; AU 5, supra note 12.

[15] See ILO Fundamental Principles 2(a), supra note 2; OECD V, 1(b), supra note 7; IFC PS2, 13-14, supra note 9.

[16] See OECD V, 4, supra note 7.

[17] See IFC PS2, 18, supra note 9.

[18] See ILO Fundamental Principles 2(d), supra note 2; OECD V, 1(e), supra note 7; IFC PS2, 15-16, supra note 9; AU 15, supra note 12.

[19] See ILO Tripartite Declaration, 34, supra note 4; OECD V, 6, supra note 7; IFC PS2, 18-19, supra note 9.

3.1.1. NEVSUN RESOURCES LTD.
Bisha Mine, Eritrea

Nevsun Resources Ltd. (Nevsun) was a Vancouver-based gold mining company with interests in the Bisha mine in Eritrea and the undeveloped Timok project in Serbia.

The Bisha mine was a joint venture between Nevsun, which held a 60 percent interest in the project, and the Eritrean National Mining Corporation, which held the remaining 40 percent. The gold, copper, and zinc mine began production in 2011.[20] In 2019, the Chinese company Zijin purchased Nevsun.[21]

In 2015, a United Nations (UN) commission of inquiry concluded that "systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Some of these violations may constitute crimes against humanity."[22] Among other grave issues, the commission found that Eritreans were subjected to "systems of national service and forced labour that effectively abuse, exploit and enslave them for indefinite periods of time."[23] The UN reported that some conscripts performed non-military labour, including in the mining sector.[24]

Both the UN commission of inquiry and the non-governmental organization Human Rights Watch report that the Bisha mine was constructed using forced labour.[25] Conscripts built transportation

[20] Nevsun Resources Ltd., *Amended Annual Information Form For the year ended December 31, 2017* (April 19, 2018), at 4, 14, https://www.sedarplus.ca/csa-party/records/document.html?id=27020f85d1718be4d250185822ce0a8c098b8adc06fd130071ab708cb111283d.

[21] Nevsun Resources Ltd., *Notice of Change in Corporate Structure* (March 29, 2019), at 1, https://www.sedarplus.ca/csa-party/records/document.html?id=eb48622b361902d16e1615f7fd7ff3f47493328372d6d030c49386f36842a259.

[22] United Nations Human Rights Council (UNHRC), *Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea*, A/HRC/29/CRP.1 (June 5, 2015) at 1, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_29_CRP-1.pdf [https://perma.cc/MFR2-9QS9].

[23] Ibid.

[24] Ibid at 339.

[25] Ibid at 412; Human Rights Watch (HRW), *Hear No Evil* (January 15, 2013), at 18, https://www.hrw.org/report/2013/01/15/hear-no-evil/forced-labor-and-corporate-responsibility-eritreas-mining-sector [https://perma.cc/WHD5-B78H].

infrastructure to the site, staff housing compounds, and all mine infrastructure.[26] Workers were reported to have endured terrible conditions, including food shortages and unsafe housing.[27]

In 2014, three former workers initiated class proceedings against Nevsun in British Columbia. The lawsuit accused Nevsun of conversion, battery, unlawful confinement, negligence, conspiracy, and negligent infliction of mental distress. The plaintiffs also sued the company for forced labour, torture, slavery, cruel, inhuman or degrading treatment, and crimes against humanity.[28]

Nevsun denied using forced labour at the Bisha mine.[29] In a 2016 press release, the company stated it was confident that its subsidiary:

> [...] operates the Bisha Mine according to international standards of governance, workplace conditions, health, safety and human rights. There are contractual commitments in place that strictly prohibit the use of national service employees by [the mine's] contractors and subcontractors from using national service employees.[30]

The Canadian Broadcasting Corporation reviewed court filings by the company and reported that executives had been aware of the risk of forced labour for years. In 2009, the company sought financing to build the mine. The company's then-CEO wrote in an email that prospective lenders sought guarantees that there would be no forced labour. The email acknowledged that "National Service people" were working for a contractor at the mine site. A consultant hired by the company to review the operation concluded that the use of national service workers put the project at risk of using forced labour. [31]

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[26] UNHRC, supra note 22, at 412.

[27] HRW, supra note 25, at 2.

[28] *Nevsun Resources Ltd. v Araya*, 2020 SCC 5 [*Nevsun*].

[29] Mike Laanela and Farrah Merali, "Forced labour lawsuit against Vancouver mining company can proceed," *CBC News*, October 7, 2016, https://www.cbc.ca/news/canada/british-columbia/nevsun-eritrean-lawsuit-1.3795687 [https://perma.cc/9HHN-SCMQ].

[30] Nevsun Resources Ltd., *Nevsun Comments on B.C. Lawsuit* (October 6, 2016), https://www.sedarplus.ca/csa-party/records/document.html?id=de7a2ccea230f3e5ba3a78c9904a3f5524d25593985cbaa940fdcd71a9e38cbf.

[31] Scott Anderson, "What did Canadian mining executives know about possible human rights violations in Eritrea?," *CBC News*, January 22, 2019, https://www.cbc.ca/news/business/nevsun-resources-mining-eritrea-1.4980530 [https://perma.cc/4JVR-FSLC].

In February 2020, the Supreme Court of Canada determined that the claim from former mine workers could proceed.[32] Several months later, the company settled the lawsuit out-of-court for undisclosed terms.[33] (Find more on Nevsun in the economic diplomacy chapter).

3.1.2. LUCARA DIAMOND CORPORATION

Karowe Mine, Botswana

Lucara Diamond Corporation (TSX:LU) produces diamonds at its wholly owned Karowe mine in Botswana. In 2022, Lucara instructed its Botswanan subsidiary to investigate the security department at the Karowe mine. According to a media report, the investigation was prompted by allegations of maladministration and unethical conduct by the mine's security manager.[34] In 2023, 50 mine workers voluntarily provided information to the investigation. Shortly after, the workers were laid off.[35] The Botswana Mine Workers Union challenged the terminations in court, arguing that no disciplinary hearings had been carried out, as required by law. The court barred the company from carrying out the terminations without prior negotiations with the union, as mandated in the workers' collective agreement. Forty-seven of the workers were successfully reinstated.[36]

3.1.3. BANRO CORPORATION

Twangiza and Namoya Mines, Democratic Republic of the Congo

Banro Corporation (Banro) (TSX:BAA), based in Toronto, was a gold mining company[37] that operated two gold mines in the Democratic Republic of the Congo: Twangiza in South Kivu province and Namoya in Maniema province. In 2017, it failed to meet its financial obligations and

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[32] *Nevsun*, supra note 28.

[33] Yvette Brend, "Landmark settlement is a message to Canadian companies extracting resources overseas: Amnesty International," CBC News (October 23, 2020), https://www.cbc.ca/news/canada/british-columbia/settlement-amnesty-scc-africa-mine-nevsun-1.5774910 [https://perma.cc/3R4S-QR7L].

[34] "Lucara accused of firing 50 security guards for whistle blowing," The Patriot (March 27, 2023), https://thepatriot.co.bw/lucara-accused-of-firing-50-security-guards-for-whistle-blowing/#google_vignette [https://perma.cc/U79D-VKNZ].

[35] Ibid.

[36] "Union Win Stops Unfair Retrenchments at Botswana Diamond Mine," Industriall Global Union (May 8, 2023), https://www.industriall-union.org/union-win-stops-unfair-retrenchments-at-botswana-diamond-mine [https://perma.cc/8CVJ-77BU].

[37] Banro Corporation, *Annual Information Form For the financial year ended December 31, 2015* (March 28, 2016), at 3, 5, https://www.sedarplus.ca/csa-party/records/document.html?id=909986f85c72c3f2c0a719346b3ae5706c4ef2b9451ac6ce87843a84df95fc54.

was granted creditor protection. The next year, it was delisted from the Toronto Stock Exchange. In 2019, one of its principal shareholders, a Chinese investment fund, took control of the Twangiza mine.[38] The following year, Banro sold the Namoya mine.[39]

Banro's difficulties began in 1995, when it acquired Société Minière et Industrielle du Kivu (SOMINKI), a mainly Belgian-owned mining firm that operated in the DRC from 1976 to 1997.[40] Two years later, Banro partnered with the DRC government to create SAKIMA, with the aim of assuming SOMINKI's projects. A plan was then set in motion to dissolve SOMINKI, liquidate its assets, and settle liabilities, including those owed to employees.[41] However, the DRC experienced intense instability, including two wars and multiple government changes,[42] during which SAKIMA's licenses were nationalized.[43] In 2002, Banro reached an agreement with the new government, enabling it to recover ownership of SAKIMA's key gold deposits. The company also committed to finalizing SOMINKI's liquidation.[44]

In 2016, five former SOMINKI employees filed a complaint with Canada's National Contact Point (NCP), alleging that Banro was noncompliant with the OECD Guidelines. The complainants claimed that Banro failed to pay severance owed to nearly 5000 former SOMINKI employees, violating the Congolese labour code.[45] The former employees alleged that "while the expatriate personnel were paid out, most of the company's Congolese employees were not."[46]

Banro rejected all claims in the NCP complaint. It stated that fewer than 700 employees qualified for severance and that the complainants were not proper representatives of this group.[47]

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[38] Ben Radley, *Disrupted Development in the Congo: The Fragile Foundations of the African Mining Consensus* (Oxford Academic Books, 2023), Chapter 3.

[39] "Shomka Resources Ltd signs definitive agreement to acquire 100% of the shares of the Namoya Mine in the Maniema Province, DR of Congo (DRC) from Banro Corporation Ltd in exchange for payment of royalties from production," Mining News Magazine (June 23, 2020), https://miningnewsmagazine.org/shomka-resources-ltd-signs-definitive-agreement-to-acquire-100-of-the-shares-of-the-namoya-mine-in-the-maniema-province-dr-of-congo-drc-from-banro-corporation-ltd-in-exchange-for-payment-of-royalti/ [https://perma.cc/R4DM-CWHD].

[40] "Final Statement of the Canadian National Contact Point - Banro Corporation and a group of Former Employees," Global Affairs Canada (May 25, 2017), https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/statement-banro.aspx?lang=eng [https://perma.cc/H54J-JLQU].

[41] Ibid.

[42] Radley, supra note 38.

[43] Global Affairs Canada, supra note 40.

[44] Ibid.

[45] Ibid.

[46] Ibid.

[47] Ibid.

In 2017, the NCP published its final report on the complaint. It noted that, twenty years after SOMINKI's dissolution, the liquidation process remained unfinished. The NCP determined that further investigation was necessary, especially regarding payments owed to former employees. The report recognized the complexity and confusion surrounding SOMINKI's dissolution and liquidation, along with the distress caused to the company's former workers.[48]

The NCP urged Banro to make "all efforts possible to engage with DRC government officials, in good faith, to promote a timely reactivation of the SOMINKI liquidation process with a view to working with all implicated parties to complete a reconciliation and closure process as soon as possible."[49] The NCP recommended that this process "focus on facilitating an expedited cash payment of the long outstanding ex-employees' final accounts."[50]

In a 2019 follow-up statement, the NCP reported that "despite persistent efforts from the NCP, the Company has failed to provide adequate information that demonstrates that the Company had made efforts to implement the NCP's recommendations."[51] The NCP expressed its disappointment with the company's lack of cooperation.[52] (For more on Banro, see the chapters on corruption, displacement, and silencing critique).

3.1.4. KINROSS GOLD CORPORATION

Tasiast Mine, Mauritania

Kinross Gold Corporation (Kinross) (TSX:K) owns mining operations worldwide. In Africa, it manages the Tasiast gold mine in Mauritania[53] and held a 90% stake in Ghana's Chirano gold mine from 2010[54] to 2022.[55]

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[48] Ibid.

[49] Ibid.

[50] Ibid.

[51] "Follow up Statement on Banro Corporation and group of former employees," Global Affairs Canada (March 21, 2019), https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/2019-03-19-ncp-pcn.aspx?lang=eng [https://perma.cc/WJ2H-EH46].

[52] Ibid.

[53] "Operations," Kinross Gold Corporation, https://www.kinross.com/English/operations/default.aspx#mauritania [https://perma.cc/K8KL-7PSQ].

[54] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31,* 2019 (March 30, 2020), at 67, https://www.sedarplus.ca/csa-party/records/document.html?id=61112485c5640d8aa33343bd2d35c85dda4ee635bcacbd676aafc777d8050924.

[55] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31,* 2023 (March 27, 2024), at 10, https://www.sedarplus.ca/csa-

The Tasiast mine is an open-pit gold operation in northwestern Mauritania.[56] Over a nine-year period, workers staged five strikes to improve pay and working conditions. The first strike, in May 2011, lasted less than a day.[57] Bloomberg reports that Kinross agreed to increase workers' pay and pledged to improve employees' health insurance.[58] In a press release, the company stated that "[c]onstructive dialogue with the union is continuing with the aim of improving working conditions to Kinross standards, and to negotiating a collective agreement with unionized employees."[59]

In June 2012, approximately 1,500 workers launched a second strike. Kinross called the action an "unlawful work stoppage."[60] The workers reportedly secured a significant pay increase, the reinstatement of a colleague, a commitment from Kinross to establish an on-site health clinic, and an increase in the number of Mauritanians employed at the mine.[61]

The following year, 1,400 Tasiast employees went on strike again, demanding that the company uphold the 2011 agreement concerning pay, medical benefits, and better working conditions.[62] The International Trade Union Confederation (ITUC) reported that workers opposed management's plans to cut bonus payments and its refusal to transfer seriously ill employees to the capital.[63] In a statement, the ITUC condemned Tasiast's actions, claiming they violated "the principles of collective bargaining, good faith, and the labour legislation," and called on the

party/records/document.html?id=952b8b020a38f7b8f947bf33bedf2c70324036144b610a3126715a6d02c004cd.

[56] Kinross Gold Corporation, *Tasiast Project, Mauritania, National Instrument 43-101 Technical Report* (October 31, 2019), at 8, https://www.sedarplus.ca/csa-party/records/document.html?id=f4be9bce5145513e0687c1cd39931442bb7f0ffd1865c56d87ba4b899e4c2c59.

[57] Kinross Gold Corporation, *Unionized Workers at Tasiast return following brief work stoppage* (May 20, 2011), https://s2.q4cdn.com/496390694/files/doc_news/2011/052011-unionized-workers-at-tasiast-return-following-brief-work-stoppage.pdf [https://perma.cc/7VGN-3XH4].

[58] Oudaa Marouf, "Mauritania Workers Halt Strike at Kinross's Tasiast Mine," Bloomberg (May 20, 2011), https://www.bloomberg.com/news/articles/2011-05-20/mauritania-workers-halt-strike-at-kinross-s-tasiast-gold-mine?embedded-checkout=true [https://perma.cc/QPS6-H46N].

[59] Kinross Gold Corporation, supra note 57.

[60] Kinross Gold Corporation, *Kinross announces unlawful work stoppage at Tasiast* (June 6, 2012), https://www.kinross.com/English/news-and-investors/news-releases/press-release-details/2012/Kinross-announces-unlawful-work-stoppage-at-Tasiast/default.aspx [https://perma.cc/B5MX-FE8K].

[61] Dorina A. Bekoe, *Mauritania: On the Road to Democracy or Just More Violence?* (Institute for Defense Analyses, 2012), https://www.ida.org/-/media/feature/publications/m/ma/mauritania--on-the-road-to-democracy--or-just-more-violence/d-4834.ashx [https://perma.cc/V3CY-EHWX].

[62] "Mauritania: Solidarity with Workers on Strike at Tasiast Gold Mine," International Trade Union Confederation (August 12, 2013), https://www.ituc-csi.org/mauritania-solidarity-with-workers [https://perma.cc/5GY4-EKW8].

[63] Ibid.

company “to listen to the workers’ legitimate grievances, to initiate genuine dialogue and to end all acts of intimidation against the striking workers.”[64]

Kinross challenged the ITUC's claims, calling them "misleading statements and factual errors," and demanded a retraction.[65] The firm maintained it fulfilled all commitments and transferred patients to suitable medical centers as needed. Regarding bonus pay, it clarified that its aim was to align with Mauritanian law by correcting an erroneous calculation method. Kinross also stated it actively negotiated with employees to resolve the strike.[66]

Additional strikes took place in 2016[67] and 2020. Industriall Global Union states that in 2020, workers demanded that the company follow Mauritanian labour law concerning "staff representatives, work duration, overtime, weekly rest, and respect for the 2019 collective agreement."[68] According to ImpACT International, a UK-based NGO, striking workers criticized the preferential treatment given to expatriate employees, who reportedly earned higher wages and had more chances for promotion than Mauritanian workers.[69] ImpACT International also reported that Tasiast workers accused the company of exploiting the pandemic to reduce benefits and threatened them with pay cuts in response to the strike.[70]

In a press release, the company stated:

> Kinross has adhered to the collective labour agreement finalized in November 2019 and all applicable labour codes and is disappointed that Tasiast staff delegates have decided to pursue this opportunistic course of action during the global pandemic. The Company has rigorously complied with all government mandates related to COVID-19 and has continued to prioritize the health and well-

[64] Ibid.

[65] Ibid.

[66] Ibid.

[67] Kinross Gold Corporation, *Kinross announces end of strike at Tasiast mine* (June 13, 2016), https://uk.finance.yahoo.com/news/kinross-announces-end-strike-tasiast-130000560.html [https://perma.cc/34YR-QDGV].

[68] “Kinross Gold Corporation must ensure workers' health and safety during Covid-19 crisis,” IndustriALL Global Union (May 8, 2020), https://www.industriall-u https://perma.cc/34YR-QDGV nion.org/kinross-gold-corporation-must-ensure-workers-health-and-safety-during-covid-19-crisis [https://perma.cc/6M75-5EEL].

[69] “Without fair working conditions in mines, Mauritania's gold will not shine,” ImpACT International (May 15, 2020), https://impactpolicies.org/news/129/without-fair-working-conditions-in-mines-mauritanias-gold-will-not-shine [https://perma.cc/7MBC-RNPR].

[70] Ibid.

being of its employees while safely operating the mine and maintaining the significant benefits it provides to the Mauritanian economy.[71]

Find more on Kinross in the corruption chapter.

3.1.5. BARRICK MINING CORPORATION

Bulyanhulu Mine, Tanzania

Barrick Mining Corporation[72] (Barrick) (TSX:ABX) operates mines globally. In Africa, its holdings include the Kibali mine in the Democratic Republic of the Congo, Bulyanhulu and North Mara in Tanzania, Loulo-Gounkoto in Mali, Tongon in Côte d'Ivoire, and Lumwana in Zambia.[73]

In October 2007, a significant labor dispute occurred at Barrick's Bulyanhulu gold mine in Tanzania. According to media reports, approximately 1,000 of the 1,971 workers walked off the job on October 25. Barrick characterized the action as an illegal strike and dismissed those involved,[74] but workers offered a different account. George Mandia, then head of the Tanzania Energy, Mines and Construction Workers Union (TAMICO), said that the workers were not on strike when they were dismissed. He indicated that after their shifts on October 25, the union held a meeting on the mine grounds with management's consent to discuss ongoing negotiations. Mr. Mandia also noted that armed riot police broke up the meeting, prompting workers to flee in fear.[75]

Workers at the mine had reported serious grievances over several months, highlighting issues such as salary disparities between Tanzanian and expatriate staff, non-payment of risk allowances,[76] unfair treatment of sick and injured workers, and unachievable production and safety targets.[77] For Fabil, one of the dismissed workers, the company's conduct revealed its view of workers as disposable: "[t]here is no humanity in the way they have treated us. They make us

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[71] Kinross Gold Corporation, *Unionized employees strike at Tasiast mine* (May 5, 2020), https://www.kinross.com/news-and-investors/news-releases/press-release-details/2020/Unionized-employees-strike-at-Tasiast-mine/default.aspx [https://perma.cc/TYB7-6FV4].

[72] In May 2025, the company's name was changed from Barrick Gold Corporation to Barrick Mining Corporation.

[73] Barrick Gold Corporation, "Fact Sheet," https://s25.q4cdn.com/322814910/files/doc_downloads/fact_sheet/Barrick_Fact_Sheet.pdf#page=2 [https://perma.cc/5H7D-UYAX].

[74] George Obulutsa, "Tanzania Union Goes to Court over Barrick Strike," *Reuters* (December 5, 2007), https://www.reuters.com/article/markets/us/tanzania-union-goes-to-court-over-barrick-strike-idUSL05148720 [https://perma.cc/D8BE-XVQG].

[75] Allan Lissner, "Someone Else's Treasure: Tanzania," PraxisPictures, https://www.praxispictures.org/tanzania [https://perma.cc/QHG4-EU9F].

[76] Obulutsa, supra note 74.

[77] Lissner, supra note 75.

promises while we are of use to them. But then, if we become sick, or old, or start to complain about our rights, then they just spit us out like a chewing gum that has lost its flavour."[78]

An arbitrator who attempted to resolve the dispute in 2007 concluded that he lacked authority to adjudicate the union's demand for five years' compensation for dismissed workers and referred the matter to a labour court. That court dismissed TAMICO's application for an injunction to stop Barrick from hiring replacement workers the same year.[79]

When *The Globe and Mail* asked Prime Minister Stephen Harper to comment on the dispute during a visit to Tanzania in November 2007, he declined to address it directly, saying only that he expected Canadian companies to "act responsibly within the laws of the land" when operating abroad, and praised Tanzania for the stable business environment it provided to Canadian investors.[80]

By early December 2007, the media reported that mine operations, which had fallen to 25% capacity at the start of the dispute, had recovered to 65% after Barrick rehired a portion of the workers.[81]

According to media reports, there was litigation in Tanzania over a wrongful dismissal claim brought by the workers.[82] The latest information we have is a report from 2012 in the *Tanzania Daily News* that over 1,500 former employees lodged an appeal in the Court of Appeal. We are unaware of the final outcome. For more on Barrick, see the chapters on conflict, displacement, economic diplomacy, environment, security and violence, and silencing critique.

3.2 ACCIDENTS

Considering the serious risks associated with mining, it is vital that companies actively ensure workplace safety and accident prevention. This requirement is outlined in the *ILO Convention on Occupational Safety and Health*,[83] and supported by the *OECD Guidelines*. The guidelines

[78] Ibid.

[79] Obulutsa, supra note 74.

[80] Alan Freeman, "Controversy over Mining Overshadows Health Initiative," The Globe and Mail (November 27, 2007), https://www.theglobeandmail.com/news/world/controversy-over-mining-overshadows-health-initiative/article20406302/ [https://perma.cc/H9QB-7QTW].

[81] Obulutsa, supra note 74.

[82] Faustine Kapama, "Tanzania: Mine Employees Challenge Dismissal," Tanzania Daily News (December 28, 2012), https://allafrica.com/stories/201212280335.html [https://perma.cc/S5RY-CNA3].

[83] ILO, *Occupational Safety and Health*, supra note 3.

emphasize that merely complying with the host country's occupational health and safety standards is insufficient:

> [...] encourages enterprises to work to raise the level of performance with respect to occupational health and safety in all parts of their operation *even where this may not be formally required by existing regulations in countries in which they operate* (emphasis added).[84]

The *IFC Performance Standards* state that companies should identify "potential hazards to workers, particularly those that may be life-threatening" and should provide "preventative and protective measures."[85] These measures should apply not only to the company's direct employees but also to contract workers and to workers employed by suppliers contracted by the mining company.[86]

Below, we highlight three projects where these safety standards are relevant. At the Trevali mine in Burkina Faso, eight miners lost their lives when the mine was flooded. Although industry reports warned of the risk of flooding, Trevali was unprepared for this disaster. Two company executives were later convicted for their roles in the incident. Additionally, two other projects saw accidental deaths among contracted workers, raising questions about the Canadian companies' responsibility to ensure safety for both direct employees and contractors. At the Kinross mine in Ghana, a truck explosion resulted in 13 deaths and multiple injuries. Meanwhile, at First Quantum's mines in Zambia, five separate accidents occurred between 2023 and 2025, claiming the lives of five workers.

3.2.1. TREVALI MINING CORPORATION
Perkoa Mine, Burkina Faso

Trevali Mining Corporation (Trevali) (TSX:TREVQ) was a base-metals mining company headquartered in Vancouver. It owned the Caribou mine in Canada, the Perkoa mine in Burkina Faso, and the Rosh Pinah mine in Namibia. In 2022, Trevali secured creditor protection and was delisted from the Toronto Stock Exchange.

[84] *OECD Guidelines*, supra note 7.

[85] *IFC Performance Standards*, paragraph 23, supra note 9.

[86] Ibid, paragraph 4.

Perkoa was an underground zinc mine that began operations in 2012.[87] In 2017, Trevali acquired a 90% interest in the mine. The government of Burkina Faso held the remaining 10% ownership interest.[88]

On April 16, 2022, the mine flooded when five times the average monthly rainfall fell in less than an hour.[89] Eight workers were trapped more than 500 metres underground.[90] Attempts to contact the trapped miners were unsuccessful.[91] The BBC reported that five days passed before rescue operations began, following protests, including a sit-in at a government building.[92] According to the company, the road to the mine was destroyed by the flood and had to be rebuilt before the rescue could begin.[93] Rescue teams and pumps were provided by other mines in Burkina Faso.[94] The government also called for international aid to assist with the rescue[95], and equipment was brought in from countries such as Ghana and South Africa.[96]

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[87] Trevali Mining Corporation, *Technical Report on the Perkoa Mine, Burkina Faso* (April 7, 2017), at 1-1, https://www.sedarplus.ca/csa-party/records/document.html?id=e5e552c1e09065e6c45690912061814b3c4ae708f1405f3cde6d502b614043f1.

[88] Trevali Mining Corporation, *Annual Information Form For the Year Ended December 31,* 2017 (March 29, 2018), at 48, https://www.sedarplus.ca/csa-party/records/document.html?id=749f5a90d9abb98cd35cc16afef7bf758d2ba3891b1c8277b09b8566567c5c5e.

[89] Lalla Sy and Nathan Williams, "Burkina Faso trapped miners: Director fined over disaster that left eight dead," BBC (September 14, 2022), https://www.bbc.com/news/world-africa-62901455 [https://perma.cc/84MA-ZABT].

[90] Trevali Mining Corporation, *Trevali Provides an Update on Search and Rescue Efforts at its Perkoa Mine in Response to Flooding Event and Suspends Perkoa Production Guidance* (April 21, 2022), https://www.sedarplus.ca/csa-party/records/document.html?id=d993edd7c046083ae4d4446ab4a90df2a31849a17726193615275bef3ef4bebc.

[91] Amanda Follett Hosgood, "African Mine Disaster Turns Spotlight on Canadian Mining Firms," The Tyee (May 10, 2022), https://thetyee.ca/News/2022/05/10/African-Mine-Disaster-Spotlight-Canadian-Mining-Firms [https://perma.cc/JQH6-XPQD].

[92] Sy and Williams, supra note 89.

[93] Nimi Princewill, "Four missing miners found dead in Burkina Faso," CNN (May 25, 2022), https://www.cnn.com/2022/05/25/africa/burkina-faso-miners-found-intl/index.html [https://perma.cc/D9BN-ZDA4].

[94] "Owner Caught Off Guard by Downpour; 8 Still Trapped in Burkina Mine," Reuters (May 13, 2022), https://www.voanews.com/a/owner-caught-off-guard-by-downpour-8-still-trapped-in-burkina-mine/6570798.html [https://perma.cc/B229-95G6].

[95] Follett Hosgood, supra note 91.

[96] Georgie Smyth, "Authorities hope to reach survivors trapped in Canadian-owned mine in Burkina Faso," CBC News (May 10, 2022), https://www.cbc.ca/news/world/burkina-faso-trapped-miners-1.6448457 [https://perma.cc/ZM56-ABTQ].

The mine had two refuge chambers located over 520 metres underground, meant to protect workers during hazardous situations.[97] However, these chambers were not built to withstand flooding.[98] On May 17, a month after the flood, rescuers reached one chamber but found it empty.[99]

It took the company 66 days to locate the bodies of all eight missing miners.[100]

Trevali executives told Reuters they were "caught unawares" by the rain.[101] Hein Frey, Vice President of Operations, stated that "[g]iven the dry season obviously we do not expect rain and we had an absolute torrential downpour."[102] However, Jamie Kneen, a spokesperson for the non-governmental organization MiningWatch Canada, said that "[f]rom an engineering standpoint, if you're a mining company, you have a pretty good idea of what the potential worst-case scenarios are, and whether you invest in the backup systems to deal with those emergencies is a management decision." He asserted that flooding is a known risk in mining.[103]

In fact, Trevali was aware of the flooding risk. A 2017 technical report prepared for the company notes the presence of a small open pit used during mine start-up. The report flags a portal at the base of the open pit and describes it as posing a potential flood risk from rainfall.[104]

A 2020 report by the global management consulting firm McKinsey & Co. identifies risks to the global mining industry associated with climate change. Among other perils, the report emphasizes

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[97] Trevali Mining Corporation, *Trevali Announces Mine Rehabilitation and Dewatering Progress at Perkoa Mine in Response to Flooding Event and Provides an Update on Search and Rescue Efforts* (April 25, 2022), https://www.sedarplus.ca/csa-party/records/document.html?id=0dcd9da7e48744cd7af3170d6499db0802e83aec56bf7104366e6f6f9592f6f8.

[98] Reuters, supra note 94.

[99] Trevali Mining Corporation, *Trevali Provides Update on Search at Perkoa Mine: No Survivors Found in Refuge Chamber* (May 17, 2022), https://www.sedarplus.ca/csa-party/records/document.html?id=d6cec6cf8e1f6f372796bd6a3511bab1d74912de04a44b64620de4a337532d96.

[100] James Tasamba, "Body of last missing miner in flooded Burkina Faso mine found," Andalou Agency (June 21, 2022), https://www.aa.com.tr/en/africa/body-of-last-missing-miner-in-flooded-burkina-faso-mine-found/2618582 [https://perma.cc/UDK5-4WGX].

[101] Reuters, supra note 94.

[102] Ibid.

[103] Alex Boyd, "Eight miners enter fourth week trapped in flooded Canadian-owned mine in West Africa," Toronto Star (May 9, 2022), https://www.thestar.com/news/canada/eight-miners-enter-fourth-week-trapped-in-flooded-canadian-owned-mine-in-west-africa/article_f34aa00c-b682-5102-a50c-031a26063d0d.html [https://perma.cc/6KY7-3GTK].

[104] Trevali Mining Corporation, supra note 87.

the dangers of flooding, explaining that zinc and iron ore mines are most highly exposed to flooding from extreme rainfall.[105]

Burkina Faso Prime Minister Albert Ouédraogo attributed the disaster to the "irresponsibility" of mine managers, asserting that dynamite weakened the mine structure.[106] Prime Minister Ouédraogo's government launched a judicial investigation into the flood. Mine managers were prohibited from leaving the country while the investigation proceeded.[107]

Two Trevali executives were ultimately convicted of crimes linked to the disaster. Hein Frey, a South African national, was found guilty of involuntary manslaughter. Mr. Frey was fined $3,000 and received a suspended 24-month prison sentence. He was acquitted of charges regarding illegal mining activity, failure to comply with regulations on occupational health and safety, endangering the lives of others, and failure to assist a person in danger.[108] Another executive, Australian national Daryl Christensen, was also found guilty of involuntary manslaughter,[109] receiving a 12-month suspended sentence and a fine of $1,500. The sentences were met with shock in Burkina Faso, given the number of victims.[110]

In September 2022, Trevali's chief executive and chief operating officers resigned.[111] The company announced it would close the Perkoa mine, citing a lack of funding to reopen the project.[112]

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[105] Kimberly Henderson, *Climate risk and decarbonization: What every mining CEO needs to know* (McKinsey Sustainability, January 28, 2020), https://www.mckinsey.com/capabilities/sustainability/our-insights/climate-risk-and-decarbonization-what-every-mining-ceo-needs-to-know#/ [https://perma.cc/Y5QT-5KNV].

[106] Follett Hosgood, supra note 91.

[107] "Burkina Faso investigates B.C. mine company after flood leaves 8 trapped underground," CBC News (May 2, 2022), https://www.cbc.ca/news/canada/british-columbia/burkina-faso-zinc-mine-trevali-vancouver-bc-1.6438261 [https://perma.cc/4XBQ-FMSQ].

[108] Sy and Williams, supra note 89.

[109] "Burkina Faso court finds execs at Trevali mine guilty of involuntary manslaughter," Reuters (September 14, 2022), https://www.reuters.com/world/africa/burkina-faso-court-finds-trevali-execs-guilty-involuntary-manslaughter-2022-09-14/ [https://perma.cc/75U6-26LN].

[110] Sy and Williams, supra note 89.

[111] "B.C. mining CEO resigns after two executives convicted of involuntary manslaughter,"The Canadian Press (September 16, 2022), https://www.cbc.ca/news/canada/british-columbia/trevali-ceo-resigns-1.6586150 [https://perma.cc/7UT5-GYKX].

[112] "Trevali to close Burkina Faso Perkoa zinc mine after deadly flood," Reuters (September 24, 2022), https://www.mining.com/web/trevali-to-close-burkina-faso-zinc-mine-after-deadly-flood/ [https://perma.cc/HJG3-77LC].

3.2.2. FIRST QUANTUM MINERALS

Sentinel and Kansanshi Mines, Zambia

First Quantum Minerals (First Quantum) (TSX:FM) has mining operations around the globe. In Africa, the company operates in Mauritania (Guelb Moghrein mine) and Zambia (Sentinel and Kansanshi mines).

First Quantum faced safety challenges at the Sentinel and Kansanshi mines, with five workers losing their lives in separate incidents from 2023 to 2025.

On February 2, 2023, First Quantum announced that a worker died and another was seriously injured in a vehicle accident at the Sentinel mine.[113] Several months later, on November 23, a contract worker at the Kansanshi mine was killed "after a fall of ground at the underground dewatering decline."[114] The next day, a second contractor died in a vehicle accident at the Sentinel mine.[115]

First Quantum reported that emergency response teams attended all incidents, and local authorities were informed.[116] The company also announced that it had begun internal investigations into each of the three incidents, as well as an inquiry into the management of contractors at its operations in Zambia.[117]

Despite these investigations, another employee died on September 23, 2024, in a vehicle accident at the Kansanshi mine. Tristan Pascall, the company's CEO, asserted, "[t]he safety and health of our workforce is our top priority and we are committed to continuously improve our safety

[113] First Quantum Minerals Ltd., "First Quantum Reports Fatality at Trident Operation" (February 2, 2023), https://www.sedarplus.ca/csa-party/records/document.html?id=9d19f7645b78e4e6796cd8753eee454a3ae4dfe036c4250e3121bad32ead25b6.

[114] First Quantum Minerals Ltd., "First Quantum Reports Fatalities at Kansanshi Sentinel Operations" (November 27, 2023), https://www.sedarplus.ca/csa-party/records/document.html?id=dfd0ff3f142527cc6c7bf854142c3039068e1cf5c2d1e971a11d863b5403620a.

[115] Ibid.

[116] FQM, supra note 113 and 114.

[117] FQM, supra note 114.

practices."[118] Yet, despite these assurances, another employee was killed at the Sentinel mine in June 2025.[119]

In its response to JCAP's invitation to comment, First Quantum said:

> [i]n relation to the four fatal incidents in question [2022-2024], there were no subsequent criminal or noncriminal proceedings, regulatory adverse findings or penalties issued. Mine operations were suspended for as long as was necessary for the investigations to be thoroughly concluded.
>
> More broadly, First Quantum's health and safety (and environmental) standards are measured by external ESG agencies. With regard to S&P's 2025 rankings, First Quantum scored particularly well on occupational health and safety programs and LTIFR5 rates, and overall, our 2025 health & safety score improved 10 points compared to 2024. Similarly, First Quantum recorded a 2025 occupational health & safety score of 59.5 – rated in the highest category as 'strong' – by the ESG ratings agency, Sustainalytics.[120]

See the chapters on displacement, environment, and silencing critique for more details on FQM.

3.2.3. KINROSS GOLD CORPORATION

Chirano Mine, Ghana

In section 3.1.4 above, we discussed the unusually high number of strikes at the Kinross operation in Mauritania. Additionally, from 2010[121] to 2022, the company maintained a 90% stake in the Chirano gold mine in Ghana.[122]

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[118] First Quantum Minerals Ltd., *First Quantum Reports Fatality at Kansanshi* (September 23, 2024), https://www.first-quantum.com/news/first-quantum-reports-fatality-at-kansanshi/ [https://perma.cc/6W2S-DCD2].

[119] First Quantum Minerals Ltd., "First Quantum Reports Fatality at Trident" (June 23, 2025), https://www.first-quantum.com/news/first-quantum-reports-fatality-at-trident/ [https://perma.cc/4VJW-4EDN].

[120] Letter from John Gladston, Director Corporate Affairs, First Quantum Minerals Ltd to Shin Imai, Justice and Corporate Accountability Project (June 30, 2026), at 4. See Appendix C for the full text of the letter.

[121] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31, 2019* (March 30, 2020), at 67, https://www.sedarplus.ca/csa-party/records/document.html?id=61112485c5640d8aa33343bd2d35c85dda4ee635bcacbd676aafc777d8050924.

[122] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31, 2023* (March 27, 2024), at 10, https://www.sedarplus.ca/csa-party/records/document.html?id=952b8b020a38f7b8f947bf33bedf2c70324036144b610a3126715a6d02c004cd.

Safety was a major concern at the mine in Ghana. In January 2022, a truck carrying explosives to the Chirano mine exploded in the small community of Apiate, killing 13 people and injuring dozens more.[123] The vehicle was operated by Maxam Corp, a Spanish company contracted by Kinross.[124] The explosion left a crater roughly 20 metres wide.[125] The National Disaster Management Organisation reported that about 500 buildings were destroyed.[126] Daniel Adu-Gyamfi, a student from a nearby mining college who assisted after the explosion, stated: "[w]e've seen damage to lives and property here that is just indescribable." He added, "[...] you could see human remains all over the place."[127]

Following the explosion, Kinross stated it was aiding response efforts and offering relief supplies to those impacted.[128] Nonetheless, the company clarified that it neither owned nor operated the truck involved in the incident.[129]

In February 2022, the Ghanaian government found that Maxam Corp had violated regulations related to the storage and transportation of explosives and imposed a $6 million fine on the company.[130] Later that year, Kinross sold the Chirano mine to Canadian firm Asante Gold.[131] See the corruption chapter for more details on Kinross.

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[123] "Union calls for ratification of ILO Convention 176 after explosion kills 13 and destroys Ghana village," Industriall Global Union (January 28, 2022), https://www.industriall-union.org/union-calls-for-ratification-of-ilo-convention-176-after-explosion-kills-13-and-destroys-ghana [https://perma.cc/LAK8-5GFX].

[124] Niall McGee, "Truck carrying explosives to Kinross gold mine in Ghana explodes, reportedly killing 17 and injuring dozens," The Globe and Mail (January 21, 2022), https://www.theglobeandmail.com/business/article-truck-headed-to-kinross-gold-mine-in-ghana-explodes-reportedly-kills/ [https://perma.cc/3LQS-KP4F].

[125] "At least 13 dead in Ghana after truck carrying mining explosives detonates," Reuters (January 21, 2022), https://www.cbc.ca/news/world/deadly-explosion-western-ghana-explosives-collision-1.6322972 [https://perma.cc/9RJN-CTYP].

[126] Ibid.

[127] Ibid.

[128] "Kinross distances itself from deadly Ghana explosion, says truck was operated by third party," The Canadian Press (January 22, 2022), https://www.theglobeandmail.com/business/article-kinross-distances-itself-from-deadly-ghana-explosion-says-truck-was/ [https://perma.cc/4AMF-7KA5].

[129] Ibid.

[130] "Spanish firm fined $6 million for Ghana truck blast that killed 13," Reuters (February 8, 2022), https://www.reuters.com/world/africa/spanish-firm-fined-6-mln-ghana-explosives-truck-blast-that-killed-13-2022-02-08/ [https://perma.cc/6YZ4-VUL5].

[131] Kinross Gold Corporation, "Kinross completes sale of Chirano mine in Ghana" (August 10, 2022), https://www.kinross.com/news-and-investors/news-releases/press-release-details/2022/Kinross-completes-sale-of-Chirano-mine-in-Ghana/default.aspx [https://perma.cc/5QVV-59EJ].

3.3. WORKER SAFETY IN CONFLICT ZONES

Over the years, numerous Canadian extractive companies have been active in conflict zones across Africa. Some of these cases are detailed in the conflict chapter of this report.

This chapter addresses companies' responsibilities to their workers during armed conflict, highlighting risks such as travel, convoy operations, and on-site work. According to the *OECD Guidelines*, employers must prevent "accidents and injury to health arising out of, linked with or occurring in the course of employment."[132]

In Burkina Faso, three attacks targeted SEMAFO convoys, with the most severe resulting in 39 deaths and 60 injuries. As a result, SEMAFO had to shut down the mine. Similarly, at the IAMGOLD mine in the same country, there were at least two attacks on worker convoys within a few months. The Banro mine in the Democratic Republic of the Congo experienced at least four attacks, leading to deaths or kidnapping incidents. These assaults were driven by community grievances over inadequate benefits from Banro. Such events raise concerns about whether the companies sufficiently protected their workers.

3.3.1. IAMGOLD CORPORATION

Essakane Mine, Burkina Faso

IAMGOLD Corporation (IAMGOLD) (TSX:IMG) operates three gold mines: Essakane in Burkina Faso and Westwood and Côté in Canada. For information on financial support provided to IAMGOLD by Export Development Canada, see the chapter on economic diplomacy.

IAMGOLD's largest operating mine is the Essakane open-pit gold mine in Burkina Faso.[133] The mine is located in the country's north-east, near the borders with Mali and Niger.[134] The area is subject to frequent raids by Islamist militants.[135]

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[132] *OECD Guidelines*, supra note 7, at paragraph 60; ILO*, Occupational Safety and Health*, supra note 3, at section 3 (c).

[133] "Canadian mining firm Iamgold <IMG.TO> convoy attacked in Burkina Faso," Reuters (October 30, 2021), https://www.reuters.com/world/canadian-mining-firm-iamgold-convoy-attacked-burkina-faso-several-missing-2021-10-29/ [https://perma.cc/F4CB-7D9V].

[134] IAMGOLD Corporation, "Essakane Gold Mine, Burkina Faso," https://www.iamgold.com/English/operations/essakane-gold-mine-burkina-faso/default.aspx [https://perma.cc/A567-YGKC].

[135] Reuters, supra note 133.

On August 31, 2021, gunmen[136] attacked a convoy of two buses en route to the mine,[137] wounding a police officer.[138] Following the incident, IAMGOLD temporarily suspended convoys to and from the mine.[139] In a press release, IAMGOLD said that the incident had been resolved, and that its workforce was safe.[140]

A few months later, on October 29, 2021, another attack struck an IAMGOLD convoy. The convoy comprised 33 people travelling in three buses and three supply trucks. Two people were reported missing following the attack.[141] On November 1, Reuters reported that the missing individuals had been located and that all mine employees and contractors were safe.[142] See the displacement and economic diplomacy chapters for more on IAMGOLD.

3.3.2. SEMAFO/ENDEAVOUR MINING CORPORATION

Boungou Mine, Burkina Faso

SEMAFO (TSX:SMF) operated two gold mines in Burkina Faso: Mana and Boungou.

Since 2016, jihadist groups have waged an Islamist insurgency in northern and eastern Burkina Faso.[143] The Boungou gold mine in eastern Burkina Faso was vulnerable to attack,[144] and in 2019 alone, three attacks occurred over a four-month period. On August 15, five gendarmes and a

[136] Cecilia Jamasmie, "IAMGOLD halts transport to and from Burkina Faso mine after attack," mining.com (September 1, 2021), https://www.mining.com/iamgold-halts-transport-to-and-from-burkina-faso-mine-after-attack/ [https://perma.cc/9SJU-G2PT].

[137] IAMGOLD Corporation, *IAMGOLD Reports Security Incident Near Essakane: Workforce* Safe (September 1, 2021), https://www.newsfilecorp.com/release/95180/IAMGOLD-Reports-Security-Incident-near-Essakane:-Workforce-Safe?lang=fr [https://perma.cc/WK6P-YJGV].

[138] Jamasmie, supra note 136.

[139] Ibid.

[140] IAMGOLD supra note 137.

[141] Reuters, supra note 133.

[142] "Iamgold says all Burkina Faso mine personnel safe after Friday's attack," Reuters (November 1, 2021), https://www.mining.com/web/iamgold-says-all-burkina-faso-mine-personnel-safe-after-fridays-attack/ [https://perma.cc/2BH5-YYK8].

[143] "Burkina Faso country profile," BBC, https://www.bbc.com/news/world-africa-13072774 [https://perma.cc/J4HZ-8X2T].

[144] Endeavour Mining, *Annual Information Form for the financial year ended December 31, 2021* (March 31, 2022), https://www.sedarplus.ca/csa-party/records/document.html?id=98ecb43553e18a3013f2fc448a98354400eec2e44aa72c6be1c61c9b59247248.

subcontractor were killed.[145] Two days later, a bus was ambushed, leaving two more people dead.[146] In November, a convoy of five buses carrying mine employees and contractors was attacked. Although the buses were escorted by military personnel, the ambush left 39 people dead and 60 wounded.[147]

Reuters reports that workers at Boungou raised concerns about road safety prior to the November ambush.[148] SEMAFO finally shut down the mine following the devastating attack.[149]

In July 2020, SEMAFO was acquired by Endeavour Mining (Endeavour). At the time, the company was registered in the Cayman Islands but had its corporate offices in Canada.[150] In October 2020, Endeavour restarted the mine under a new security plan that included an airstrip to fly staff in and out of the mine. The company also expanded on-site housing to accommodate all local and foreign employees during shifts at the mine.[151]

On August 27, 2022, six civilians were killed in an attack on vehicles dispatched from the mine.[152] According to media reports, the vehicles departed from Boungou to assist a supply convoy that had been stuck on the road for several days. The attack reportedly occurred when the vehicles were separated from their armed escort.[153]

Endeavour did not report the attack in its 2022 Annual Information Form. However, the company did say:

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[145] "Attack Near SEMAFO's Boungou Mine Leaves 37 Dead, 60 Injured," Engineering and Mining Journal (November 7, 2019), https://www.e-mj.com/breaking-news/attack-near-semafos-boungou-mine-leaves-37-dead-60-injured/ [https://perma.cc/GY9C-WX2T].

[146] Ibid.

[147] Ibid; "Endeavour restarts gold mine in Burkina Faso, nearly a year after deadly attack," Reuters (October 15, 2020), https://me.smenet.org/endeavour-restarts-gold-mine-in-burkina-faso-nearly-a-year-after-deadly-attack/ [https://perma.cc/K5GE-WSAK].

[148] Reuters, supra note 147.

[149] Ibid.

[150] Endeavour Mining, *Annual Information Form for the financial year ended December 31, 2024* (March 28, 2025), at 17, 29, https://www.sedarplus.ca/csa-party/records/document.html?id=6fa0e379f945f894f71e7c1ab9c0902444bcba4200101387c2974d378b207914.

[151] Reuters, supra note 147.

[152] "Militants kill six in attack on convoy from Burkina Faso mine," Reuters (August 28, 2022), https://www.reuters.com/world/africa/militants-kill-6-attack-convoy-burkina-faso-gold-mine-2022-08-27/ [https://perma.cc/DEH8-9WQC].

[153] "Six killed in mining convoy attack in eastern Burkina Faso," Bloomberg News (August 27, 2022), https://www.mining.com/web/six-killed-in-mining-convoy-attack-in-eastern-burkina-faso/ [https://perma.cc/CKX7-MEFR].

> [a]ny failure to maintain the security of our assets, personnel and contractors may have a material adverse effect on our stakeholders, business, results of operations and financial condition.[154] The security of our employees and contractors in Burkina Faso is key to our ability to perform our exploration, development and mining activities in the country. Since our acquisition of SEMAFO in July 2020 we have significantly enhanced site security and infrastructure and have implemented security protocols at Boungou for the transportation of personnel and materials to the mine.

In 2023, Endeavour sold the Boungou mine.[155]

In a 2025 letter to JCAP, Endeavour stated that the individuals killed "were not workers of Endeavour Mining or otherwise working under Endeavour Mining's control and, as such, Endeavour Mining is not in a position to comment on that incident."[156]

3.3.3. BANRO CORPORATION

Twangiza and Namoya Mines, Democratic Republic of the Congo

Banro Corporation (Banro) (TSX:BAA) began operating in the Democratic Republic of the Congo (DRC) in the 1990s, when it owned the Twangiza mine in South Kivu province and the Namoya mine in Maniema province. Its mines were repeatedly attacked by armed militias, and its workers were kidnapped on more than one occasion. Rebel groups complained that Banro displaced local artisanal miners and failed to provide jobs for local workers.[157]

In February 2017, militia groups attacked the Twanziga gold mine, resulting in four deaths. A month later, five workers were kidnapped from the Namoya mine, with four held hostage for

[154] Endeavour Mining, *Producing Gold that Provides Lasting Value to Society. Annual Information Form 2022* (March 30, 2023), at 94, https://www.sedarplus.ca/csa-party/records/document.html?id=7c49a9901349f11e5bdae1710f4fdd56c238ac55c1e8b7108b6b97d0b019213d.

[155] Endeavour Mining, supra note 147, at 22.

[156] Letter from Samantha Campbell, EVP-Group General Counsel, Endeavour Mining plc to Shin Imai, Justice and Corporate Accountability Project (June 30, 2025). See Appendix B for the full text of the letter.

[157] Cecilia Jamasmie, "Banro halts gold mine in Congo due to violence, shares collapse," mining.com (July 3, 2017), https://www.mining.com/banro-halts-gold-mine-congo-due-violence-shares-collapse/ [https://perma.cc/8WTU-7JFP].

months.[158] The kidnappers demanded a $1 million ransom and a promise that the company would meet its contractual commitments to build schools, roads, and a health centre.[159]

In July 2017, 23 trucks owned by a contractor for the Namoya mine were caught in a firefight between a local militia and the DRC army.[160] Two years later, four workers were kidnapped at the Namoya mine. Banro signed an agreement with a militia to permit artisanal mining at Namoya, in exchange for the release of the kidnapped employees.[161]

The company complained: "[t]he government has done nothing to create a sustainable and positive environment for Banro's employees to work safely and securely."[162] It sold the Twangiza mine in 2019 and the Namoya mine in 2020.[163] See more about Banro in the corruption, displacement, and silencing critique chapters.

[158] Ibid.

[159] "Mining Workers from France, Tanzania Kidnapped in Congo," Associated Press (March 2, 2017), https://www.voanews.com/a/mining-workers-france-tanzania-kidnapped-congo/3746957.html [https://perma.cc/P2Y5-MUJQ].

[160] Jamasmie, supra note 158.

[161] Cecilia Jamasmie, "Banro dangling Congo gold mine to best bidder," mining.com (February 7, 2020), https://www.mining.com/banro-dangling-congo-gold-mine-to-best-bidder [https://perma.cc/4357-YTD2].

[162] "Overrun by militia, Canadian miner Banro suspends Congo gold operations," Reuters (September 27, 2019), https://www.reuters.com/article/world/overrun-by-militia-canadian-miner-banro-suspends-congo-gold-operations-idUSKBN1WC1HH/ [https://perma.cc/8U2Z-4JDH].

[163] Ben Radley, *Disrupted Development in the Congo: The Fragile Foundations of the African Mining Consensus* (Oxford Academic Books, 2023), Chapter 3; "Shomka Resources Ltd signs definitive agreement to acquire 100% of the shares of the Namoya Mine in the Maniema Province, DR of Congo (DRC) from Banro Corporation Ltd in exchange for payment of royalties from production," Mining News Magazine (June 23, 2020), https://miningnewsmagazine.org/shomka-resources-ltd-signs-definitive-agreement-to-acquire-100-of-the-shares-of-the-namoya-mine-in-the-maniema-province-dr-of-congo-drc-from-banro-corporation-ltd-in-exchange-for-payment-of-royalti/ [https://perma.cc/R4DM-CWHD].



04

CORRUPTION

4. CORRUPTION

> *[...] enforcement of the foreign bribery offence remains exceedingly low 25 years after the adoption of the [Corruption of Foreign Public Officials Act], considering the size of Canada's economy and the industrial sectors in which its companies operate.*[1]
>
> Review by the Organisation for Economic Co-operation and Development on Canada's record on preventing bribery (2023)

In this chapter, we highlight seven companies that faced serious and credible allegations of corruption.

The OECD Working Group on Bribery in International Business Transactions has found that Canada's anti-corruption enforcement may be inadequate, as reflected in our case studies. In three instances – ReconAfrica, Ivanhoe Mines, and Kinross Gold – the RCMP received reliable information about potential bribery but chose not to pursue charges. Specifically, Kinross Gold was fined US$950,000 by the U.S. Securities and Exchange Commission for violating the *Foreign Corrupt Practices Act*, yet no action was taken in Canada. Additionally, two cases – First Quantum Minerals and Anvil Mining – were raised by United Nations bodies alleging corruption, but Canadian authorities seem to have taken no action. The only conviction for corruption involved Griffiths Energy International, which pled guilty to paying a US$2 million bribe to the wife of Chad's ambassador to Canada. The bribe came to light only after the CEO's death in a boating accident.

4.1. CORRUPTION IS NOT A VICTIMLESS CRIME

Many Canadian extractive companies operate in African countries that rank below the global average on Transparency International's 2023 Corruption Perceptions Index.[2] Given their large investments across the continent, these companies should prioritize avoiding and mitigating corrupt practices. Corruption involves more than one participant: interactions between Canadian extractive companies and African governments exemplify this, revealing a symbiotic dynamic in which powerful stakeholders facilitate and profit from corruption. Essentially, corruption is reciprocal, providing mutual benefits to those involved, while more vulnerable stakeholders – such as affected local communities and workers – bear the brunt of the consequences.

Corruption is far from a victimless crime; it hampers the efficient management of natural resources by siphoning off crucial funds meant for public services. It also erodes the rule of law and weakens

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[1] OECD, *Implementing the OECD Anti-Bribery Convention in Canada*. Phase 4 Report (October 12, 2023), at 5, https://www.oecd.org/en/publications/implementing-the-oecd-anti-bribery-convention-phase-4-report-canada_a063fdd3-en.html [https://perma.cc/DX8E-3TAG].

[2] "2023 Corruption Perceptions Index," Transparency International, https://www.transparency.org/en/cpi/2023 [https://perma.cc/W46J-E2SX].

oversight of government finances. In Africa, corruption in natural resource sectors manifests in various ways, from bribing local officials for favorable treatment to illicit financial flows (IFFs), where foreign companies evade paying their fair share of taxes or royalties. While this report does not focus on IFFs, it's notable that African countries have lost around US$1 trillion to IFFs over the last 50 years, roughly matching the aid received during that time.[3] It is estimated that at least US$50 billion is lost each year.[4] These numbers are especially concerning, considering the ongoing poverty in Africa,[5] notably in communities near resource extraction sites.

4.2. CANADA'S ANTI-CORRUPTION FRAMEWORK

The OECD is an international organization dedicated "to establish[ing] evidence-based international standards and to find solutions to social, economic, and environmental challenges."[6] Its *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, a legally binding agreement, came into effect in 1999[7] and was ratified by Canada that same year.[8] The convention mandates that member countries criminalize the bribery of foreign public officials and "establish the bribery of foreign public officials as a criminal offence under their laws and detect, investigate, prosecute and sanction this offence."[9]

Canada adopted the Corruption of Foreign Public Officials Act (CFPOA) in 1999 to implement the OECD convention. Under the CFPOA, bribing a foreign public official is defined as offering or agreeing to give or offer a loan, reward, advantage, or benefit, either directly or indirectly, to a foreign public official (or to any person for the benefit of the foreign public official) to gain or retain a business advantage.[10] Violations of this act can result in criminal or civil penalties for companies.[11]

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[3] *Illicit Financial Flow. Report of the High Level Panel on Illicit Financial Flows from Africa,* commissioned by the Joint African Union Commission/United Nations Economic Commission for Africa, at 13, https://au.int/sites/default/files/documents/40545-doc-IFFs_REPORT.pdf [https://perma.cc/JPP3-MDU4].

[4] Ibid.

[5] Ibid.

[6] "Who we are," Organisation for Economic Co-operation and Development, https://www.oecd.org/en/about.html [https://perma.cc/4GJH-Q9FG].

[7] "Canada and the OECD Anti-Bribery Convention," Organisation for Economic Co-operation and Development, https://www.oecd.org/en/topics/sub-issues/fighting-foreign-bribery/canada-country-monitoring.html [https://perma.cc/MD9Q-T83N].

[8] Ibid.

[9] "Fighting foreign bribery," Organisation for Economic Co-operation and Development, Annex, https://www.oecd.org/en/topics/fighting-foreign-bribery.html [https://perma.cc/W2MR-UXQS].

[10] *Corruption of Foreign Public Officials Act*, SC 1998, c 34, at section 3(1). The section goes on to state that the aforementioned conduct must serve "(a) as consideration for an act or omission by the official in connection with the performance of the official's duties or functions; or (b) to induce the official to use his or her position to influence any acts or decisions of the foreign state or public international organisation for which the official performs duties or functions."

[11] Ibid at section 4(1).

4.3. OECD CRITIQUES OF CANADA'S ANTI-CORRUPTION ENFORCEMENT

The OECD Working Group on Bribery in International Business Transactions monitors implementation and enforcement of the OECD anti-bribery convention by member states. The working group conducts on-site visits and produces monitoring reports with recommendations to strengthen each country's compliance with the convention.[12]

The most recent monitoring report for Canada was published in 2023. It identifies serious deficiencies in Canada's enforcement of the *CFPOA*:

> [...] enforcement of the foreign bribery offence remains exceedingly low 25 years after the adoption of the CFPOA, considering the size of Canada's economy and the industrial sectors in which its companies operate. Since the entry into force of the CFPOA in 1999, charges have been laid in only nine cases, and conclusion of foreign bribery cases with sanctions remains scarce, with only two individuals convicted for foreign bribery and four companies sanctioned.[13]

Working group members report that they were unable to identify the precise reasons for this low level of enforcement "due to the very limited investigation and prosecution case information provided by Canadian authorities."[14]

The working group emphasizes that Canadian businesses operating abroad, including in the extractive sector, are highly exposed to foreign bribery:

> [t]he majority of Canada's exports and investments are related to high-risk sectors including manufacturing, energy and mining. The manufacturing and extractive sectors (including mining, quarrying, petroleum and gas) are highly sensitive to foreign bribery, accounting for 27% of concluded cases at the time of the 2014 OECD Foreign Bribery Report.[15]

[12] "Working Group on Bribery," Organisation for Economic Co-operation and Development, https://www.oecd.org/en/about/committees/working-group-on-bribery.html [https://perma.cc/A9JK-SDGH].

[13] OECD, supra note 1, at 5.

[14] Ibid at 47.

[15] Ibid at 10.

4.4. CASE STUDIES

4.4.1. RECONNAISSANCE ENERGY AFRICA

Namibia

Reconnaissance Energy Africa Ltd. (ReconAfrica) (TSXV: RECO) is a Calgary-based junior oil and gas company currently conducting exploration activities in Namibia, Gabon, and Angola.

One of the co-founders of ReconAfrica is Canadian lawyer Jay Park. According to a report in The Globe and Mail, a United Nations monitoring group linked him to a US$2 million payment by Griffiths Energy, which led to a bribery conviction against the company. This incident is described in section 4.7 of this chapter.

In 2022, the RCMP initiated an investigation into ReconAfrica, concentrating on two main issues: its associations with "politically connected figures in Namibia" and its suspicious stock promotion activities.[16] In 2021, The Globe and Mail reported that ReconAfrica had engaged a Namibian businessman with close ties to high-ranking government officials, including the president, amid growing opposition to its drilling plans in the ecologically sensitive Okavango region.[17] No charges seem to have been filed in connection with this investigation.

ReconAfrica has been accused of offering jobs to at least three individuals in exchange for their silence.[18] Max Muyemburuko, a former chairperson of a conservancy within the company's license area, openly criticized ReconAfrica. He stated that the company tried to bribe him with unwelcome employment offers,[19] which he refused.[20] Hamutenya Thomas Muronga, who led another conservancy, was approached by villagers about land and forest destruction caused by the company, affecting crops, livestock grazing areas, and native fruit trees. When Mr. Muronga visited the drill site to question why the conservancy was not consulted, he later received a call from ReconAfrica's lawyer offering him a job. In a sworn affidavit, Mr. Muronga said, "I believe

[16] Geoffrey York, "RCMP investigating Canadian oil company ReconAfrica after complaints of alleged corruption and fraud," The Globe and Mail (July 22, 2022), https://www.theglobeandmail.com/business/article-rcmp-investigating-canadian-oil-company-reconafrica-after-complaints [https://perma.cc/YU6U-GEG2].

[17] Geoffrey York and Emma Graney, "As Calgary's ReconAfrica drills for Namibian oil, a global outcry over endangered elephants grows," The Globe and Mail (May 29, 2021), https://www.theglobeandmail.com/business/article-as-calgarys-reconafrica-drills-for-namibian-oil-a-global-outcry-over [https://perma.cc/CT42-ZK5B].

[18] Jeffrey Barbee and Laurel Neme, "Oil company accused of drilling in African wildlife reserve, offering jobs for silence," National Geographic (December 13, 2021), https://www.nationalgeographic.com/animals/article/oil-company-reconafrica-accused-of-drilling-in-african-wildlife-reserve [https://perma.cc/GXU8-TYB7].

[19] Ibid.

[20] Mike Mwenda, "ReconAfrica drilling in wildlife reserve, raising environmental concerns," Lifegate Daily, (August 8, 2023), https://www.lifegate.com/reconafrica-drilling-wildlife-environmental-concerns [https://perma.cc/A52Z-DX7J].

that they offered me this job to stop me from pursuing the matter."[21] Additionally, a resident from Shakambu reported that a company representative "asked me to stop working with the Kapinga Kamwalye Conservancy, which opposed ReconAfrica's activities. He told me that if I stopped protesting ReconAfrica's operations, ReconAfrica would offer me a job. I did not accept the offer."[22]

Further allegations regarding ReconAfrica's activities in Namibia can be found in the economic diplomacy, environment, and displacement chapters of this report.

4.4.2. IVANHOE MINES

Democratic Republic of the Congo

Ivanhoe Mines (Ivanhoe) (TSX: IVN) operates three mines in Africa: the Kamoa-Kakula and Kipushi mines in the Democratic Republic of the Congo (DRC), and the Platreef project in South Africa.[23]

In November 2021, the RCMP launched an investigation into Ivanhoe for alleged violations of the *CFPOA* related to the company's operations in the DRC.[24] Ivanhoe's business relationships and political connections with senior government officials were alleged to have helped the company illegally extend its exploration licences beyond their 15-year expiry date.[25]

The allegations against Ivanhoe centre on its acquisition of the Kamoa-Kakula copper deposit, which is projected to be the world's third-largest copper-producing mine. In its 2023 Annual Information Form, Ivanhoe reported that in 2003 it "acquired a significant exploration land holding around the perimeter of the historical limits of the Central African Copperbelt, including the permit areas that now comprise the Kamoa-Kakula Mine."[26] The timing surrounding the acquisition has raised concerns since mining exploration licences in the DRC are granted for a limited 15-year

[21] Affidavit of Hamutenya Thomas Muronga (November 10, 2023) in International Human Rights Program, University of Toronto Faculty of Law, on behalf of Saving Okavango's Unique Life (SOUL), *Complaint to the Canadian Ombudsperson for Responsible Enterprise regarding Reconnaissance Energy Africa Ltd.'s human rights abuses in Namibia* (April 9, 2024), Appendix C, https://jackmanlaw.utoronto.ca/media/3847/download?inline [https://perma.cc/2N4R-G3ZN].

[22] Affidavit of Witness 1 (November 8, 2023) in ibid, Appendix D, https://jackmanlaw.utoronto.ca/media/3847/download?inline [https://perma.cc/2N4R-G3ZN].

[23] Ivanhoe Mines, "Operations & Projects," https://www.ivanhoemines.com/operations/kamoa-kakula-mining-complex [https://perma.cc/B9FN-UMG6].

[24] Geoffrey York, "RCMP searches Ivanhoe Mines Vancouver office in hunt for documents on Swiss bank account transfers," The Globe and Mail (December 15, 2022), https://www.theglobeandmail.com/business/article-rcmp-obtains-search-warrant-for-ivanhoe-mines-office-in-hunt-for [https://perma.cc/F3AQ-SKUR].

[25] Ibid.

[26] Ivanhoe Mines, *Annual Information Form For the year ended 2023* (March 27, 2024), at 26, https://www.ivanhoemines.com/wp-content/uploads/IVN_AIF_31-Dec-2023_v9a-CLEAN_formatted_Final_FILED.pdf [https://perma.cc/6EMY-R68P].

period, and Ivanhoe's mining license should have expired in 2018. Ivanhoe was accused of bribing officials to extend its mining licence.[27]

The Sentry, a U.S.-based investigative and policy organization, outlined allegations against Ivanhoe in a 45-page report published in December 2022.[28] The report alleges that Ivanhoe benefited from cronyism and political favouritism in the expedited renewal of its exploration licences (compared with the average processing time for other applicants). According to The Sentry, Ivanhoe created two separate companies and granted minority ownership stakes to an individual connected to senior officials in the DRC government. Both companies then received exploration licences from the Congolese government, even though Ivanhoe's licences were about to expire and Congolese law prohibits extending a mining licence by transferring it to another owner.[29] Despite the licences being held by separate companies, Ivanhoe told its investors that it had full ownership of the licences.[30]

Ivanhoe has denied all accusations of wrongdoing, arguing that there is a plausible explanation for the extension of the company's mining licences. In a December 2022 statement, Ivanhoe contends that:

> [c]ontrary to reality on the ground, The Sentry report leads readers to believe that the Western Foreland Exploration Project is a treasure trove of valuable copper deposits that Ivanhoe Mines has obtained through ill-gotten means by acquiring exploration licences through "high-level connections". This statement betrays a fundamental misunderstanding of the exploration process and Ivanhoe Mines' exploration activities in the DRC.[31]

The company stated further that:

> [The] Sentry seem completely unaware that *force majeure* in the DRC extended the stated holding periods on mineral licences on two occasions, which naturally extended the Western Foreland group of licence holdings. Sentry also failed to properly disclose that it is legal under the DRC mining code for companies to re-apply for expired licences. Ivanhoe Mines has, on occasion, re-applied for permits that have expired, per this legal process.[32]

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[27] The Sentry, *Gaming the System: How a Canadian Mining Giant Undermined the Law in the DRC* (December 2022), at 11-16, https://thesentry.org/wp-content/uploads/2022/12/GamingTheSystem-TheSentry-Dec2022.pdf [https://perma.cc/J68Q-RDLW].

[28] Ibid.

[29] Ibid at 14.

[30] York, supra note 24.

[31] Ivanhoe Mines, "Ivanhoe Mines responds to The Sentry report and Globe and Mail article impugning Ivanhoe's business conduct in the Democratic Republic of Congo" (December 19, 2022), https://www.ivanhoemines.com/wp-content/uploads/ivanhoe_mines_press_release_-_globe_article_response_fi.pdf [https://perma.cc/M85H-8VME].

[32] Ibid.

Ivanhoe went on to add that the "legal extensions and renewals of those licences per the DRC legal framework allow Ivanhoe Mines to continue to use that legal and exploration expertise in the search for the next Kamoa-Kakula."[33]

Ivanhoe has denied any criminality associated with its business operations, emphasising that the company "conducts its business in alignment with national and international laws, including in its partnering with DRC shareholders where required by law."[34]

Since launching its investigation in November 2021, the RCMP has not issued any findings, nor filed any charges against Ivanhoe. Ivanhoe's operations at the Kamoa-Kakula mine have continued.

See the displacement chapter for more on Ivanhoe.

4.4.3. KINROSS GOLD CORPORATION

Mauritania

Kinross Gold Corporation (TSX: K) owns mines around the world. In Africa, Kinross operates the Tasiast gold mine in Mauritania and, from 2010 to 2022, held a 90% interest in the Chirano gold mine in Ghana. For information about financial support provided to Kinross by Export Development Canada, see the chapter on economic diplomacy.

In 2018, the United States Securities and Exchange Commission (SEC) determined that Kinross violated the *Foreign Corrupt Practices Act* at its mines in Mauritania and Ghana.[35] This U.S. statute implements the OECD anti-bribery convention described at the beginning of the chapter.[36]

The SEC determined that Kinross management did not establish or maintain adequate internal accounting controls. This oversight persisted despite multiple internal audits identifying issues, from minor petty cash payments supporting administrative tasks to a US$50 million contract in Mauritania granted to a contractor favored by government officials.[37] In settlement with the SEC, Kinross agreed to pay a US$950,000 fine and committed to reporting its remedial actions over the next year.[38]

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[33] Ibid.

[34] Ibid.

[35] United States of America Before the Securities and Exchange Commission In the Matter of Kinross Gold Corporation, Respondent. Order Instituting Cease-And-Desist Proceedings, Pursuant to Section 21C of the Securities and Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order, March 26, 2018, at 2, https://www.sec.gov/files/litigation/admin/2018/34-82946.pdf [https://perma.cc/5SE4-AMDA].

[36] OECD, supra note 1

[37] SEC, supra note 35.

[38] U.S. Securities and Exchange Commission, Kinross Gold Charged with FCPA Violations (March 26, 2018), https://www.sec.gov/newsroom/press-releases/2018-47 [https://perma.cc/54UW-3EHK].

Non-governmental organizations submitted allegations of corruption at Kinross' African mines, supported by whistleblower information and other documents, to the RCMP.[39] Despite this, no investigation or prosecution seems to have taken place in Canada.[40] Moreover, from 2012 to 2019, Crown corporation Export Development Canada provided Kinross up to $850 million in general corporate loans.[41]

For more on Kinross, see the chapters on economic diplomacy and labour.

4.4.4. GRIFFITHS ENERGY INTERNATIONAL INC.

Chad

Griffiths Energy International (Griffiths Energy) was a private, Calgary-based oil exploration and development company with operations in Chad, including the Mangara and Badila oilfields.

In 2013, the Alberta Court of Queen's Bench accepted Griffiths Energy's guilty plea to a single bribery charge under the *CFPOA*.[42] The conviction involved two consulting agreements from 2009. The first was with a company fully owned by Chad's then ambassador to Canada, which agreed to pay US$2 million to secure oil production-sharing contracts with Chad's government. Griffiths Energy terminated this agreement after legal advice indicated it was an unlawful benefit offer to a foreign official. Subsequently, the company entered into an identical contract with the ambassador's wife's company. In 2011, Griffiths secured an oil contract with Chad and paid the

[39] MiningWatch Canada, "NGOs Urge RCMP To Investigate Kinross Over Reports of Corruption in Africa" (December 10, 2015), https://miningwatch.ca/news/2015/12/10/ngos-urge-rcmp-investigate-kinross-over-reports-corruption-africa [https://perma.cc/FBC2-ATWH].

[40] MiningWatch Canada, "Organisations Ask Prime Minister Trudeau To Take Action on Corruption" (October 30, 2017), https://miningwatch.ca/news/2017/10/30/organisations-ask-prime-minister-trudeau-take-action-corruption [https://perma.cc/G8FQ-A8NK].

[41] Export Development Canada, "Historical Individual Transaction Information " https://www.edc.ca/en/about-us/corporate/disclosure/reporting-transactions/historic-individual-transactions.html [https://perma.cc/972J-RRLV, https://perma.cc/KB4C-LYUM, https://perma.cc/7F52-QTRF, https://perma.cc/P9SV-Q4Q4, https://perma.cc/2MTF-KVCT, https://perma.cc/WJ66-KUFY, https://perma.cc/CL6Q-E23S].

[42] Peter Bowal and Karen Lynn Perry, "Griffiths Energy Violates the Canadian Corruption of Foreign Public Officials Act," Law Now (May 1, 2013), https://www.lawnow.org/griffiths-energy-violates-the-canadian-corruption-of-foreign-public-officials-act [https://perma.cc/V7NE-UV7K]. See also Baker & McKenzie, "Energy Firm Comes Clean with a Voluntary Disclosure about a Foreign Bribe; Internal Investigation and Cooperation with Authorities Results in a Comparatively Modest Fine" (January 25, 2013), at 2, https://www.canadianfraudlaw.com/wp-content/uploads/sites/617/2014/05/Griffiths-Energy-and-CFPOA-Enforcement-Feb-2013.pdf [https://perma.cc/UQX3-8KJU].

US$2 million fee,[43] which Jay Park, co-founder of ReconAfrica, allegedly facilitated, claiming he did not realize it was a bribe.[44]

In summer 2011, the company's founder Brad Giffiths died in a boating accident.[45] Later that year, a new management team uncovered payments made to the ambassador's wife in November. They reported this to authorities, pleaded guilty to bribery under the *CFPOA*, and paid a fine of $10.35 million.[46] After the conviction, the company rebranded as Caracal Energy.[47] In 2014, it was acquired by Glencore.[48]

4.4.5. ANVIL MINING

Democratic Republic of the Congo

Anvil Mining (Anvil) (TSX: AVM) operated three copper, silver, and cobalt mines in the DRC: Kinsevere, Dikulushi, and Mutoshi.

In a June 6, 2005, documentary produced by the Australian Broadcasting Corporation, Anvil CEO Bill Turner admitted that the company made payments to Augustin Katumba Mwanke. Mr. Katumba Mwanke was a close advisor to former president of the DRC, Joseph Kabila. He was also identified as part of the "elite network" responsible for exploiting the DRC's mineral wealth by a UN panel of experts tasked with investigating the illegal exploitation of mineral resources in the DRC.[49] While Turner denied Anvil benefited from Katumba Mwanke's political connections, Mr. Katumba Mwanke served as a representative of the Congolese government on the board of

[43] John W. Boscariol, "A Closer Look at the Griffiths Energy Case: Lessons and Insights on Canadian Anti-Corruption Enforcement," Lexology (February 13, 2013), https://www.lexology.com/library/detail.aspx?g=e8b1444e-02f3-435c-a227-97a67b9c5e17 [https://perma.cc/47BQ-M2TL].

[44] York and Graney, supra note 17.

[45] John Greenwood, "Griffiths Energy facing corruption charge under federal anti-bribery laws," Financial Post (January 16, 2013), https://financialpost.com/news/fp-street/griffiths-energy-facing-corruption-charge-under-federal-anti-bribery-laws [https://perma.cc/QT6U-EJPS].

[46] "U.S. confirms charges against Chad officials in Calgary-based Griffiths Energy corruption case," The Canadian Press (May 25, 2021), https://www.cbc.ca/news/canada/calgary/chad-officials-griffiths-energy-calgary-1.6039790 [https://perma.cc/QP5Q-VLVY].

[47] Caracal Energy Inc., *Prospectus* (July 2, 2013), at 34, https://www.sedarplus.ca/csa-party/records/document.html?id=e4eba722ffd925dd1d644cf0c574eebbca9a4072a073b5bc8dda748097f36777 [https://perma.cc/2KKP-DG34].

[48] Caracal Energy Inc., *Material Change Report* (July 8, 2014), https://www.sedarplus.ca/csa-party/records/document.html?id=ee5d50a4636a3fd2565d92eeabc4dcd6f827e13779722876855432d357a803fc [https://perma.cc/9L2Z-2TBL].

[49] Letter from Rights and Accountability in Development to Paul Wolfowitz, President, World Bank Group, July 8, 2005, at 2, https://raid-uk.org/wp-content/uploads/2023/04/raid-worlbank-dikulushi.pdf [https://perma.cc/M337-DV3E].

directors of Anvil's Congolese subsidiary.[50] At the time, the Canadian government examined the allegations against Anvil to determine whether an investigation was warranted.[51] The government chose not to pursue the matter.[52] Anvil also appears in the conflict chapter of this report.

4.4.6. FIRST QUANTUM MINERALS

Democratic Republic of the Congo

First Quantum Minerals (First Quantum) (TSX:FM) has mining operations around the globe. In Africa, the company operates in Mauritania (the Guelb Moghrein mine) and Zambia (the Sentinel and Kansanshi mines).

From 2006[53] to 2012,[54] First Quantum held an interest in the Kolwezi tailings project in the DRC. The project recovered residual copper and cobalt from mine tailings.[55]

In September 2000, the UN Secretary-General formed an expert panel to examine the illegal extraction of natural resources in the DRC. In its 2002 report, the panel highlighted numerous companies violating the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (see Annex III of the UN report).[56] Among these was First Quantum. The panel accused First Quantum of trying to bribe Congolese officials to gain rights for the Kolwezi project. The report states that First Quantum offered the Congolese government a US$100 million upfront payment, along with cash and company shares held in trust.[57] First Quantum's payment list allegedly included the National Security Minister, Mwenze Kongolo; the Director of the National Intelligence Agency, Didier Kazadi Nyembwe; the Director General of Gécamines, Yumsba

[50] Ibid at 3.

[51] Ibid at 4.

[52] John Lasker, "Digging for Gold, Mining Corruption," Canadian Dimension (October 29, 2009), https://canadiandimension.com/articles/view/digging-for-gold-mining-corruption [https://perma.cc/37M5-PY9P].

[53] First Quantum Minerals Ltd., *Revised Annual Information Form. As at December 31, 2008* (March 30, 2009), at 5, https://www.sedarplus.ca/csa-party/records/document.html?id=d40ed692f543a8ee3ccd6dece5608339d6a825cae98c3075232165ef22a102aa [https://perma.cc/U7WE-Q8BN].

[54] First Quantum Minerals Ltd., *Annual Information Form. As at December 31, 2013* (March 21, 2014), at 10, https://www.sedarplus.ca/csa-party/records/document.html?id=59ce7b6e34e7e2f6a800c1cc9ec85f347b31a86912c2629525dacdd1789b12d0 [https://perma.cc/57R9-6DR5].

[55] FQM, supra note 54 at 29.

[56] Rights and Accountability in Development, *Unanswered questions: Companies, conflict and the Democratic Republic of Congo* (May 2004), at 11, https://raid-uk.org/wp-content/uploads/2023/03/unanswered-qq.pdf [https://perma.cc/ES6G-REYA].

[57] United Nations Security Council, *Letter dated 15 October 2002 from the Secretary-General addressed to the President of the Security Council,* S/2002/1146 (2002), at para 33, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DRC%20S%202002%201146.pdf [https://perma.cc/65EP-GLVP].

Monda; and the former Minister of the Presidency, Pierre-Victor Mpoyo. The expert report states that the company's "share offer to those officials was premised on a sharp rise in its share price once it was announced that it had secured some of the most valuable mineral concessions in the DRC."[58]

According to a comprehensive report by the non-governmental organization Rights and Accountability in Development (RAID) on the UN process, the panel's report produced a backlash:

> [t]he Panel's naming of companies prompted many of them to lobby their own governments and the Security Council to seek their removal from the annexes. The Security Council, stung by criticism that companies had been denied an opportunity to respond to the Panel's allegations, invited them to send their reactions and gave an undertaking to publish them.[59]

The UN Security Council extended the panel's mandate to "verify, reinforce and, where necessary, update the Panel's findings, and/or clear parties named in the Panel's previous reports, with a view to adjusting accordingly the lists attached to these reports."[60]

In 2003 the panel published its final report. The group declared that cases involving almost half of the companies listed on Annex III in 2002 (i.e. companies found to be in violation of the OECD Guidelines) had been resolved.[61] First Quantum was among these companies.[62]

In a communication to JCAP, First Quantum said:

> [a]lthough First Quantum Minerals was originally listed under Annex III of the Panel's initial 2002 report, following further inquiries, the company was completely exonerated in the final report of October 2003.[63]

RAID provided critical analysis about the panel's resolution of these corporate cases:

> [t]he categories used in the Panel's October 2003 report are confusing and contradictory. The 'resolved' category includes many cases where it is not at all apparent that there has been any resolution, and the reasons for determining that a case has been 'resolved' are not transparent. Many named companies have

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[58] Ibid.

[59] RAID, supra note 56, at 4.

[60] United Nations Security Council Resolution 1457 (January 24, 2003), at 2, https://digitallibrary.un.org/record/485249?ln=en&v=pdf [https://perma.cc/X9BX-EKQK].

[61] RAID, supra note 56, at 14.

[62] United Nations Security Council, *Letter dated 23 October 2003 from the Secretary-General addressed to the President of the Security Council*, S/2003/1027, Annex I, at 2, http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DRC%20S%202003%201027.pdf [https://perma.cc/8VJA-MCF7].

[63] Letter from John Gladston, Director Corporate Affairs, First Quantum Minerals Ltd to Shin Imai, Justice and Corporate Accountability Project (June 30, 2026), at 7. For the full text of the letter, see Appendix C.

> publicised their appearance in category I (resolved) as though it were synonymous with 'exoneration,' but that is not what the categorisation entails because the Panel's message is ambiguous. The Panel states that '[c]onsequently, the parties listed in Category I may be viewed as having been removed from the Annexes.' However, it also asserts: 'for any particular party the Panel has acquired information indicating that, *prima facie*, a party has been engaged in conduct related to business dealings linked to the DRC […] that do not meet generally accepted international standards of corporate behaviour or governance' and that '*[i]t should be stressed that resolution should not be seen as invalidating the Panel's earlier findings with regard to the activities of these actors*.'[64] (emphasis added)

RAID reports that First Quantum responded to the UN panel by arguing that the actions described in its 2002 report were carried out by independent consultants hired to assist with political lobbying in the DRC beginning in late 1997. RAID quotes a submission by First Quantum to the UN panel, in which it asserts that the consultants acted in breach of their contractual obligations and without company authorization.[65] RAID argues that the "company has not adequately explained, at least publicly, how the consultancy could have made arrangements for substantial transfers, as documented by the Panel, without its knowledge."[66]

In addition to First Quantum, the 2002 panel report found that Canadian companies Banro Corporation, Harambee Mining Corp, International Panorama Resources, Melkior Resources, Tenke Mining Corp, and Kinross Gold were all in violation of the *OECD Guidelines for Multinational Enterprises*.[67] With the exception of International Panorama Resources, all of these companies' cases were reported as having been resolved in 2003.[68]

In 2026, First Quantum was accused of running a "covert influence campaign in Zambia, including offering as much as US$50 million toward President Hakainde Hichilema's political party."[69] The report, authored by Global Witness, documents a relationship between Hichilema and the family of Tristan Pascall, the CEO of First Quantum, including meetings at the Royal Zambezi Lodge, a five-star safari camp owned by the Pascall family.[70] According to the report, after Hichilema was elected, he changed the mining taxation regime, resulting in savings for First Quantum totalling US$771 million between 2022 and 2025.[71] Although the report does not accuse FQM of corruption or doing anything illegal, it argues for more transparent laws on political

[64] RAID, supra note 57, at 4.

[65] Ibid at 55.

[66] Ibid.

[67] UNSC, supra note 58.

[68] UNSC, supra note 63.

[69] Moses Musokotwane, "First Quantum rejects Global Witness claims of covert UPND funding" (July 23, 2026), Lusaka Times, https://www.lusakatimes.com/2026/07/23/524939/ [https://perma.cc/7TMB-22QR].

[70] Global Witness, "How a Canadian mining giant infiltrated Zambia's democracy" (July 21, 2026), at 1 and 8, https://globalwitness.org/en/campaigns/transition-minerals/how-a-canadian-mining-giant-infiltrated-zambias-democracy/ [https://perma.cc/ESX3-KUDG].

[71] Ibid at 21.

contributions.[72] FQM categorically denies that it provided financing to Hichilema's party and says that the Global Witness report was based on anonymous sources with no documentation.[73]

Find more on First Quantum in the displacement, environment, labour, and silencing critique chapters.

4.4.7. ACACIA MINING (BARRICK MINING CORPORATION)

Tanzania

Barrick Mining Corporation (Barrick) (TSX: ABX) is one of the world's largest mining companies. In Africa, the company owns mines in the Democratic Republic of the Congo (Kibali mine), Tanzania (Bulyanhulu and North Mara mines), Mali (Loulo-Gounkoto mine), Côte d'Ivoire (Tongon mine), and Zambia (Lumwana mine).

In 2010, Barrick created a subsidiary in the United Kingdom, African Barrick Gold, which assumed ownership of the North Mara mine in Tanzania. The subsidiary was majority-owned by Barrick.[74] Four years following its incorporation, the company's name was changed to Acacia Mining.[75] In 2019, Barrick secured full ownership of Acacia, delisted the company, and assumed operational control of the North Mara mine.[76]

The North Mara mine has been associated with a high level of violence against local villagers who enter the mine site to look for remnants of gold in piles of waste rock. For a detailed account, see the chapter on security and violence.

The mine has used a combination of its own private security service and the Tanzania Police Force. African Barrick Gold and later, Acacia Mining, paid for equipment, housing, and food for the police. In addition to these payments, Geoffrey York of The Globe and Mail reports that internal Acacia Mining emails show that from 2008 to 2015, the mine paid about US$1.2 million annually

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[72] Ibid at 32.

[73] "Statement from First Quantum Minerals", https://www.first-quantum.com/sustainability/ethics/statement-from-first-quantum-minerals/ (no date) [https://perma.cc/E9W5-Q2RZ].

[74] Barrick Gold Corporation, *Annual Information Form For the year ended December 31, 2014* (March 27, 2015), at 31, https://www.sedarplus.ca/csa-party/records/document.html?id=a5ba8b73f3ebb1a709a5a466af3b8a3059315bc9800d93be0f0cd236b358db54 [https://perma.cc/GP7F-U8JB].

[75] Cecilia Jamasmie, "African Barrick is history, changes name to Acacia Mining," mining.com (November 27, 2014), https://www.mining.com/african-barrick-is-history-changes-name-to-acacia-mining-31334 [https://perma.cc/9TBM-6TBF].

[76] Barrick Gold Corporation, *Annual Information Form For the year ended December 31, 2019* (March 25, 2020), at 18, https://www.sedarplus.ca/csa-party/records/document.html?id=31b9bcc50d5710deea1ea78e54def5fe02c41e7c37ffca637a57ea68012e41bd [https://perma.cc/PDY7-BCYF]; "The Launch of Twiga Minerals Heralds Partnership Between Tanzanian Government and Barrick" (October 20, 2019), https://www.barrick.com/English/news/news-details/2019/The-Launch-of-Twiga-Minerals-Heralds-Partnership-Between-Tanzanian-Government-and-Barrick-/default.aspx [https://perma.cc/2WYZ-QMR7].

to as many as 60 officials at another police unit, the Tanzanian National Law Enforcement Task Force. This task force reported directly to the president of Tanzania.[77]

These documents show that some officials at Acacia had complained for several years that there appeared to be no justification for the payments, and that, at one point, payouts were being approved by an individual who was not even employed by the mine. A security advisor at Acacia said that the payments did not comply with the company's own anti-corruption policies and that there could be "allegations of maintaining influence over public servants through per-diem and in-kind payments." [78]

Barrick said the payments were "entirely bona fide" but did not explain why they were stopped in 2015.[79]

[77] Geoffrey York, "Barrick subsidiary's payments to Tanzanian officials triggered concerns over anti-corruption breaches, company e-mails show," The Globe and Mail (September 14, 2023), https://www.theglobeandmail.com/business/article-barrick-gold-subsidiary-tanzanian-government [https://perma.cc/JF37-27S2].

[78] Ibid.

[79] "Barrick Responds to Globe and Mail Article on Payments Made by Barrick's UK Subsidiary," (September 14, 2023), https://www.barrick.com/English/news/news-details/2023/barrick-responds-to-globe-and-mail-article-on-payments-made-by-barrick-UK-subsidiary/default.aspx [https://perma.cc/2ZJE-MZSN].



05

SILENCING CRITIQUES AND SUPPRESSING INVESTIGATIONS

5. SILENCING CRITIQUES AND SUPPRESSING INVESTIGATIONS

Freedom of expression and freedom to criticize those in positions of power are essential features of a democracy. Although these rights are not absolute and may be subject to legitimate restrictions, the extractive-sector context raises a critical question: do companies and the governments that support them weaponize otherwise lawful restrictions to silence criticism and deter investigations into alleged wrongdoing?

The *African Charter on Human and Peoples' Rights* protects freedom of expression and the right to receive information.[1] In 2018, the African Commission on Human and Peoples' Rights adopted guidelines regarding the application of the *Charter* in the context of the extractive industries.[2] The guidelines state:

> [h]uman rights defenders who speak out and advocate for measures to ensure the respect of human rights of affected people must be able to assist affected people without fear of reprisals from the government or the company involved in extractive industries and the State should ensure that there is not impunity for threats, attacks and acts of intimidation against those advocating for the rights of affected communities irrespective of their designation as human rights defenders, including women human rights defenders.[3]

In this chapter, we describe two examples of the "threats, attacks and acts of intimidation" identified in the guidelines: lawsuits against mine critics and the suppression of human rights defenders.

Part 1 examines the first practice: lawsuits against actors who publish, or attempt to publish, criticisms of the companies. When these lawsuits are misused, they are known as Strategic Lawsuits Against Public Participation, or SLAPPs. The United Nations High Commissioner for Human Rights defines SLAPPs as "lawsuits or threats of legal action which use abusive litigation

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[1] Organization of African Unity, *African (Banjul) Charter on Human and Peoples' Rights* (1981), Article 9, https://www.african-court.org/wpafc/wp-content/uploads/2020/04/AFRICAN-BANJUL-CHARTER-ON-HUMAN-AND-PEOPLES-RIGHTS.pdf. [https://perma.cc/6Q64-FQZD]

[2] African Commission on Human and People's Rights, *State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment* (2018), at 27, https://achpr.au.int/en/node/845 [https://perma.cc/VA8W-WTW2]

[3] Ibid at para 24.

tactics with the aim or effect of suppressing public participation and critical reporting on public."[4] In 2022, the Constitutional Court of South Africa issued a landmark decision in a case brought by an Australian company against environmental activists, comprising lawyers, teachers, and community members, alleging defamation.[5] The court allowed the defendants to raise a SLAPP defence, explaining that the objective of companies bringing these lawsuits is to "silence or fluster the opponent, tie them up with paperwork or bankrupt them with legal costs."[6] The court went on to say that "[t]heir aim is to intimidate and scare a litigant who may previously have brought to light matters of public concern."[7]

In this chapter, we discuss a $6 million lawsuit brought by Barrick Gold[8] in 2008 against Éditions Écosociété, the small French-language publisher of *Noir Canada: Pillage, corruption et criminalité en Afrique*. The book describes alleged abuses associated with mining, including allegations concerning Barrick Gold in Tanzania and in the Democratic Republic of the Congo. At a preliminary hearing of the case, the Quebec Superior Court found that the amount claimed was disproportionate and that Barrick was trying to "intimidate" the authors.[9] Two years later, in 2010, Barrick also threatened to sue Talonbooks, a small English-language publisher, over another book critical of Canadian mining companies. Most recently, in 2024, Barrick threatened legal action against Ekō, a small online platform, over statements about the company's mines.

The chapter also examines a $5 million lawsuit by Banro Corporation against Éditions Écosociété over *Noir Canada,* as well as a lawsuit by First Quantum Minerals against a small South African NGO following the publication of a 2021 report on the Kansanshi mine.

In Part 2, we describe a second concerning practice: restrictions on expression and other barriers imposed against "trade unionists, labour leaders, land and environmental defenders, affected community members, anti-corruption activists, and journalists"[10] who defend and promote human

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[4] UN Office of the High Commissioner on Human Rights, "The impact of SLAPPS and how to respond" (April 29, 2024), at 1, https://www.ohchr.org/en/documents/brochures-and-leaflets/impact-slapps-human-rights-and-how-respond [https://perma.cc/2RXZ-BU4H].

[5] *Mineral Sands Resources (Pty) Ltd and Others v Reddell and Others*, [2022] ZACC 37, para 43. [https://perma.cc/7MT5-NTDP]

[6] Ibid.

[7] Ibid at para 42. The company withdrew its claim in 2025 following the ruling (John Yeld, "Massive SLAPP suit against environmentalists withdrawn," Ground Up (January 24, 2025), https://groundup.org.za/article/massive-slapp-suit-against-environmentalists-withdrawn [https://perma.cc/8QLN-H8DR].

[8] In May 2025, the company's name was changed from Barrick Gold Corporation to Barrick Mining Corporation.

[9] *Barrick Gold Corporation c. Éditions Écosociété Inc.*, 2011 QCCS 4232 at paras 24-25.

[10] United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises, *The UN Guiding Principles on Business and Human Rights: guidance on ensuring respect for human rights defenders*, A/HRC/47/39/Add.2, 2021,

rights in relation to extractive industries. These individuals are collectively known as human rights defenders. The African Commission on Peoples' and Human Rights has recognized the critical role of journalists,[11] while the Organisation for Economic Co-operation and Development (OECD) has also acknowledged the importance of investigative journalists and civil society organizations in exposing corruption and wrongdoing.[12]

This chapter illustrates how governments that support mining companies can restrict reporting and criticism concerning those companies. In 2022, for example, police prevented foreign journalists from reaching the community near the controversial Bulyanhulu mine in Tanzania. In 2024, the Tanzanian government went further by requiring those "claiming to be human rights activists" to obtain prior permission before visiting communities around mines.

Businesses may also be directly implicated in attacks on human rights defenders. The United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises has stated:

> [t]here is growing concern about the role of business in causing, contributing, or being directly linked to attacks against human rights defenders, or in failing to take action against such attacks. Questions are also being raised about the role of business in helping to prevent harms to human rights defenders and to protect civic space.[13]

5.1. SLAPP LAWSUITS

The United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises has urged companies to not use SLAPPs:

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https://www.ohchr.org/sites/default/files/2022-02/Formatted-version-of-the-guidance-EN_0.pdf [https://perma.cc/W3PT-B6MX]

[11] African Commission on Human and Peoples' Rights, *Resolution on Repealing Criminal Defamation Laws in Africa*, ACHPR/Res.169(XLVIII)10 (November 24, 2010), https://achpr.au.int/en/adopted-resolutions/169-resolution-repealing-criminal-defamation-laws-africa-achprres169xlvii [https://perma.cc/W2F3-NAHX]

[12] Organisation for Economic Co-operation and Development, *Investigative Journalism and Fiscal Transparency: Catalysts for Addressing Corruption in Oil-producing Developing Countries* (July 2023), https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/07/investigative-journalism-and-fiscal-transparency_a8ac90f3/ed198202-en.pdf [https://perma.cc/AKZ7-AJ57]

[13] United Nations Working Group, supra note 10, at 1. See also Business and Human Rights Centre, "Defending rights and realising just economies: Human rights defenders and business (2015-2024)," http://bit.ly/46Y8HUy [https://perma.cc/74KD-JY4G]

> [d]o not expose human rights defenders to undue risks, for example by initiating frivolous legal proceedings, including SLAPPs, or reporting them to authorities as a means of intimidating them.[14]

The Office of the United Nations High Commissioner for Human Rights[15] and Southern Africa Resource Watch[16] have published guidance on responding to SLAPPs.

Several jurisdictions have enacted legislation intended to discourage SLAPPs. In Canada, British Columbia,[17] Ontario,[18] and Quebec[19] have such legislation. Anti-SLAPP laws also exist in several jurisdictions in the United States[20] and parts of Australia, and the European Union has adopted a directive addressing abusive litigation against public participation.[21]

5.1.1 BARRICK MINING CORPORATION

Barrick Mining Corporation (Barrick) (TSX: ABX) is one of the world's largest mining companies. In Africa, it owns mines in the Democratic Republic of the Congo (Kibali), Tanzania (Bulyanhulu and North Mara), Mali (Loulo-Gounkoto), Côte d'Ivoire (Tongon), and Zambia (Lumwana). Barrick is also discussed in the chapters on conflict, economic diplomacy, the environment, forced evictions and displacement, labour, and security and violence.

Barrick has brought, or threatened to bring, several lawsuits against journalists, publishers, and organizations that have criticized its mines.

The first case concerns Éditions Écosociété Inc., a small Quebec publisher, and the authors of *Noir Canada: Pillage, corruption et criminalité en Afrique*. The book alleged that 52 miners were

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[14] United Nations Working Group, supra note 10, at 43; Environmental Law Alliance Worldwide, *Strategic Lawsuits Against Public Participation (SLAPPs) & Undue Influence on the Judiciary* (June 14, 2024), https://www.ohchr.org/sites/default/files/documents/issues/ijudiciary/cfis/economic-actors/subm-sr-independence-judges-cso-environmental-law-alliance.pdf [https://perma.cc/7LAN-VJAX].

[15] UNHCR, supra note 4.

[16] Southern Africa Resource Watch, *Anti-SLAPP Toolkit*, https://www.sarwatch.co.za/anti-slapp-toolkit [https://perma.cc/XY3S-ZSXK] SARW hosts the Coalition Against SLAPPs in Africa https://www.sarwatch.co.za/casa-2. [https://perma.cc/SHN7-ZK2G]

[17] *Protection of Public Participation Act*, SBC 2019 c 3.

[18] *Courts of Justice Act*, RSO 1990, c C-43, ss 137.1-137.5.

[19] *Code of Civil Procedure*, CQLR, c C-25.01, ss 51-54.

[20] "Recent changes in state anti-SLAPP laws," Reporters Committee for Freedom of the Press, https://www.rcfp.org/anti-slapp-guide/latest-developments [https://perma.cc/SN4U-XCXN].

[21] *Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings* (April 11, 2024), http://data.europa.eu/eli/dir/2024/1069/oj [https://perma.cc/WRT3-KWWG]

buried alive during the displacement of tens of thousands of artisanal miners to make way for the Bulyanhulu mine in Tanzania. The displacement occurred in 1996, when another Canadian mining company, Sutton Resources, owned the mine; Barrick acquired Sutton Resources three years later, in 1999. Whether anyone was killed during the displacement remains disputed. The issue is examined in relation to Sutton Resources in the displacement chapter, while Canadian embassy support connected with the displacement is discussed in the economic diplomacy chapter.

In 2008, Barrick sued Éditions Écosociété Inc. for $6 million. At the time, Barrick had a market capitalization of US$40 billion. Éditions Écosociété Inc., by contrast, was a small, French-language publisher with six employees and a limited budget.[22] The damages sought by Barrick amounted to 25 times the publisher's annual profit.[23]

Barrick had a legitimate interest in clarifying that it acquired Sutton Resources *after* the displacement and alleged deaths of artisanal miners.[24] In a letter to JCAP, Barrick maintained that its lawsuit was intended solely to protect its reputation:

> It is also perplexing that you would seemingly fault Barrick for having sued the authors and publisher of *Noir Canada*. Any responsible public company with a reputation to protect faced with manifestly false accusations as serious as participating in mass genocide would have done exactly what we did.[25]

However, Barrick did more than seek to clear the record. It conducted the litigation aggressively, prompting a formal rebuke from Justice Guylène Beaugé of the Quebec Superior Court in 2011. The judge identified several ways in which Barrick's tactics could constitute an abuse of process:

- Barrick issued a demand letter claiming $6 million in damages before the book was even published;
- Barrick had failed to provide material proof of damage at the time of the court hearing;
- Barrick engaged in protracted procedural tactics that would financially burden the defendants, such as requiring twenty days of court time to question the defendants; and

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[22] Éditions Écosociété, "Historique," https://ecosociete.org/a-propos/historique [https://perma.cc/XE7R-DJUX].

[23] "Barrick Gold lawsuit alleges Quebec book is 'utter fiction,'" CBC News (May 6, 2008), https://www.cbc.ca/news/canada/montreal/barrick-gold-lawsuit-alleges-quebec-book-is-utter-fiction-1.757215 [https://perma.cc/K69C-NMAD]

[24] "Settlement of Barrick Gold Lawsuit Against the Authors and the Publisher of Noir Canada," Barrick (October 18, 2011), https://www.barrick.com/news/news-details/2011/Settlement-of-Barrick-Gold-Lawsuit-Against-the-Authors-and-the-Publisher-of-Noir-Canada-EnglishFranais [https://perma.cc/P5F2-VY9A]

[25] Letter from Grant Beringer, Sustainability Executive, Barrick Gold to Shin Imai (December 10, 2024), at 11, [https://perma.cc/FKD5-MFG6]. See Appendix A for the complete letter.

- Barrick's claim for $6 million was "an exorbitant and disproportionate claim in light of the majority of the current jurisprudence in Canadian and Quebec law."[26]

The judge concluded by questioning Barrick's ulterior motives:

> […] why a procedural behaviour in appearance so immoderate? The Tribunal finds that there is evidence to infer that, beyond restoring its reputation, Barrick appears to be seeming to intimidate the authors.[27]

The court then took the unusual step of ordering Barrick to pay $143,000 towards Écosociété's legal expenses because Barrick engaged in "protracted procedural tactics that would financially burden the defendants." The case was settled shortly thereafter, with Écosociété agreeing to stop publishing the book.[28]

Outside of court, Barrick reportedly sent a representative to attend a speech by a student member of Protest Barrick and later sought to subpoena the student, even though the student had no involvement in publishing the book.[29]

In 2010, Barrick threatened legal action against another small Canadian publisher, Talonbooks, over *Imperial Canada Inc.: Legal Haven of Choice for the World's Mining Industries*,[30] a book by Alain Deneault and William Sacher about Canadian mining companies. According to Talonbooks, Barrick also sent a letter to the book's authors, collaborators, and translators, threatening to "sue everyone if they didn't like what they saw."[31] After receiving these letters, Talonbooks president Kevin Williams, stated that "[w]e were scared and we were intimidated. We were also somewhat outraged by the fact [that we hadn't] even published the book! It felt like an infringement of our civil liberties and our ability to have free speech."[32] After consulting the B.C. Civil Liberties Association, Talonbooks proceeded with a revised book that addressed the issues more abstractly.[33]

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[26] In contrast, when a large Japanese lumber company tried to restrain students from claiming that it was engaged in genocide, it only asked for $1 in damages (*Daishowa Inc. v Friends of the Lubicon*, 1998 CanLII 14828 (ON SC)).

[27] *Éditions Écosociété Inc.*, supra note 9, at paras 24-25.

[28] Barrick, supra note 24.

[29] Dylan Robertson, "Grad activist condemns Barrick lawsuit against book," The Varsity (April 9, 2009), https://thevarsity.ca/2009/04/09/grad-activist-condemns-barrick-lawsuit-against-book [https://perma.cc/9XL2-TQ6D]

[30] Alain Deneault and William Sacher, *Imperial Canada Inc.: Legal Haven of Choice for the World's Mining Industries* (Talonbooks, 2010).

[31] Ibid.

[32] Ibid.

[33] Jordan Timm, "Barrick Gold takes on Talon Books," Canadian Business (July 19, 2010), https://web.archive.org/web/20100618090030/http://www.canadianbusiness.com/markets/commodities/article.jsp?content=20100719_10011_10011 [https://perma.cc/E45Y-P23P]; "Imperial Canada Inc.: 'two

More recently, in 2024, Barrick sent a 19-page letter to Ekō, a small New York-based corporate accountability non-profit. In an appeal for funds for its legal defence, Ekō posted on its website:

> I'm sitting here feeling a little scared. And a little excited. Looking at **a threatening 19-page legal letter.**
>
> It's from Barrick Gold's hotshot lawyer, and it **threatens to take us to court.** They obviously didn't like the work we did to support their shareholders confronting them about a brutal pattern of corporate intimidation and destruction.
>
> This is big. Barrick is a $30-billion mega-corporation. We're a tiny non-profit, trying to hold them accountable. And they are infamous for legal strong-arm tactics to silence opponents…***they even bragged about it in their letter!*** And now they're coming after us.[34]

Barrick's aggressive legal tactics helped galvanize support for anti-SLAPP legislation. In May 2008, shortly after Barrick sued Éditions Écosociété, supporters of the authors created a website urging the Quebec government to enact such legislation.[35] The following month, the government introduced what became Canada's first anti-SLAPP law.[36]

The litigation also brought *Noir Canada* to an audience far larger than might otherwise have encountered a French-language book with a print run of fewer than 2,000 copies, almost all of which were distributed in Quebec.[37] The lawsuit provoked public outrage, with academics, civil liberties organizations, and politicians accusing Barrick of suppressing free speech and intimidating its critics. Sixty publishing houses from 30 countries signed a letter urging Barrick to withdraw the lawsuit.[38]

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major Canadian mining corporations have been trying to prevent Canadians from ever seeing this book." [https://perma.cc/D7VR-FEGH].

[34] Ekō, "Defend Ekō against Barrick Gold," https://action.eko.org/a/defend-ek-against-barrick-gold?sp_ref=857973983.99.230898.t.0.2&source=tw [https://perma.cc/Z6FK-JN9V]; On August 15, 2024, Barrick invited Ekō to visit one of its mines (https://www.barrick.com/English/news/news-details/2024/barrick-meets-with-eko/default.aspx) [https://perma.cc/D4MX-G77Y] We were told by Ekō that nothing came of the threat.

[35] Éditions Écosociété, supra note 22.

[36] *An Act to amend the Code of Civil Procedure to prevent improper use of the courts and promote freedom of expression and citizen participation in public debate*, SQ 2009, c 12.

[37] Éditions Écosociété, supra note 22.

[38] Robertson, supra note 29. See also "Noir Canada: Pillage, corruption et criminalité en Afrique," Book and Periodical Council, https://www.freedomtoread.ca/challenged-works/noir-canada-pillage-corruption-et-criminalite-en-afrique [https://perma.cc/XUC3-CZ4L]; Candice Vallantin, "Code of Silence: An academic book, a multimillion-dollar lawsuit, and a question: is Canadian law failing free speech?" The Walrus, (November 12, 2011), https://thewalrus.ca/code-of-silence [https://perma.cc/T8YN-CHYK].

Noir Canada received the Prix Richard-Arès in 2008 as Quebec's best book on a matter of public interest.[39] A documentary[40] about the book and the efforts of its authors and publisher to respond to Barrick's litigation premiered at the Montreal International Documentary Festival in 2012. It was nominated for the Prix Jutra (now Prix Iris) for the best documentary of 2014.[41] The documentary is held in various university libraries in Canada and the U.S.,[42] as well as on the TV Guide website.[43]

For much of the general public, *Noir Canada* became a story about Barrick's litigation tactics rather than the vindication of a mining company that maintained it had been falsely accused of grave human rights abuses.

The negative impression created by the litigation may also shape perceptions of Barrick's conduct in countries where its mines have faced allegations of human rights abuses. If the company uses its financial power to intimidate small organizations in Canada, critics may ask how it treats those who challenge it elsewhere. The United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises has cautioned companies against SLAPPs because of this reputational risk:

> [r]ecognise that SLAPPs are not only misguided as far as operating on a principled basis is concerned, as they are incompatible with responsible business*, but also that engaging in them reflects poor strategic sense, as they destroy any credibility of corporate commitment to respect human rights at large* [emphasis added].[44]

For information on restrictions affecting investigations into Barrick's mines in Tanzania, see section 2 below. Barrick is also discussed in the chapters on conflict, displacement, economic diplomacy, the environment, labour, and security and violence.

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[39] "Prix Richard-Arès," L'Action Nacionale, https://100e.action-nationale.qc.ca/exhibits/show/100e/annexes/prix-de-l-action-nationale/prix-richard-ares.html [https://perma.cc/DT43-JTQ5]. See May 9, 2009 video of presentation: https://www.dailymotion.com/video/xae2rd

[40] "Silence is Gold," National Film Board of Canada, https://www.nfb.ca/film/silence_is_gold [https://perma.cc/M8L7-X2XF].

[41] "Jutra 2014: le Triomphe de Louis Cyr," Voir (March 23, 2014), https://voir.ca/manon-dumais/2014/03/23/jutra-2014-le-triomphe-de-louis-cyr [https://perma.cc/QUD9-MCZH].

[42] A search online lists libraries that carry the movie, such as the Edmonton Public Library, https://epl.bibliocommons.com/v2/record/S5C1223885 [https://perma.cc/322E-NSKE].

[43] "Le prix des mots," TV Guide, https://www.tvguide.com/movies/le-prix-des-mots/2000187161 [https://perma.cc/CXF4-CD52].

[44] United Nations Working Group supra note 10, at 43; Environmental Law Alliance Worldwide, supra note 14.

5.1.2. BANRO CORPORATION

Banro Corporation (Banro) was federally incorporated in Canada.[45] It operated two gold mines in the Democratic Republic of the Congo: Twangiza in South Kivu province and Namoya in Maniema province.[46] The mines began operating in 2012 and 2013,[47] respectively. By 2020, Banro had sold both projects and entered creditor protection.

Noir Canada alleged that Banro had committed tax fraud, misappropriated assets, and illegally exported minerals from the Democratic Republic of the Congo.[48]

Shortly after Barrick commenced its Quebec lawsuit over *Noir Canada*, Banro brought a $5 million action in Ontario alleging that the book's contents were libellous.[49] Fewer than 100 copies had been distributed in Ontario. The parties settled the case out of court in 2013, with Écosociété paying a portion of Banro's legal costs.[50] A 2002 United Nations report criticizing Banro in the DRC is discussed in the corruption chapter; criticism by Canada's National Contact Point of Banro's handling of labour issues appears in the labour chapter; and further information about Banro is provided in the displacement chapter.

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[45] Banro Corporation, *Annual Information Form For the financial year ended December 31, 2015* (March 28, 2016), at 3, https://www.sedarplus.ca/csa-party/records/document.html?id=909986f85c72c3f2c0a719346b3ae5706c4ef2b9451ac6ce87843a84df95fc54 [https://perma.cc/7W3Y-TBZX]

[46] Ben Radley, *Disrupted Development in the Congo: The Fragile Foundations of the African Mining Consensus* (Oxford Academic Books, 2023), Chapter 3.

[47] Banro Corporation, *Annual Information Form For the financial year ended December 31, 2013* (March 29, 2014), at 28, https://www.sedarplus.ca/csa-party/records/document.html?id=8c670d673436a228972a5820b3cf8752492e2754d596144401ced506a06e7648. [https://perma.cc/UMN4-4DVK]

[48] Jennifer Wells, "Mining the Congo: Golden opportunity" Toronto Star, July 10, 2011, https://www.thestar.com/news/insight/2011/07/10/mining_the_congo_golden_opportunity.html [https://perma.cc/UEL9-P7ZT].

[49] "Éditions Écosociété Inc. v. Banro Corp," Global Freedom of Expression, Columbia University, https://globalfreedomofexpression.columbia.edu/cases/editions-ecosociete-inc-v-banro-corp/#:~:text=Banro%20filed%20suit%20in%20Ontario,court%20and%20the%20action%20alleged [https://perma.cc/AB67-R3HF]; Vallantin, supra note 38.

[50] Alexandre Shields, "Écosociété règle hors cour son litige avec la minière Banro" (Ecosociété settles out of court its dispute with the mining company Banro), Le Devoir (April 26, 2013), https://www.ledevoir.com/societe/376659/ecosociete-regle-hors-cour-son-litige-avec-la-miniere-banro [https://perma.cc/25B7-VH7N].

5.1.3. FIRST QUANTUM MINERALS

First Quantum Minerals (FQM) is incorporated in British Columbia[51] and operates mines around the world. In Africa, it operates in Mauritania (Guelb Moghrein) and Zambia (Sentinel and Kansanshi).[52]

First Quantum brought a defamation action against Southern Africa Resource Watch (SARW), a non-governmental organization, following the publication of a report critical of the company's human rights and environmental record at the Kansanshi mine in Zambia.[53]

SARW first published a report critical of FQM in 2019. FQM immediately asserted that the report contained serious errors, and one Zambian commentator described it as "flawed and one-sided."[54] SAWR defended its findings, stating:

> [n]ot enough work is being done on the impact that mining activities have on the environment and on local communities. Mining companies have been allowed to implement their CSR [Corporate Social Responsibility] programmes without the scrutiny of civil society. In most cases, all we see are glossy annual reports of mining showing smiling faces of miners and selected members of the community but telling nothing of the human rights violations that usually exist where mining occurs.[55]

Nonetheless, SAWR withdrew the report and accepted FQM's invitation to visit the mine in April 2019.[56] In May 2020, SARW completed a revised report and invited FQM to comment on its "key findings."

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[51] First Quantum Minerals Ltd., *Annual Information Form, December 31, 2023* (March 28, 2024), at 6, https://www.sedarplus.ca/csa-party/records/document.html?id=58a625e13b25b63ee47c8761102d1db328bf36ef2424f058d53d4bcf03883330 [https://perma.cc/48DL-Z6UD]

[52] First Quantum Minerals, "Delivering global growth," https://www.first-quantum.com/English/our-operations/default.aspx [https://perma.cc/25B7-VH7N]

[53] Business and Human Rights Centre, "Southern Africa Resource Watch (SARW)," https://www.business-humanrights.org/en/latest-news/southern-africa-resource-watch-sarw [https://perma.cc/5XWF-PF7L].

[54] Martin Musunka, "Southern Africa Resource Watch Report on FQM flawed and one sided," Lusaka Times (February 25, 2019), https://www.lusakatimes.com/2019/02/25/southern-africa-resource-watch-report-on-fqm-flawed-and-one-sided [https://perma.cc/SXF5-5H6Z].

[55] Claude Kabemba, "First Quantum Minerals must open itself to independent and rigorous monitoring and evaluation of its Corporate Social Responsibility," Lusaka Times (February 26, 2019), https://www.lusakatimes.com/2019/02/26/first-quantum-minerals-must-open-itself-to-independent-and-rigorous-monitoring-and-evaluation-of-its-corporate-social-responsibility [https://perma.cc/D2EK-JWCV].

[56] Letter from John Gladston, Director of Corporate Affairs, First Quantum Minerals Ltd to Mary Lawlor, Special Rapporteur on the Situation of Human Rights Defenders (February 28, 2024), at 2, https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=38176 [https://perma.cc/4AQ3-2RC5].

In June 2020, lawyers for FQM wrote to SARW, describing the key findings as "untrue and extremely defamatory." The company provided a 17-page refutation of SARW's claims.[57] SARW published its report in December 2020 without including FQM's response. One of its strongest criticisms concerned FQM's CSR program:

> [...] the intention behind FQM's CSR programme is not to change the material conditions of local communities, but to serve a public relations function, showcasing the results of highly visible projects which skate over the surface of community-defined needs.[58]

FQM filed its lawsuit in March 2021, seeking an order requiring SARW to withdraw the report and issue an apology, as well as damages of one million South African rand for harm to the company's reputation. SARW's lawyers characterized the lawsuit as an abuse of process, stating:

> We are proud to represent SARW's stand against the abuse of South African courts to intimidate civil society in this case, and the precedent we expect it to make defending civil society's right to hold corporates accountable across the country and continent.[59]

The dispute did not proceed to trial. The case was withdrawn in December 2022 on the following terms:

> The consent order set forward a mechanism where SARW has open access to FQM projects and communities in the region. Pursuant to the consent order, FQM is to be given a fair opportunity to participate in community surveys as well as comment on any publications prior to the publications being made.[60]

SARW subsequently revised its December 2020 report to include FQM's full response.

Discontinuing the lawsuit did not end scrutiny of First Quantum's conduct. In October 2023, two United Nations experts wrote to FQM to express "deep concern regarding the alleged acts of

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[57] *First Quantum Minerals Ltd. v Southern Africa Resource Watch*, High Court of South Africa (March 8, 2021), https://asinaloyiko.org.za/wp-content/uploads/2021/06/Combined-Summons.pdf [https://perma.cc/DA7S-JHWS].

[58] Southern Africa Resource Watch, *First Quantum Minerals Corporate Governance and Social Responsibility: Kansanshi Mine* (December 2020), at 74, https://www.sarwatch.co.za/resources [https://perma.cc/MLB6-6EUW]

[59] MiningWatch Canada, "SARW Opposes Attempts by First Quantum Minerals to Silence It Through Court Action," (May 18, 2021), https://miningwatch.ca/news/2021/5/18/sarw-opposes-attempts-first-quantum-minerals-silence-it-through-court-action [https://perma.cc/F4RX-6XJR]

[60] Letter from John Gladston, supra note 56, at 3.

intimidation" attributed to the company.[61] In February 2024, The Globe and Mail cited the lawsuit in an article examining the growing use of SLAPPs to silence critics.[62]

In a letter to JCAP, the company stated:

> First Quantum's approach [...] is to engage potential critics, not to silence them.
>
> As regards SARW, there were many engagements initiated by First Quantum personnel, all aimed at producing a factually accurate account of events, given the gross inaccuracies of initial reporting. This included visits to Kansanshi and its environs, as well as proposals for a joint validation exercise. Despite repeated subsequent notifications, SARW's researchers persisted – for reasons best known to themselves – with a range of sensational and demonstrably false claims, leaving First Quantum with no alternative but to institute legal proceedings to prevent the wilful publication of misinformation.
>
> Legal action was, and always will be, a last resort in our engagements with civil society. We believe in good faith engagement, in pursuit of accuracy – if not agreement. However, where parties do not come in good faith, are motivated to pursue a sensationalist and pre-determined line of condemnation, and where the resulting publication is untruthful and defamatory, we will not hesitate to defend our reputation, our interests, and our contribution to Zambia.[63]

For further information about First Quantum, see the chapters on corruption, the environment, displacement, and labour.

2. RESTRICTIONS ON INVESTIGATION AND REPORTING BY JOURNALISTS AND NGOs

The ability to investigate alleged wrongdoing and call for public inquiries is essential to holding governments and companies accountable. The OECD has observed that journalists and activists

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[61] Special Communication from Mary Lawlor, Special Rapporteur on the situation of human rights defenders and Damilola S. Olawuyi Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises to Tristan Pascall, First Quantum Minerals (October 18, 2023), at 2, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28555 [https://perma.cc/3E3S-T8SA]

[62] Geoffrey York and Tavia Grant, "Human-rights groups decry rising trend of corporate SLAPP lawsuits," The Globe and Mail, February 13, 2024, https://www.theglobeandmail.com/world/article-human-rights-groups-face-a-rising-threat-from-corporate-lawsuits [https://perma.cc/ND7Z-DE2C].

[63] Letter from John Gladston, Director Corporate Affairs, First Quantum Minerals Ltd to Shin Imai, Justice and Corporate Accountability Project (June 30, 2026), at 7. For the full text of the letter, see Appendix C.

are “instrumental in holding individuals, governments and corporations to account” and has emphasized that:

> [s]upport to investigative journalists is therefore crucial. The nature of their work often places journalists in dangerous conditions and exposes them to direct threats to their lives in many countries and from autocratic regimes.[64]

The African Commission on Human and Peoples' Rights has likewise expressed concern about restrictive legislation and “[…] direct attacks on journalists; their arrest and detention; physical assault and killings, due to statements or materials published against government officials.”[65]

In this section, we provide an example of how state restrictions in Tanzania may benefit private companies. Tanzania has a troubling record on basic human and democratic rights. In its 2023 Human Rights Report, the U.S. Department of State highlighted the dangers faced by journalists:

> serious restrictions on freedom of expression and media freedom, including unjustified arrests or prosecutions of journalists, censorship, and enforcement of criminal libel laws [...].[66]

Journalists investigating Barrick and its subsidiaries have experienced these restrictions directly.

In 2002, a delegation of international NGO representatives and journalists attempted to visit communities near Barrick's Bulyanhulu project to investigate allegations of displacement, deaths, and other human rights abuses. Although approximately 250 people were waiting to speak with them, police prevented the delegation from reaching the site.[67] The alleged events occurred in 1996, three years before Barrick acquired the mine from Sutton Resources. Barrick conducted its own investigation and maintained that Sutton Resources had killed no one and that the displacement had proceeded in an orderly manner.[68] The allegations are examined further in the displacement chapter.

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[64] OECD, supra note 12, at 39.

[65] African Commission, supra note 11.

[66] United States Department of State, *Tanzania 2023 Human Rights Report*, at 1, https://www.state.gov/wp-content/uploads/2024/02/528267_TANZANIA-2023-HUMAN-RIGHTS-REPORT.pdf [https://perma.cc/8G4A-P8NR]

[67] MiningWatch Canada, “Report of the International NGO Fact-finding Mission to Tanzania,” (April 16, 2002), https://miningwatch.ca/blog/2002/4/16/report-international-ngo-fact-finding-mission-tanzania [https://perma.cc/5S9C-ELG2].

[68] Brian Hutchinson, “Barrick's African tribulations: Canadian company takes bum rap for deaths of miners,” National Post (December 29, 2001),[https://perma.cc/A6V9-H236]

In 2011, journalists were arrested while travelling to investigate alleged police killings at Barrick's North Mara mine.[69] That same year, Canadian freelance journalist Jocelyn Edwards reported that, while attempting to investigate the alleged killing of five villagers by mine security personnel, she was followed, detained, and deported.[70]

A 2019 investigation by the international journalism consortium *Forbidden Stories* documented the experiences of Tanzanian reporters who had been discouraged from covering the mine. Some reported receiving anonymous threats, while others faced official censorship. One journalist fled the country for more than a year.[71] In 2019, Jabir Idrissa, one of Tanzania's leading investigative journalists, received a two-year publication ban after reporting on Barrick's North Mara mine.[72]

In 2024, several UN working groups and special rapporteurs wrote to Barrick expressing concern about restrictions on reporting:

> […] in late 2019, local leaders and residents have described an increasingly oppressive environment in which people fear speaking out against the mine. In conjunction with this development, reports received by the experts suggest reporting on the human rights situation in North Mara has become significantly more difficult. Those citizens who have met with sources have consistently expressed concern for their security in reporting on human rights issues.[73]

Although Barrick responded to other concerns raised by the United Nations experts, it did not address the situation facing journalists.[74]

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[69] Jonathan Watts, "How writing about a goldmine cost a top reporter his job," The Guardian (June 18, 2019), https://www.theguardian.com/environment/2019/jun/18/writing-goldmine-cost-top-reporter-job-media-tanzania [https://perma.cc/RP5R-WLCG].

[70] Jocelyn Edwards, "Engaging in journalism activities without permission," Toronto Star (May 28, 2011), https://www.thestar.com/news/world/engaging-in-journalism-activities-without-permission/article_20600396-49af-5156-9114-40b8ae70bf73.html [https://perma.cc/44FF-RUP6].

[71] Marion Guégan and Cécile Schilis-Gallego, "Reporters investigated abuse and corruption at a Barrick gold mine in Tanzania. They faced threats and censorship," Toronto Star (June 18, 2019), https://www.thestar.com/news/investigations/reporters-investigated-abuse-and-corruption-at-a-barrick-gold-mine-in-tanzania-they-faced-threats/article_4067a398-0fa7-556f-a645-87d79509ce5b.html [https://perma.cc/B5BH-UM8R].

[72] Watts, supra note 69.

[73] Joint Communication from Carlos Salazar Couto, Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, et al. to Mark Bristow, CEO, Barrick Gold Corporation, AL OTH 44/2024 (April 22, 2024), at 12, https://s25.q4cdn.com/322814910/files/doc_downloads/north_mara/UNHRC_Joint_Communication_22042024.pdf [https://perma.cc/WN2H-FHD5].

[74] Letter from Mark Bristow, President and CEO, Barrick Gold Corporation to Beatriz Balbin et al. (June 20, 2024), https://s25.q4cdn.com/322814910/files/doc_downloads/north_mara/Barrick_UNHRC_Response_062024.pdf [https://perma.cc/3QVW-68U3].

The United States Department of State 2019 human rights assessment for Tanzania[75] identified "substantial interference with the rights of peaceful assembly and freedom of association, such as overly restrictive nongovernmental organization (NGO) laws." Restrictions intensified in 2024, particularly for NGOs seeking to interview people living near mine sites. In what local publication, the Daily News, described as "a decisive move to regulate the interaction between nongovernmental organisations (NGOs) and local communities," the government announced that NGOs and those "claiming to be human rights activists" would require prior approval before engaging with community members. The directive was announced at a meeting attended by senior Tanzanian officials and Mark Bristow, then president of Barrick Gold.[76]

In 2026, the United States sanctioned Tanzanian Police Force Senior Assistant Commissioner Faustine Jackson Mafwele for his involvement in the detention and torture of two journalists covering the trial of opposition leader Tundu Lissu.[77] Lissu had been charged with treason, and his party was barred from contesting the 2025 presidential election.[78]

[75] United States Department of State, *2019 Country Reports on Human Rights Practices: Tanzania*, at 1, https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/tanzania/ [https://perma.cc/2V4K-DR7F]

[76] "Why Govt enforces regulations on NGOs engagement with communities," Daily News (October 9, 2024), https://dailynews.co.tz/why-govt-enforces-regulations-on-ngos-engagement-with-communities [https://perma.cc/7YPB-EXPC]. For a similar crackdown, see "Tensions in Ngorongoro as commission urges scrutiny of NGO operations," EU SEE (March 26, 2026), https://eusee.hivos.org/alert/tensions-in-ngorongoro-as-commission-urges-scrutiny-of-ngo-operations [https://perma.cc/95TJ-BP62].

[77] US Department of State, "Designation of Tanzanian Police Force Official for Involvement in Gross Violations of Human Rights" (May 21, 2016), https://www.state.gov/releases/office-of-the-spokesperson/2026/05/designation-of-tanzanian-police-force-official-for-involvement-in-gross-violations-of-human-rights; Bruhan Makong, [https://perma.cc/2MUG-8XE4] US Sanctions Tanzanian Police Officer Citing Torture of Activists Boniface Mwangi and Agather Atuhaire," Capital FM, May 22, 2026, https://allafrica.com/stories/202605220289.html. [https://perma.cc/5RFL-DDPY]

[78] Jessica Rawnsley, "Tanzania's main opposition party banned from election," BBC (April 12, 2025), https://www.bbc.com/news/articles/c793qd2x7yzo [https://perma.cc/6XUS-PS45]

06

EXTRACTIVE INDUSTRIES IN CONFLICT-AFFECTED AREAS



6. EXTRACTIVE INDUSTRIES IN CONFLICT-AFFECTED AREAS

> *The most egregious business-related human rights abuses take place in conflict-affected areas and other situations of widespread violence. Human rights abuses may spark or intensify conflict, and conflict may in turn lead to further human rights abuses. The gravity of the human rights abuses demands a response, yet in conflict zones the international human rights regime cannot possibly be expected to function as intended.*
>
> Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises[1]

The United Nations Environment Programme estimates that "over the last sixty years at least forty percent of all intrastate conflicts have a link to natural resources."[2] Extractive companies operating in these conflict-affected or volatile environments can adversely influence the dynamics by becoming parties to the violence. This can create, exacerbate, or prolong conflict, potentially implicating companies in gross human rights violations. The United Nations Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises notes that "[b]usinesses are not neutral actors; their presence is not without impact. Even if [the] business does not take a side in the conflict, the impact of their operations will necessarily influence conflict dynamics."[3]

Key standards for companies operating in conflict or high-risk settings include guidance from the Organisation for Economic Co-operation and Development (OECD), the United Nations Global

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[1] Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, *Business and human rights in conflict-affected regions: challenges and options towards State responses*, A/HRC/17/32 (May 27, 2011) at 1, https://docs.un.org/en/A/HRC/17/32 [https://perma.cc/A82N-32KN].

[2] United Nations Environment Programme, From Conflict to Peacebuilding, The role of Natural Resources and the Environment (2009) at 5, https://www.iisd.org/system/files/publications/conflict_peacebuilding.pdf [https://perma.cc/C2GX-SEZK].

[3] UN Working Group on the issue of human rights and transnational corporations and other business enterprises, Business, human rights and conflict-affected regions: towards heightened action, A/75/212 (July 21, 2020) at 10, https://documents.un.org/doc/undoc/gen/n20/190/21/pdf/n2019021.pdf [https://perma.cc/DD9H-2QZF]; Héni Nsaibia, "Extraction under fire: How mining reshapes conflict in the central Sahel" (22 July 2026) ACLED, https://acleddata.com/report/extraction-under-fire-how-mining-reshapes-conflict-central-sahel [https://perma.cc/57PC-EG97]; International Crisis Group, "Getting a Grip on Central Sahel's Gold Rush" (November 13, 2019), https://www.crisisgroup.org/sites/default/files/282%20Getting%20a%20Grip%20.pdf [https://perma.cc/7LEX-BKMQ].

Compact (Global Compact), and provisions in international humanitarian law outlined by the International Committee of the Red Cross (Red Cross).

The OECD, in its *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, outlines steps companies should undertake to "identify and address actual or potential risks in order to prevent or mitigate adverse impacts associated with their activities or sourcing decisions."[4]

Principle 2 of the *United Nations Global Compact* emphasizes that companies must ensure they are not complicit in human rights violations. Specifically, they should "[a]void actual or perceived complicity in human rights abuses by government actors."[5] The Global Compact is "[t]he world's largest corporate sustainability initiative,"[6] with nearly 27,000 business members.

The International Red Cross outlines business responsibilities in *Business and International Humanitarian Law: An introduction to the rights and obligations of business enterprises under international humanitarian law*.[7] In particular, the document warns against companies becoming directly involved in hostilities.

Several case studies outlined below involve Canadian companies working with governments accused of human rights abuses against various groups within their countries. Two Canadian firms have participated in conflict by offering support or funding to troops responsible for human rights violations in the Democratic Republic of the Congo and Sudan (Anvil and Talisman). In Sierra Leone, individuals linked to a diamond company supplied arms and mercenaries in exchange for mining rights (DiamondWorks).

6.1. SUPPORTING CONFLICT

[4] OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (2016) at 13, https://www.oecd.org/content/dam/oecd/en/publications/reports/2016/04/oecd-due-diligence-guidance-for-responsible-supply-chains-of-minerals-from-conflict-affected-and-high-risk-areas_g1g65996/9789264252479-en.pdf [https://perma.cc/QW26-ERBM].

[5] United Nations Global Compact and PRI, *Guidance on Responsible Business in Conflict-Affected and High-Risk Areas: A Resource for Companies and Investors* (2010) at 16, https://d306pr3pise04h.cloudfront.net/docs/issues_doc%2FPeace_and_Business%2FGuidance_RB.pdf [https://perma.cc/2BEM-XJ5P].

[6] UN Global Compact, "The world's largest corporate sustainability initiative," https://unglobalcompact.org/what-is-gc [https://perma.cc/KK2P-FY9C].

[7] International Committee of the Red Cross, Business and International Humanitarian Law: An introduction to the rights and obligations of business enterprises under international humanitarian law (2006), https://web.archive.org/web/20231213223507/https://www.icrc.org/en/doc/assets/files/other/icrc_002_0882.pdf [https://perma.cc/R7JV-G75C].

According to the International Committee of the Red Cross, companies operating in high-risk or conflict-affected areas are responsible for ensuring that their security forces and other personnel respect international humanitarian law.[8] When their activities are linked to armed conflict, businesses, their managers, and personnel are subject to these laws. The Red Cross notes that "certain business activities, particularly the supply of certain goods or services to a party to an armed conflict, could certainly be viewed as serving the ultimate goal of a military campaign."

International humanitarian law governs DiamondWorks' activities, where staff were directly involved in supplying mercenaries to assist the government in fighting rebels. In the Anvil Mining case, the company argued that it was compelled to support government forces accused of killing civilians following a rebel attack, although the African Commission on Peoples and Human Rights found that Anvil bore responsibility. Similarly, Talisman was accused of providing funds to the Sudanese government that aided its army in the civil war. Salil Tripathi, an advisor at the Institute for Human Rights and Business, asserts that, "[m]any businesses have maintained that in zones of conflict they have no choice but to comply with requests and orders, even if they are illegal. The Nuremberg Trials showed, however, that such a defence is not tenable."[9]

6.1.1. DIAMONDWORKS

Sierra Leone and Angola

DiamondWorks (TSX:DMW) was incorporated in Canada and traded on the Toronto Stock Exchange, but it was not truly a "Canadian" company. According to *The Heart of the Matter: Sierra Leone, Diamonds and Human Security*, "like many other 'Canadian' junior mining firms whose real centre is elsewhere, DiamondWorks' management is centred in London, and its operational headquarters are in Johannesburg."[10] The report highlighted the illicit "blood diamonds" trade in Sierra Leone and its authors noted that "DiamondWorks and its subsidiary, Branch Energy Ltd., have been linked with at least two international mercenary/security groups, two attempted coups, and many of the most important international mercenary and mining personalities of recent years."[11]

In the 1990s, Sierra Leone experienced a brutal civil war initiated by the Revolutionary United Front (RUF). The conflict was supported by Liberian warlord Charles Taylor. One of the RUF's

[8] Ibid at 21.

[9] Salil Tripathi, "Business in Armed Conflict Zones: How to Avoid Complicity and Comply with International Standards" Politorbis 50, no. 3 (2010) at 132, https://ihrb-org.files.svdcdn.com/production/assets/uploads/reports/2011-01,_Business_in_Armed_Conflict_Zones-_How_to_Avoid_Complicity_and_Comply_with_International_Standards,_Politorbis.pdf [https://perma.cc/9J3A-72DK].

[10] Ian Smillie, Lansana Gberie, and Ralph Hazleton, *The Heart of the Matter: Sierra Leone, Diamonds and Human Security* (Partnership Africa Canada, 2000) at 53 [https://perma.cc/PW9A-VDYU].

[11] Ibid.

main goals was to dominate the diamond trade.[12] During the war, three Canadian junior mining companies, including DiamondWorks, sought diamond concessions in Sierra Leone.[13] As the government was losing ground against the RUF and Freetown faced threats, personnel linked to DiamondWorks arranged for Executive Outcomes, a South African mercenary group, to combat the RUF. Once the diamond fields were cleared, DiamondWorks' subsidiary, Branch Energy, obtained a 25-year lease on the diamond concessions.[14] Executive Outcomes held a 40% stake in Branch Energy's Sierra Leone operations.[15]

After Angola gained independence in 1975, rival liberation groups – the Movimento Popular de Libertação de Angola (MPLA) and the União Nacional para a Independência Total de Angola (UNITA) – fought for control through an armed conflict until 2002. The violence was intense, with both factions committing massacres and killing civilians. The civil war caused around 500,000[16] deaths and displaced 4.7 million people internally.[17] Diamonds played a significant role as a source of funding for both parties involved in the conflict.

In the mid-nineties, DiamondWorks began seeking diamond concessions in Angola. As in Sierra Leone, the use of mercenaries from Executive Outcomes helped drive out non-government forces, in this case UNITA (which controlled approximately 80% of the diamond trade), from diamond fields and resulted in concessions for Branch Energy.[18] These concessions were allegedly transferred by government officials who had originally purchased them for a minimal fee and sold them for a profit to foreign companies.[19]

In 1997, Branch Energy was granted the concession for the Yetwene mine, which was expected to be one of DiamondWork's largest and most productive, employing over 200 workers on site. Canadian journalist Madeline Drohan recounts a DiamondWorks-sponsored visit to the mine,

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[12] UNEP, supra note 2, at 10.

[13] Smillie, Gberie, and Hazleton, supra note 10, at 48-61.

[14] Smillie, Gberie, and Hazleton, supra note 10, at 7; James Rupert, "Diamond Hunters Fuel Africa's Brutal Wars," Washington Post (October 16, 1999), https://www.washingtonpost.com/wp-srv/inatl/daily/oct99/sierra16.htm [https://perma.cc/Y6AP-LZG5].

[15] Aleisha Stevens and David Carment, *Commerce & Conflict: Angola & DiamondWorks* (Carleton University, June 2005), at 33, https://carleton.ca/cifp/wp-content/uploads/sites/132/1055-1.pdf [https://perma.cc/5L7Y-SEH2].

[16] Israel Campos, "Angola's José Eduardo dos Santos: The flawed 'architect of peace," BBC News (July 8, 2022), https://www.bbc.com/news/world-africa-61426699 [https://perma.cc/HFV9-YEZH].

[17] "Angola," United States Department of State, https://2009-2017.state.gov/outofdate/bgn/angola/98885.htm [https://perma.cc/S7BM-ZY44].

[18] Stevens and Carment, supra note 15.

[19] Philippe Le Billon, "Angola's Political Economy of War: The Role of Oil and Diamonds, 1975–2000" African Affairs 100, no. 398 (2001): 55-80, at 70, fn 63 and 64, https://www.researchgate.net/publication/240592136_Angola%27s_political_economy_of_war_The_role_of_oil_and_diamonds_1975-2000 [https://perma.cc/5KCF-4M45].

during which journalists and investors dined on lobster.[20] These expectations were dashed on November 9, 1998, when a group of around a hundred UNITA fighters attacked the mine, resulting in eight workers' deaths, including three foreigners, and taking four others hostage. The hostages were never recovered. After attempts to resume operations, DiamondWorks abandoned the project in 1999, having incurred a $54 million loss.[21]

The 1998 Yetwene attack also drew attention to DiamondWorks' relationships with private military firms.[22] Media reports speculated that UNITA had intended the attack as a warning to companies that employed mercenaries. Canadian researchers Aliesha Stevens and David Carment explain that

> DiamondWorks aggravated conflict in a behavioural manner by establishing dubious business ties with [Executive Outcomes] and its affiliates. The relationship between DiamondWorks and [Executive Outcomes] became controversial in the mid-1990's because of suspected deals between the two companies and the Angolan government, whereby [Executive Outcomes] would clear UNITA rebels out of diamond concession zones and in return the Angola government would grant the area to DiamondWorks.[23]

DiamondWorks' relationships with private military companies Executive Outcomes and Sandline were also organizational. Journalists reported that DiamondWorks, Branch Energy and Sandline shared the same London office and telephone number.[24] Researchers also found that "[i]n 1997, DiamondWorks' Sierra Leone country manager was seconded – as a 'private citizen' – to Sandline, in connection with a controversial arms shipment intended for the briefly exiled government of Tejan Kabbah."[25]

These links also extended to DiamondWorks' senior leadership. According to The Globe and Mail, Tony Buckingham, DiamondWorks' principal shareholder, acknowledged acting as a liaison connecting African governments with the services of South African mercenaries.[26] In 1997, DiamondWorks publicly acknowledged Buckingham's connection to mercenary groups, while denying that either Buckingham or his affiliated companies had financed the firm's activities:

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[20] Madelaine Drohan, *Making a Killing: How and Why Corporations Use Armed Force to Do Business* (Vintage Canada, 2003), at 11.

[21] Stevens and Carment, supra note 15, at 36.

[22] Ibid at 34.

[23] Ibid at 33.

[24] Chris Gordon, "Mercenary go-between in Angolan hostage," Mail and Guardian (November 20, 1998), https://mg.co.za/news/south-africa/1998-11-20-mercenary-go-between-in-angolan-hostage [https://perma.cc/7YDE-3Y63].

[25] Smillie, Gberie, and Hazleton, supra note 10, at 57.

[26] Madelaine Drohan, "Canadian mining firms accused of fuelling war," The Globe and Mail (January 13, 2000), https://www.theglobeandmail.com/news/national/canadian-mining-firms-accused-of-fuelling-war/article4159030 [https://perma.cc/T8ZT-9BZ9].

> At no time has Branch Energy Ltd. bought, or otherwise obtained, mining concessions in Sierra Leone, Angola, or elsewhere from Executive Outcome or any of its related companies; [...] Tony Buckingham introduced the services of Executive Outcomes to the Governments of Angola and Sierra Leone, but neither he nor any companies he is associated with, including Branch Energy Ltd., paid for, or otherwise sponsored, the provision of these activities.[27]

DiamondWorks withdrew from Angola and Sierra Leone in the late 1990s. It was renamed Energem Resources in 2004 and began focusing on oil and gas exploration, as well as diamond mining.[28] At the time, the new owners looked to distance themselves from the company's reputation of violence, asserting that,

> All the personalities of the old DiamondWorks have had nothing to do with the company for four or five years […]. There are some nice stories about the old DiamondWorks, with mercenaries and stuff, but that's all completely irrelevant and has no relationship with any aspects of Energem Resources.[29]

Energem was prohibited by the Ontario Securities Committee from trading on the Toronto Stock Exchange in 2009.[30]

6.1.2. REX DIAMOND MINING

Sierra Leone

Rex Diamond (TSX:RXD) was incorporated in Ontario, but its "head office" in Toronto "was little more than an answering machine [...] the real headquarters are in Antwerp where its President and CEO resides, and where management decisions are made."[31] Rex Diamond also held diamond concessions in Sierra Leone at the same time as DiamondWorks.[32]

According to a 1999 report in the Washington Post,

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[27] Stevens and Carment, supra note 15, at 54-55.

[28] John Cumming, "DiamondWorks morphs into Energem," Northern Miner (June 14, 2004), https://www.northernminer.com/news/diamondworks-morphs-into-energem/1000156363 [https://perma.cc/FQ7V-63JX].

[29] Ibid.

[30] Ontario Securities Commission, "Cease Trade Order" (April 27, 2009), https://www.sedarplus.ca/csa-party/viewInstance/view.html?id=0c11f8b7998bcd969a916014b4c4517bf6da4a4fbec9335d&_timestamp=5981994093718173 [https://perma.cc/3P87-YTKT].

[31] Stevens and Carment, supra note 15, at 48.

[32] Ibid at 48-50.

> [Zeev] Morgenstern, the Rex Mining executive, and the company's Antwerp-based president, Serge Muller, set up a company to sell weapons to the Sierra Leonean government, which has granted Rex several diamond mining leases. In separate interviews, Morgenstern and Muller said the arms deals were unrelated to Rex's mining activities.[33]

6.1.3. TALISMAN ENERGY

Sudan

Talisman Energy Inc. (Talisman)[34] was a Canadian oil company that operated in Sudan during the country's devastating civil war, which was marked by civilian massacres of citizens, widespread sexual violence, and other grave abuses. In 1999, the Canadian government appointed John Harker to lead a mission investigating alleged links between oil development and human rights violations in Sudan.[35] Following an on-the-ground investigation, the mission reported that oil infrastructure was being used to support military attacks against civilians. It further concluded that a ceasefire would remain virtually impossible as long as oil revenues continued to finance the government of Sudan.[36]

Penelope Simons and Audrey Macklin, who participated in the Harker mission, described how infrastructure owned by the oil consortium in which Talisman held an interest facilitated these attacks:

> […] was being used for offensive bombing and gunship raids against civilian populations. We also found that these raids, conducted with Antonov bombers and helicopter gunships, were followed up by ground troops consisting of government-sponsored Arab militia. The militia would enter villages on horseback with the aim of inciting terror. They murdered, raped, abducted women and children, looted possessions including livestock, and then set the villages alight, burning them to the ground.[37]

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[33] Rupert, supra note 14.

[34] Calgary-based Talisman Energy Inc. was purchased by the Spanish company Repsol in 2015. (Repsol Oil & Gas Canada Inc., *Annual Information Form for the year ended December 31, 2015* (February 26, 2016) https://www.sedarplus.ca/csa-party/records/document.html?id=10f456d204be77c6769efbca1f222564ec67004095b5445a091d06e107c7f550 [https://perma.cc/2ELV-7E7V]).

[35] John Harker, *Human Security in Sudan: The Report of a Canadian Assessment Mission* (January 2020), https://publications.gc.ca/collections/Collection/E2-198-2000E.pdf [https://perma.cc/7TWW-VJK9].

[36] Ibid.

[37] Penelope Simons and Audrey Macklin, *The Governance Gap: Extractive Industries, human rights, and the home state advantage* (Routledge, 2014) at 1.

Lloyd Axworthy, then Canada's Minister of Foreign Affairs, later expressed frustration with Talisman's response to these concerns. Recalling his conversation with the company's chief executive officer, Jim Buckee, Axworthy told CBC News, "He was basically just saying this is the way the world works there and we are not particularly bad guys compared to what others are."[38]

Despite the Harker mission's findings, the Canadian government took no meaningful action against the company, and Talisman continued operating in Sudan.[39] In 2001, victims brought a class action lawsuit against Talisman and the Republic of Sudan in New York, seeking damages for grave violations of international human rights law.[40] The Canadian government subsequently intervened, both diplomatically and in the litigation, in support of Talisman.[41] In 2009, the United States Court of Appeals for the Second Circuit ruled in favour of Talisman and the Sudanese government.[42] Canada's support for the company is examined further in the chapter on economic diplomacy.

6.1.4. ANVIL MINING

Democratic Republic of the Congo

Anvil Mining (TSX: AVM) operated three copper, silver, and cobalt mines in the Democratic Republic of the Congo (DRC): Kinsevere, Dikulushi, and Mutoshi.[43]

In October 2004, a group of six or seven rebels attacked Kilwa, a town approximately 50 km from the Dikulushi mine.[44] The Congolese army suppressed the rebellion but committed grave human rights violations during its operations. Soldiers carried out extrajudicial killings,[45] pillaged property,

[38] Kyle Bakx, "Oil, politics and human rights: A look back at Talisman," CBC News (February 22, 2015), https://www.cbc.ca/news/business/oil-politics-and-human-rights-a-look-back-at-talisman-1.2964715 [https://perma.cc/X7LL-3LMS].

[39] Simons and Macklin, supra note 37, at 53.

[40] *Presbyterian Church of Sudan v. Talisman Energy Inc.* (2006) 453 F Supp 2d 633.

[41] Simons and Macklin, supra note 37, at 67.

[42] *Presbyterian Church*, supra note 40.

[43] In 2012, Anvil was purchased by Minmetals Resources Ltd., a company incorporated in Hong Kong. Source: "Minmetals Resources Limited completes compulsory acquisition of remaining common shares of Anvil Mining Limited," MMG (March 20, 2012), https://www.mmg.com/media-release/compulsory-acquisition-of-anvil-mining-limited-d37 [https://perma.cc/4B8Q-A2J9].

[44] Adam McBeth, "Crushed by an Anvil: A Case Study on Responsibility for Human Rights in the Extractive Sector," Yale Human Rights & Development Law Journal 11 (2008): 127-166, at 131.

[45] United Nations Organization Mission in the Democratic Republic of the Congo, *Report on the conclusions of the Special Investigation concerning allegations of summary executions and other human rights violations perpetrated by the Armed Forces of the Democratic Republic of Congo (FARDC) in Kilwa (Katanga Province) on 15 October 2004*. See unofficial translation in: Rights and Accountability in Development, et al., *Anvil*

extorted money and goods, and arbitrarily detained residents in harsh conditions.[46] Local sources reported that more than 100 civilians were killed or summarily executed.[47] The victims reportedly included "23 people, mainly women, children and old people, who [...] were arrested, bound and killed with machine-gun fire by soldiers who had taken them for rebels."[48]

Anvil's role in the military operation soon came under scrutiny. A Congolese army commander told United Nations investigators that the operation in Kilwa had been made possible by the company's logistical support.[49] The armed forces used Anvil's planes and trucks,[50] and Anvil also acknowledged having made payments to soldiers.[51] The company maintained, however, that it had no choice but to provide the requested assistance.[52]

In June 2005, a coalition of non-governmental organizations (NGOs) asked Canada's National Contact Point (NCP) to investigate Anvil's conduct.[53] The NCP responded that its role was to mediate, not to conduct investigations.[54] It arranged a meeting between Anvil and the NGOs in November 2005, and later claimed that despite offering further meetings, "the NGOs felt that this would not be necessary since there was now adequate contact between the company and their groups."[55] Critics argued, however, that the NCP's had failed to engage adequately with the concerns raised about Anvil's role in the Kilwa massacre.[56] In 2006, Anvil commissioned an external review of its compliance with the OECD Guidelines. According to Adam McBeth, the resulting report framed Anvil as a victim of the unpredictable events in the DRC.[57]

Mining Limited and the Kilwa Incident, Unanswered Questions (October 20, 2005), at 34-35, https://raid-uk.org/wp-content/uploads/2023/04/qq-anvil.pdf [https://perma.cc/7YFJ-ED8L].

[46] Ibid at 35-36.

[47] Ibid at 34.

[48] African Association for the Defence of Human Rights, Katanga (ASADHO / Katanga), *Report on Human Rights Violations Committed in Kilwa in the Month of October 2004, 2005*, as reported in McBeth, supra note 44, at 133.

[49] United Nations Organization Mission in the Democratic Republic of the Congo, supra note 45, at 36; McBeth, supra note 44, at 135.

[50] United Nations Organization Mission in the Democratic Republic of the Congo, supra note 45, at 36.

[51] Ibid.

[52] Ibid at 36-37.

[53] Global Affairs Canada, "Closed National Contact Point Specific Instances," modified June 6, 2024, https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/specific-specifique.aspx?lang=eng#seventh [https://perma.cc/9S3N-R733].

[54] Ibid.

[55] Ibid.

[56] McBeth, supra note 44, at 165.

[57] Ibid at 164.

Anvil's conduct was also examined through an accountability process connected to the International Finance Corporation. In February 2006, the Office of the Compliance Advisor Ombudsman (CAO) undertook an investigation into Anvil's role in the massacre. The CAO identified several problems with Anvil's involvement, including:

> […] the absence of […] a robust analysis of the risks relating to their interactions with public security forces; the absence of a clear documented policy on ethical conduct and human rights as a basis for reinforcing the company's regular engagement with public security forces and promotion of principles relating to deployment and conduct of public security; and arrangements for more structured follow up in response to any alleged human rights abuses.[58]

Criminal proceedings followed in the DRC. In October 2006, nine soldiers were charged with war crimes, arbitrary arrests and detention, torture, and murder. Three Anvil employees, including Canadian Pierre Mercier, were also charged with aiding and abetting the soldiers. On June 28, 2007, the military court hearing the case acquitted the defendants. Observers identified many irregularities in the proceedings. Louise Arbour, then United Nations High Commissioner for Human Rights, expressed particular concern about the court's characterization of the violence:

> I am concerned at the court's conclusions that the events in Kilwa were the accidental results of fighting, despite the presence at the trial of substantial eye-witness testimony and material evidence pointing to the commission of serious and deliberate human rights violations.[59]

The victims subsequently sought redress in Canada. In 2010, survivors of the massacre and relatives of those killed filed a proposed class action lawsuit against the company in Quebec, alleging that Anvil was complicit in the human rights abuses committed by the Congolese army. In 2012, the Quebec Court of Appeal dismissed the claim on jurisdictional grounds without considering the merits of the allegations.[60]

While Canadian courts refused to hear the substance of the complaints, the African Commission on Human and Peoples' Rights (ACHPR), a body of the African Union, considered the underlying abuses. In a decision dated 2016, the commission called on the Congolese state to prosecute the soldiers and Anvil personnel involved in the atrocities.[61] It emphasized the "need and legal

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[58] Global Witness et al, *Kilwa Trial: a Denial of Justice: A Chronology October 2004 – July 2007* (July 17, 2007), at 8, https://gw.hacdn.io/media/documents/kilwa_chron_en_170707.pdf [https://perma.cc/LEH2-RDXM].

[59] Ibid at 25.

[60] *Anvil Mining Ltd. v Association canadienne contre l'impunité*, 2012 CanLII 117 (QCCA).

[61] International Commission of Jurists, *The DRC urged to hold accountable the company Anvil Mining for its involvement in the "Kilwa massacre" – A first step towards justice for the victims of the "Kilwa massacre*," https://www.icj.org/wp-content/uploads/2017/09/Universal-KilwaMassacre-News-2017-ENG.pdf [https://perma.cc/XV2R-K4WG]. Note that while the ACHPR communication is dated 2016, multiple non-governmental organizations cite 2017 as the year of the commission decision.

imperative for entities engaged in extractive industries to undertake their activities with due regard to the rights of host communities," including through "the non-participation or non-support in the perpetration of violations of human and peoples' rights."[62] The Commission also urged Anvil to acknowledge that it breached its duty of care in Kilwa and to contribute to the US$2.5 million in reparations awarded to victims and their families.[63] Twenty years after the massacre, the ACHPR's recommendations had yet to be implemented.[64] Anvil is also discussed in the corruption chapter of this report.

6.2. OPERATING IN CONFLICT AND POST-CONFLICT AREAS

Several international frameworks provide guidance on corporate conduct in conflict-affected and high-risk areas. The United Nations Global Compact establishes the overarching principle that companies should avoid complicity in human rights abuses, while related UN and OECD instruments explain how companies should identify and address conflict-related risks in their operations, supply chains, and business relationships.

Guidance accompanying Principle 2 of the Global Compact calls on companies to "[a]void actual or perceived complicity in human rights abuses by government actors."[65] It recognizes that this risk may be particularly acute for companies:

- Involved in sectors strategically important to the government or the conflict (i.e. extractive, infrastructure, defense and telecommunications sectors, amongst others);
- With significant or sustained interaction with the government, through joint-venture arrangements; or
- Which provide large source of tax revenue (i.e. the risk being that the company is seen as implicitly supporting the government, and so becoming a proxy target).[66]

The UN *Guidance on Responsible Business in Conflict-Affected and High-Risk Areas* applies this principle to a broad range of unstable environments. Its scope includes not only areas experiencing armed conflict, but also contexts:

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[62] Ibid.

[63] "Letter to Anvil Mining Company on its role in human rights violations in the DRC," African Commission on Human & Peoples' Rights (December 19, 2016), https://achpr.au.int/en/news/press-releases/2016-12-19/letter-anvil-mining-company-its-role-human-rights-violations-drc [https://perma.cc/ZSV9-ZVBQ].

[64] "The Kilwa massacre 20 years on: Examining corporate accountability," Rights and Accountability in Development (October 30, 2024), https://raid-uk.org/the-kilwa-massacre-20-years-on-examining-corporate-accountability [https://perma.cc/24AS-7MUN].

[65] Global Compact, supra note 5, at 16.

[66] Ibid at 18.

- That are not currently experiencing high levels of armed violence, but where political and social instability prevails (...), making a future outbreak of violence more likely; and
- That are currently in transition from violent conflict to peace (...), (which are) highly volatile and at risk of falling back into violent conflict.[67]

In such contexts, "companies are encouraged to take adequate steps to identify the interaction between their core business operations and conflict dynamics and ensure that they do no harm."[68] This requires companies to examine not only the risks that conflict poses to their operations, but also the possibility that their activities may cause, contribute to, or intensify conflict. Among other measures, the guidance recommends conducting conflict risk and impact assessments before investing or beginning operations and continuing to evaluate those risks as conditions change.[69]

The OECD's *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* provides more specific direction for companies whose supply chains extend into conflict zones. Its model policy begins with a commitment that the company "will neither tolerate nor by any means profit from, contribute to, assist with or facilitate the commission by any party of […] war crimes or other serious violations of international humanitarian law, crimes against humanity or genocide."[70]

The *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* extend this responsibility to harms connected to a company through its business relationships. The Guidelines state that companies should "[s]eek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts."[71] Companies should therefore use their leverage to encourage business partners to prevent or mitigate human rights abuse. If those efforts fail and mitigation proves impossible, they should consider ending the relationship while assessing the potential adverse consequences.

The application of this framework to relationships with governments remains contested. In one specific instance, Canada's National Contact Point concluded that the payment of taxes did not establish a business relationship between a company and a government and therefore did not constitute a breach of the OECD Guidelines.[72]

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[67] Ibid at 7.

[68] Ibid at 10.

[69] Ibid at 10-11.

[70] OECD, supra note 4, at 20.

[71] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023), Chapter IV, https://mneguidelines.oecd.org/mneguidelines [https://perma.cc/FZ5R-QC26].

[72] Canada's National Contact Point, "Final statement on East Africa Metals Inc. and United Tegaru Canada" (May 16, 2024), https://www.international.gc.ca/trade-commerce/ncp-pcn/eaf-final-statement-communique-final.aspx?lang=eng [https://perma.cc/TB9G-M9ZC].

6.2.1. BARRICK MINING CORPORATION, B2GOLD CORPORATION, AND ALLIED GOLD

Mali

Barrick Mining Corporation (Barrick) (TSX:ABX) is one of the world's largest gold producers, with 16 projects around the globe, six of which are in Africa. The company says that "[r]espect for human rights is a foundational value at Barrick and a central part of our sustainability vision."[73] In May 2025, the company changed its name from Barrick Gold Corporation to Barrick Mining Corporation.

B2Gold Corporation (B2Gold) (TSX: BTO) operates mines in Canada, Mali, Namibia, and the Philippines, as well as "numerous development and exploration projects in various countries." It calls itself "A Responsible International Senior Gold Producer."[74]

Allied Gold (TSX: AAUC) operates mines in Mali, Côte d'Ivoire, and Ethiopia. Its motto is "Leading the Way in Responsible Mining."[75]

All three companies fit the risk profile described in the UN guidance: they operate in the extractive sector, participate in projects co-owned by the Malian government, and provide substantial tax revenues to the state. Their operations continued amid a prolonged armed conflict, two military coups, serious allegations of human rights abuses, and an increasingly troubling relationship with the government.

Mali has faced extremist violence and armed separatism for more than a decade.[76] In 2020 and 2021, the country's armed forces overthrew the civilian government. The new regime ordered French and UN troops to leave[77] as it turned to other foreign security partners. Malian armed

[73] Barrick Mining Corporation, "Human Rights," https://www.barrick.com/English/sustainability/human-rights/default.aspx [https://perma.cc/95QG-PSXD].

[74] B2Gold, "A Responsible International Senior Gold Producer," https://www.b2gold.com/overview/default.aspx [https://perma.cc/T6C8-CUPU].

[75] Allied Gold, "Africa's Fastest Growing Gold Producer," https://alliedgold.com/overview/default.aspx [https://perma.cc/67G9-H43V].

[76] "Mali: Guterres calls for international solutions to curb spread of violent extremism in the Sahel," United Nations News Service (April 26, 2026), https://news.un.org/en/story/2026/04/1167382 [https://perma.cc/PA6H-LSYC].

[77] "Mali Country Profile," BBC (July 28, 2023), https://www.bbc.com/news/world-africa-13881370 [https://perma.cc/EUV6-P2CY].

forces and Russian mercenaries supporting them have since been accused of widespread human rights violations, including the massacre of hundreds of civilians.[78]

Despite this deteriorating human rights environment, Barrick, B2Gold, and Allied Gold continued operating mines in Mali. According to *The Blood Gold Report*, these companies collectively generated more than 50% of the country's tax revenue in 2022. Barrick is the single largest contributor, supplying more than 10% of the state's total tax revenue, while B2Gold and Allied Gold were also important sources of tax revenue for the regime.[79] Mining revenue therefore remained central to the military government's finances, including its ability to pay foreign security services.

The companies' continued operations in Mali also required sustained engagement with a government accused of grave abuses. In a 2023 letter to one of the authors of *The Blood Gold Report*, Barrick's then-chief executive officer, Mark Bristow, asserted that the company's operation in Mali "[...] continues to and will always act in a manner that respects human rights and will raise concerns with host governments and business partners where necessary should we believe that human rights infringements have or potentially could occur."[80] Mr. Bristow did not indicate whether Barrick had raised any concerns with the military government, despite its dual role as Barrick's host government and business partner. B2Gold and Allied Gold did not respond to the report's authors when invited to comment on the human rights situation in Mali.

In 2023, the military government adopted a new mining code designed to increase state ownership and tax revenue. Companies were required to renegotiate their contracts and were levied large bills for taxes owed. Australian company Resolute Mining, for example, disputed a US$160 million tax bill imposed by the junta but agreed to pay after the military detained Resolute's chief executive officer in November 2024.[81]

[78] Jessica Berlin, et al., *The Blood Gold Report: How the Kremlin is using Wagner to launder billions in African gold* (December 2023), at 19, https://bloodgoldreport.com/wp-content/uploads/2023/12/The-Blood-Gold-Report-2023-December.pdf [https://perma.cc/YZ84-KK8S].

[79] Ibid at 32-34.

[80] Letter from Mark Bristow, President and CEO, Barrick Gold Corporation to David Clement (December 10, 2023), https://s25.q4cdn.com/322814910/files/doc_downloads/mali/BGC_Response_to_BGR_10-11-2023.pdf [https://perma.cc/9K9Y-GSXT].

[81] Ruth Maclean, Saikou Jammeh, and Elian Peltier, "Mining Company Whose C.E.O. Was Detained Agrees to Pay Mali $160 Million," The New York Times (November 18, 2024), https://www.nytimes.com/2024/11/18/world/africa/mali-mining-detensions.html [https://perma.cc/BG5K-NPC2].

Days later, four senior Barrick employees were detained for a second time.[82] The government said that Barrick owed over US$400 million in unpaid taxes,[83] blocked gold exports from the company's mine [84] and issued an arrest warrant for Mr. Bristow.[85] Barrick responded in December 2024 by filing a request for arbitration with the International Centre for the Settlement of Investment Disputes.[86] The following month, the junta confiscated gold from the mine, prompting Barrick to suspend operations.[87]

In 2025, a Malian tribunal transferred control of the mine to an external administrator, which restarted operations.[88] Weeks later, Barrick announced that it had reached a settlement with the government that included the release of its employees, the return of operational control to the company, and the withdrawal of its arbitration claim.[89]

B2Gold and Allied Gold likewise reinforced their positions in the country. On September 3, 2024, Allied Gold signed a ten-year agreement with the Malian government. The company said the agreement "reaffirms Allied's commitment to working collaboratively with the Malian government and other stakeholders and … contemplates ongoing dialogue on advancing the mine's expansion and improving its economics and value."[90]

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[82] Geoffrey York, "Four Barrick Gold employees detained in Mali in second wave of arrests over foreign miners' revenues," The Globe and Mail (November 26, 2024), https://www.theglobeandmail.com/business/article-four-barrick-employees-detained-in-mali-in-second-wave-of-arrests [https://perma.cc/292L-YPFW].

[83] Ibid.

[84] Barrick, "Barrick Update on Mali Operations," (December 16, 2024), https://www.barrick.com/English/news/news-details/2024/barrick-update-on-mali-operations/default.aspx [https://perma.cc/CA42-Z5CD].

[85] Geoffrey York and Niall McGee, "Mali issues arrest warrant for Barrick CEO, reports say," The Globe and Mail (December 5, 2024), https://www.theglobeandmail.com/business/article-mali-issues-arrest-warrant-for-barrick-ceo-reports-say [https://perma.cc/N679-H4YF].

[86] Barrick, "Barrick Seeks Fair Resolution in Mali Through Arbitration," (December 18, 2024), https://www.barrick.com/English/news/news-details/2024/barrick-seeks-fair-resolution-in-mali-through-arbitration/default.aspx [https://perma.cc/SHH8-2J4A].

[87] Geoffrey York and Niall McGee, "Barrick suspends operations in Mali after $245-million worth of gold seized," The Globe and Mail (January 14, 2025), https://www.theglobeandmail.com/business/industry-news/energy-and-resources/article-barrick-suspends-operations-in-mali-after-gold-seized [https://perma.cc/7MKU-3WVH].

[88] "Barrick's seized Mali mine restarts under state management," MINING.COM (October 21, 2025), https://www.mining.com/web/barricks-seized-mali-mine-restarts-under-state-management [https://perma.cc/9PW9-VU7L].

[89] Barrick, "Barrick Announces Resolution of its Disputes with Mali," (November 24, 2025), https://www.barrick.com/English/news/news-details/2025/barrick-announces-resolution-of-its-disputes-with-mali/default.aspx [https://perma.cc/4CT2-FUST].

[90] Allied Gold, "Allied gold announces settlement of terms of a definitive protocol agreement with the government of Mali," (September 3, 2024), https://alliedgold.com/investor-relations/investor-news/news-details/2024/ALLIED-GOLD-ANNOUNCES-SETTLEMENT-OF-TERMS-OF-A-DEFINITIVE-PROTOCOL-

B2Gold similarly announced an extension of its concessions after its "senior executives completed productive and collaborative meetings with senior Malian officials, including the Prime Minister, the Minister of Finance, the Minister of Mines, and advisors to the Malian Government."[91]

B2Gold is also discussed in the economic diplomacy chapter of this report, and Barrick can be found in the displacement, economic diplomacy, environment, labour, security and violence, and silencing critique chapters.

6.2.2. EAST AFRICA METALS INC.

Ethiopia

In November 2020, the Ethiopian government began military operations in Tigray, a semi-autonomous region in the country's north.[92] The intervention triggered a brutal two-year civil war that impacted over 20 million people.[93] Ethiopia's international partners responded unevenly to the war. In 2021, the European Union suspended aid to the Ethiopian government, citing ethnic cleansing in Tigray.[94] The following year, the U.S. government ended Ethiopia's preferential trade status, citing "gross violations of internationally recognized human rights being perpetrated by the Government of Ethiopia."[95]

AGREEMENT-WITH-THE-GOVERNMENT-OF-MALI-WHICH-WHEN-SIGNED-WILL-DEAL-WITH-THE-ISSUE-OF-A-TEN-YEAR-EXPLOITATION-PERMIT-FOR-SADIOLA-ADVANCEMENT-OF-THE-KORALI-SUD-DIBA-DEPOSIT-SETTLEMENT-OF/default.aspx [https://perma.cc/358Y-WEMS].

[91] B2Gold, "B2Gold Receives Approval from the State of Mali to Commence Underground Mining at Fekola" (July 30, 2025), https://www.b2gold.com/news-media/news-releases/news-details/2025/B2Gold-Receives-Approval-from-the-State-of-Mali-to-Commence-Underground-Mining-at-Fekola-and-a-Defined-Path-Forward-for-the-Fekola-Regional-Exploitation-Permit/default.aspx [https://perma.cc/P8BC-TD4G].

[92] Human Rights Watch, "Ethiopia: Protect People as Tigray Crisis Escalates" (November 13, 2020), https://www.hrw.org/news/2020/11/13/ethiopia-protect-people-tigray-crisis-escalates [https://perma.cc/9LGV-2CQL].

[93] Wilson Center, "Ethiopia's Tigray War and its Devastating Impact on Tigrayan Children's Education" (April 18, 2023), https://www.wilsoncenter.org/blog-post/tigray-war-and-education [https://perma.cc/RD8H-96VF].

[94] Evan Dyer, "As allies accuse Ethiopia's Abiy Ahmed of atrocities in Tigray, Canada stands back," CBC News (July 10, 2021), https://www.cbc.ca/news/politics/ethopia-tigray-abiy-ahmed-1.6097250 [https://perma.cc/E6LF-TB4G].

[95] Office of the United States Trade Representative, "U.S. Terminates AGOA Trade Preference Program for Ethiopia, Mali and Guinea" (January 1, 2022), https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/january/us-terminates-agoa-trade-preference-program-ethiopia-mali-and-guinea [https://perma.cc/3BYR-Y64Q].

In contrast, Canada maintained its diplomatic relationship with Ethiopia.[96] Ethiopia was, and remains, a major recipient of Canadian development assistance,[97] some of which has supported the expansion of the country's mining sector. Canadian companies also have a significant presence in Tigray, holding most of the region's foreign-owned mining licences.[98] Canada's response to the war is examined further in the economic diplomacy chapter.

The 2022 cessation of hostilities between the Ethiopian and Tigray governments did not eliminate the conflict-related risks surrounding Tigray's mineral sector. According to a major investigation by The Globe and Mail, local military leaders seized control of key mineral sites after the fighting subsided and, with the support of outside investors, developed an illicit gold trade worth billions of dollars.[99] Artisanal miners reportedly extract ore using heavy machinery and toxic chemicals in violation of local laws, while armed actors protect the operations and control smuggling networks. The newspaper concluded this illegal industry "has ruined the land, stoked deadly violence and could fund the Horn of Africa's next devastating war."[100]

East Africa Metals (EAM), a publicly traded Canadian company, holds a 30% interest in the Mato Bula and Da Tambuk properties in Tigray.[101] EAM has reported that it is developing industrial mines at these properties in partnership with the Chinese company Tibet Huayu.[102] The company denies that its subsidiaries or business partners have financed or facilitated illegal artisanal mining activities in Tigray. It also claims that operations at its mine sites have been suspended and that it has not earned revenue from its Ethiopian projects.[103]

Reporting by The Globe and Mail, however, raises questions about activity at the two properties. The newspaper reported that large quarries were constructed at Mato Bula and Da Tambuk in 2024 and 2025 by artisanal miners involved in the illicit gold trade. Multiple sources alleged that EAM's Chinese partners financed the operations, that Chinese miners supplied machinery to the sites, and that individuals indirectly employed by EAM and Tibet Huayu worked the sites.[104]

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[96] Dyer, supra note 94.

[97] See statistics on Canada's international assistance at https://www.international.gc.ca/transparency-transparence/international-assistance-report-stat-rapport-aide-internationale/index.aspx?lang=eng&_ga=2.158472179.857169170.1766081916-1885599015.1766081915 [https://perma.cc/2TRG-W7W3, https://perma.cc/5GZV-KT4D, https://perma.cc/L93Z-DZZ8, https://perma.cc/RX8Z-T6SQ].

[98] Claire Wilmot and Ashenafi Endale, "How gold tarnished Tigray," The Globe and Mail (November 13, 2025), https://www.theglobeandmail.com/world/article-illegal-gold-mining-tigray-ethiopia-east-africa-metals-canadian [https://perma.cc/U5E3-YZ45].

[99] Ibid.

[100] Ibid.

[101] East Africa Metals, "News Release: East Africa Metals advances mine development through the final permitting with community engagement" (June 7, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=ed9f8410a7033ac82155b07184220c6954609cafac30924034965ebfcc753f25 [https://perma.cc/6345-XYPC].

[102] Wilmot and Endale, supra note 98.

[103] Ibid.

[104] Ibid.

The Globe and Mail reports that the illegal gold trade fuels violence in Ethiopia, jeopardizing regional stability. According to an expert cited by the paper:

> "[w]hat we now see in Tigray is not just an environmental, economic and security crisis of a colossal scale, [...] it will also help to precipitate a regional crisis. Those [benefiting from the gold trade] have a vested interest in destabilizing the region, because it is better to fish in troubled waters."[105]

By retaining its business interests and pursuing mine development in Tigray, EAM is at heightened risk of contributing to conflict and instability both in the area and regionally. Mining giant Newmont, by contrast, reportedly withdrew from Tigray despite holding licences in the region.[106]

Finally, risks are compounded by the dangers faced by those who have been critical of the gold trade. The Globe and Mail reports that "[j]ournalists reporting on these matters have been detained and threatened with violence. Whistle-blowers have been intimidated, assaulted and threatened with death. Tigrayans protesting the looting of their land have been injured and killed."[107] These conditions restrict the ability of local communities, journalists, and civil society organizations to monitor mining activity and raise concerns safely.

Concerns about EAM's conduct in Ethiopia had already been raised with Canada's National Contact Point during the war. Complainants alleged that, by paying taxes and licence fees to the Ethiopian government, the company contributed to adverse human rights impacts.[108] They further argued that these payments placed EAM in a business relationship with the government for the purposes of the OECD Guidelines. The NCP rejected this argument, concluding that payment of taxes and regulatory fees did not establish a business relationship. It therefore declined to offer its good offices based on this issue.[109] The NCP, however, did not consider the broader risks associated with maintaining commercial interests in a volatile post-conflict area where armed actors reportedly control mine sites and illicit extraction may finance further violence.

[105] Ibid.

[106] Ibid.

[107] Ibid.

[108] Canada's NCP, supra note 72.

[109] Ibid.

07

ENVIRONMENTAL IMPACTS



7. ENVIRONMENTAL IMPACTS

> *… my family and I rely on our crops and animals for food, we have not had enough food to feed my family. We have tried to buy food from shops but we do not have enough money to buy enough food for the family. Since ReconAfrica damaged our lands, my family and I have gone hungry.*
>
> Farmer in Namibia complaining about damage to his crops[1]

Extractive industries inherently disrupt the environment and may harm human health. International standards recognize these risks and guide companies in preventing and mitigating environmental harm. This chapter examines six Canadian extractive companies accused of conducting inadequate environmental assessments, endangering biodiversity, or improperly storing hazardous waste. Several profiled operations have also allegedly produced unsafe levels of pollution.

7.1. INTERNATIONAL STANDARDS

The *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* is a widely endorsed set of standards that address the social, economic, and environmental impacts of business activity worldwide.[2] The *Guidelines* provide companies with non-binding standards and recommendations on responsible business conduct.[3] The *Guidelines'* environmental chapter urges companies to prevent and address environmental harms.[4] The *Guidelines* acknowledge

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[1]Affidavit of Witness 2 (November 8, 2023) in International Human Rights Program, University of Toronto Faculty of Law, on behalf of Saving Okavango's Unique Life (SOUL), Complaint to the Canadian Ombudsperson for Responsible Enterprise regarding Reconnaissance Energy Africa Ltd.'s human rights abuses in Namibia (April 9, 2024), Appendix H, para13, https://jackmanlaw.utoronto.ca/media/3847/download?inline); [https://perma.cc/9V2P-QNGV].

[2] OECD, *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023). https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html [https://perma.cc/29LV-UNDJ].

[3] Government of Canada, "Guidelines and standards for responsible business conduct," (last modified April 26, 2022), https://www.international.gc.ca/trade-commerce/rbc-cre/guidelines-lignes_directrices.aspx?lang=eng [https://perma.cc/X9TY-LD7P].

[4] OECD Watch, "The OECD Guidelines and the environment," https://www.oecdwatch.org/oecd-ncps/the-oecd-guidelines-for-mnes/what-is-in-the-oecd-guidelines/the-oecd-guidelines-and-the-environment [https://perma.cc/REX3-M6ZS].

that companies often contribute to environmental problems, including climate change; biodiversity loss; degradation of land, marine, and freshwater ecosystems; deforestation; air, water, and soil pollution; and improper waste management.[5]

The International Finance Corporation (IFC) is an arm of the World Bank that provides financing to private companies. It requires clients to comply with its standards as a condition of receiving financial support. The *IFC Performance Standards on Environmental and Social Sustainability* help businesses identify, avoid, mitigate, and manage environmental and social risks and impacts.[6] While the *Performance Standards* formally apply only to companies that receive financing from the IFC, international instruments widely cite them as a benchmark for corporate conduct.

Performance Standards 1, 3, and 6 are relevant to the environment. Performance Standard 1 highlights the importance of assessing and managing environmental and social risks and impacts. Performance Standard 3 addresses pollution and the handling of hazardous waste. Performance Standard 6 concerns biodiversity conservation and the sustainable management of living natural resources.[7]

Although environmental laws vary across African states, signatories to the *African Charter on Human and Peoples' Rights* recognize the right to a satisfactory environment (Article 24).[8] In 2018, the African Commission on Human and Peoples' Rights adopted guidelines defining this right and the corresponding obligations of both states and companies in the context of the extractive industries.[9] The guidelines establish that people are entitled to protection from activities that degrade or despoil the natural environment.[10] This includes the right to be consulted about such activities and for people's views to be taken into account in relevant decision-making.[11] People are also entitled to full, adequate, and effective compensation for environmental damage[12]

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[5] Ibid.

[6] International Finance Corporation, *IFC Performance Standards on Environmental and Social Sustainability* (January 1, 2012), at i, https://www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standards-guidance-note-en.pdf [https://perma.cc/4VRK-T6R3].

[7] Ibid.

[8] Morné van der Linde and Lirette Louw, "Considering the interpretation and implementation of article 24 of the African Charter on Human and Peoples' Rights in light of the SERAC communication," African Human Rights Law Journal 3 (2003): 167-187. [https://perma.cc/REL8-C45E]

[9] African Commission on Human and Peoples' Rights, *State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment* (2018), https://achpr.au.int/en/node/845 [https://perma.cc/7YEQ-9SM7].

[10] Ibid at para 28.

[11] Ibid at para 32.

[12] Ibid at para 34.

and to measures necessary for the cleanup and restoration of the affected environment.[13] States are required to incorporate these rights into national legislation and to establish effective mechanisms and institutions to supervise and enforce standards of protection.[14] Corporations must ensure that they do not violate *Charter* rights and that their operations comply with "internationally accepted human and peoples' rights, labour and environmental standards."[15]

Extractive companies have an important role in advancing global agreements such as the 2030 Agenda for Sustainable Development,[16] and achieving the 17 Sustainable Development Goals[17] endorsed by United Nations member states in 2015. These goals embody a worldwide agreement that the economic, social, and environmental dimensions of development are interdependent, and that none should be prioritized at the expense of the others.[18]

This chapter highlights four areas of environmental management that have raised questions about Canadian extractive companies: environmental assessment, biodiversity protection, the safe storage of hazardous waste, and pollution and tailings.

7.2. ENVIRONMENTAL ASSESSMENT

The *IFC Performance Standards* contain extensive provisions governing environmental impact assessments for extractive projects. Although experts prepare these assessments, extractive companies generally finance them. The European Ombudsman has noted that a conflict of interest may arise when companies pay consultants to assess the impacts of their own investments:

> [...] the situation, whereby the fees of the consultancy monitoring the project were paid by the promoter, whose activities it was supposed to monitor, could give rise to justifiable doubts about the independence and objectivity of the consultancy. This could, in turn, give rise to justifiable doubts as to whether the EIB [European Investment Bank] was able properly to monitor the project, given it relied in part on monitoring reports drafted by the consultancy.[19]

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[13] Ibid at para 35.

[14] Ibid at para 38.

[15] Ibid at para 57.

[16] United Nations, "Transforming our world: the 2030 Agenda for Sustainable Development," https://sdgs.un.org/2030agenda [https://perma.cc/6FBS-72E3].

[17] United Nations, "The 17 Goals," https://sdgs.un.org/goals [https://perma.cc/H5AC-G9A3].

[18] UN SDGs, supra note 16.

[19] European Ombudsman, *Decision in case 146/2017/DR on how the European Investment Bank handled a complaint about breaches of environmental, health and safety requirements in a project it financed*, (March

Article 24 of the *African Charter on Human and Peoples' Rights* requires that environmental risk assessments be completed before industrial development begins and that measures be put in place to mitigate identified risks.[20] Companies are required to clearly understand the nature and impact of their activities, and to undertake environmental, social, and human rights impact assessments with the participation of affected local communities.[21]

The *IFC Performance Standards* also require that environmental and social baseline studies be carried out before a project begins. The Environmental and Social Impact Assessment should then "spell out project-related direct, indirect, and residual impacts on species, ecosystems, and ecosystem services identified in the baseline studies."[22]

7.2.1. RECONNAISSANCE ENERGY AFRICA
Petroleum Exploration, Namibia

Reconnaissance Energy Africa (ReconAfrica) (TSX: RECO) is a Calgary-based junior oil and gas company conducting exploration in Namibia, Angola, and Gabon.[23]

In 2019, ReconAfrica prepared an environmental assessment for its exploratory wells in Namibia. Environmental experts who reviewed the report for *National Geographic* said it lacked scientific rigour. They noted that the document was missing field assessments needed to measure potential effects on wildlife, local communities, archaeological sites, and water.[24] In 2021, both UNESCO and the International Union for Conservation of Nature expressed concern about ReconAfrica's activities, calling on the government of Namibia to ensure that environmental impact assessments for the company's proposed development adhere to international standards and undergo rigorous review.[25]

27, 2019), para 8, https://www.ombudsman.europa.eu/en/decision/en/111773 [https://perma.cc/UB5Y-F9RP].

[20] African Commission, supra note 9, at para 30.

[21] Ibid at paras 58 and 64.

[22] IFC, supra note 6, Performance Standard 6 at 5.

[23] ReconAfrica, "About ReconAfrica," https://reconafrica.com/about/about-reconafrica/ [https://perma.cc/K4ER-SDTA].

[24] Jeffrey Barbee and Laurel Neme, "Oil company exploring in sensitive elephant habitat accused of ignoring community concerns," National Geographic (May 11, 2021), https://www.nationalgeographic.com/animals/article/oil-company-reconafrica-accused-of-ignoring-communities-concerns [https://perma.cc/PZX7-CMBW].

[25] UNESCO Decision 44 COM 7B.80, Okavango Delta (Botswana) (N 1432), 2021, https://whc.unesco.org/en/decisions/7796/ [https://perma.cc/W7TG-YWJX]; IUCN World Conservation Congress motion, "Protecting the Okavango from oil and gas exploitation" (October 4, 2021), https://www.iucncongress2020.org/motion/136.html [https://perma.cc/66GX-C32X].

The company reports that it carried out "[c]omprehensive and detailed Environmental Impact Assessments, in line with Namibian law and international best practices" for its exploratory drilling and seismic programs.[26]

7.2.2. TIOMIN RESOURCES

Kwale Mineral Sands, Kenya

Tiomin Resources Inc. (TSX: TIO) was a Toronto-based mining company that discovered titanium ore in sand dunes along Kenya's coast in 1996.[27]

The company faced local opposition to a proposed strip mine in the Kwale district. Local residents expressed concern about potential health impacts and the future of nearby forests.[28] Kenyan scientists raised questions about sulphur dioxide emissions; the release of uranium and thorium, radioactive elements present in the sand; and threats to marine life and coral reefs posed by project-related shipping.[29]

In March 2003, the Kenyan High Court issued an order prohibiting the National Environment Management Authority from issuing Tiomin an Environmental Impact Assessment licence. Under Kenyan law, the authority was required to conduct a public review of the company's Environmental Management Plan before issuing a licence, but it did not do so. Moreover, according to the non-governmental organization (NGO) MiningWatch Canada, the company's management plan was incomplete, as it lacked a comprehensive action plan that included costs, timelines, and responsible parties for mitigating the identified impacts.[30]

That year, the Kenyan environment ministry expressed reluctance to approve the project, given outstanding environmental concerns. It announced that an independent team would carry out an

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[26] Letter from Reconnaissance Energy Africa Ltd. to Beatrice Balbin, Chief, Special Procedures Branch, OHCHR et al. (January 14, 2022), at 6, https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=36756 [https://perma.cc/G2H4-73ZG].

[27] Tiomin Resources Inc., *2008 Annual Information Form (March 13, 2009)*, at 19, https://www.sedarplus.ca/csa-party/records/document.html?id=4519c8f184569bb0681b86a4d0933a22e7557f16e133d6bcca0e40fe3ccaf525 [https://perma.cc/T2XT-N2FB].

[28] World Rainforest Movement, "Kenya: Canadian titanium mining challenged by new government" (April 3, 2003), https://www.wrm.org.uy/bulletin-articles/kenya-canadian-titanium-mining-challenged-by-new-government [https://perma.cc/R83B-CSRL].

[29] Ibid.

[30] MiningWatch Canada, "New Kenyan Government Holds Tiomin to Account" (June 3, 2003), https://miningwatch.ca/news/2003/6/3/new-kenyan-government-holds-tiomin-account [https://perma.cc/Y63K-B76E].

environmental impact assessment for the project. An earlier assessment submitted by the company was dismissed by stakeholders, who criticized the report's poor quality.[31]

In 2005, Tiomin received approval to develop the titanium strip mine.[32] The Coast Mining Rights Forum, a coalition of local communities and human rights organizations, continued opposing the project because of concerns about the displacement of 5,000 Indigenous people and the contamination of local soil and aquifers.[33] See the displacement chapter for further details.

In 2010, Tiomin sold the project to Australian company Base Iron Ltd.,[34] which operated the mine until its closure in 2024.[35] At least some of the environmental concerns associated with the project materialized when former landowners tried to return to the land in 2024. Kenya's National Environmental Management Agency warned that the site was severely contaminated and unfit for human habitation. It advised that the clean-up could take as much as 50 years to complete.[36]

7.3. PRESERVING BIODIVERSITY

The *OECD Guidelines* require companies to apply a "biodiversity mitigation hierarchy" that prioritizes avoiding damage,[37] as does *IFC Performance Standard* 6.[38] The *IFC Performance Standards* also require that companies consider the cumulative impacts of their projects, including:

> […] interference with migratory routes or wildlife movement, loads to a watershed or increased erosion, increased pressure on the carrying capacity or the survival

[31] World Rainforest Movement, supra note 28.

[32] Tiomin Resources Inc., "Tiomin Resources announces financing of Cdn $5 million Over-allotment provision to increase to Cdn $7 million" (February 18, 2005), https://www.sec.gov/Archives/edgar/vprr/0500/05006108.pdf [https://perma.cc/SK9T-PYNZ].

[33] EJAtlas, "Titanium Mining in the Kwale District, Kenya" (last updated May 2, 2022), https://ejatlas.org/print/titanium-mining-in-the-kwale-district-kenya [https://perma.cc/5RM6-A2PA].

[34] Reuters, "Tiomin to sell Kenya assets to Australia's Base Iron" (February 25, 2010), https://www.reuters.com/article/tiomin-idUSSGE61O0LC20100225/ [https://perma.cc/9PQ9-XGAQ].

[35] Base Resources, "Kwale Operations to complete mining at end of 2024" (October 30, 2023), https://s3.ap-southeast-2.amazonaws.com/assets.baseresources.com.au/wp-content/uploads/sites/2/2024/01/23082743/Kwale-Operations-to-complete-mining-at-end-of-2024.pdf [https://perma.cc/L45M-4E5U].

[36] Mishi Gongo, "NEMA warns Base Titanium mining land poses health risks," The Eastleigh Voice (August 16, 2024), https://eastleighvoice.co.ke/base%20titanium/69347/nema-warns-base-titanium-mining-land-poses-health-risks [https://perma.cc/9V55-BEPM].

[37] OECD, supra note 2, at 36.

[38] IFC, supra note 6, Performance Standard 6 at 5.

> of indicator species in a given ecosystem, wildlife population reduction due to increased hunting […][39]

In this section, we outline concerns about ReconAfrica's impact on wildlife in Namibia, mixed results with Sherritt International's biodiversity offset strategy, and problems with the introduction of an invasive species in Madagascar.

7.3.1. RECONNAISSANCE ENERGY AFRICA

Petroleum Exploration, Namibia

ReconAfrica's licences overlap with the Kavango-Zambezi Transfrontier Conservation Area, a vast transboundary conservation area.[40] The conservation area was established by five countries to sustainably manage ecosystems, watersheds, and wildlife.[41] The Okavango River watershed is part of the conservation area. The river feeds the Okavango Delta, a large inland delta in northwestern Botswana. The delta is a UNESCO World Heritage site[42] and one of the world's largest "Wetlands of International Importance" under the Ramsar Convention.[43] It provides habitat for some of the world's most endangered large mammals, including cheetah, white and black rhinoceros, African wild dog, and lion, as well as 24 species of globally threatened birds. The wider ecosystem is critical to the survival of the world's largest population of elephants.[44] More than one million people depend on the delta watershed for their survival.[45] According to UNESCO, due to the delta's "vast size and difficult access, [it] has never been subject to significant development and it remains in an almost pristine condition."[46]

ReconAfrica's drilling activity in Namibia is being carried out upstream of the Okavango Delta.[47] Environmental organizations warn that the project could threaten the integrity of the delta and the

[39] IFC, supra note 6, Guidance Note 1 para GN39, at 14.

[40] Barbee and Neme, supra note 24.

[41] See Kavango Zambezi Transfrontier Conservation Area (KAZA TFCA), https://www.kavangozambezi.org [https://perma.cc/MYK2-KBQ4].

[42] UNESCO World Heritage Convention "Okavango Delta," https://whc.unesco.org/en/list/1432/ [https://perma.cc/AY92-4RBD].

[43] The Convention on Wetlands, "The List of Wetlands of International Importance (the Ramsar List)," https://www.ramsar.org/document/list-wetlands-international-importance-ramsar-list [https://perma.cc/VR6Z-6EDE].

[44] UNESCO World Heritage Convention, supra note 42.

[45] Barbee and Neme, supra note 24.

[46] UNESCO World Heritage Convention, supra note 42.

[47] Barbee and Neme, supra note 24.

Kavango-Zambezi Transfrontier Conservation Area.[48] A document endorsed by over 50 Namibian NGOs argues that the roads, wells, pipelines, storage facilities, and other infrastructure associated with oil and gas production would fragment the land, with adverse consequences for wildlife habitat, forests, and farmland. They also cite toxic wastewater generated during fossil fuel extraction, pollution of water resources, and potential effects on human health.[49]

ReconAfrica states that it is "committed to sustainable development and employs industry best practices wherever it operates to protect the environment."[50] The company says its operations are confined to small geographic areas, and denies evidence of contamination, the displacement of people or communities, harm to food or water supplies, or disruption to animal migration routes or habitats.[51]

7.3.2. SHERRITT INTERNATIONAL

Ambatovy Mine, Madagascar

Sherritt International Corporation (Sherritt) (TSX:S) now operates mines in Canada and Cuba.[52] Sherritt was a joint-venture partner at the Ambatovy nickel and cobalt mine in Madagascar from 2007 to 2020 and operated the mine. For information about financial support provided to Sherritt by Export Development Canada, see the chapter on economic diplomacy.

[48] Oil Change International, "Environmental NGOs Warn Oil Giants: Hands Off Okavango Delta and Kavango Basin Drilling" (May 30, 2023), https://priceofoil.org/2023/05/30/environmental-ngos-warn-oil-giants-hands-off-okavango-delta-and-kavango-basin-drilling [https://perma.cc/RS2A-Q8PS].

[49] Women's Leadership Centre, "Motivation for the Call for a Moratorium and Public Inquiry on Oil and Gas Exploration in the Kavango Regions" (July 22, 2021), https://esjtnam.org/media/campaigns/docs/s1732780858.pdf [https://perma.cc/RZY2-XXHG].

[50] Letter from Reconnaissance Energy Africa Ltd., supra note 26, at 8.

[51] Ibid at 3.

[52] Sherritt International Corporation, *2008 Annual Information Form* (March 23, 2009), at 3, https://www.sedarplus.ca/csa-party/records/document.html?id=b68240c538d76116f5f45942eab6d0f63afbd1a651f9e60922d19f7c8c1346fc [https://perma.cc/3ZLK-L8Q2], Sherritt International Corporation, *2020 Annual Information Form* (March 17, 2021), at 8, https://www.sedarplus.ca/csa-party/records/document.html?id=91de68d1c8566299e6c1ef5f8a758b386647bfe98261f2f57f9b4bdbdbbb53d1 [https://perma.cc/T2XM-WY84].

Madagascar is exceptionally biodiverse, with a high concentration of endemic species.[53] More than 80% of the country's original forest cover has been lost.[54] The Ambatovy project destroyed or substantially degraded more than 2,000 hectares of forest.[55] Most of the mine site was covered in old-growth forest before construction.[56]

(i) Biodiversity Offsets

Where impacts on biodiversity cannot be avoided, the *Performance Standards* call for offsets and that they should be:

> [...] designed and implemented to achieve measurable conservation outcomes that can reasonably be expected to result in *no net loss and preferably a net gain* of biodiversity; however, a net gain is required in critical habitats.[57] (emphasis added)

The standards also require compensation for communities affected by biodiversity loss:

> [w]here socioeconomic and cultural uses of biodiversity (that is, ecosystem services) are at issue, biodiversity offsets may include the provision of compensation packages for Affected Communities impacted by the project and offset.[58]

While operating Ambatovy, Sherritt developed a biodiversity-offset strategy. In a 2018 report, the company explained that "to meet regulator and lender requirements including International Finance Corporation (IFC) Standard 6 [...], the Ambatovy Joint Venture operates a 'no net loss' biodiversity strategy based on measures to avoid or minimise impacts and uses offsets to

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[53] Phillipson, P. B., Porter Lowry, II., Andriamahefarivo, L., Antilahimana, P., Birkinshaw, C., "Floristic inventory of the Ambatovy-Analamay mine site and comparison to other sites in Madagascar, Malagasy" Malagasy Nature 3, 44–76 (2010) https://protectedareas.mg/document/show/275509

[54] Convention on Biological Diversity, "Madagascar - Country Profile," https://www.cbd.int/countries/profile?country=mg [https://perma.cc/S6T2-4EP2].

[55] Katie Devenish et al., "On track to achieve no net loss of forest at Madagascar's biggest mine," Nature Sustainability 5 (2022): 498-508, at 500.

[56] CSA Global, *NI 43-101 Technical Report Ambatovy Nickel Project, Madagascar* (June 30, 2018) at 141, https://www.sedarplus.ca/csa-party/records/document.html?id=4f0cc07814d4bf7ab270f326494d1b724257b97b40dcc4e4ff0059ab3110fdd6 [https://perma.cc/Y9WU-S6E7].

[57] IFC, supra note 6, Performance Standard 6, para 10, at 2.

[58] Ibid, para GN32, at 10. For a critique of the environmental and human rights impacts of biodiversity offsets, see Lynda Hubert Ta and Bonnie Campbell, "Environmental protection in Madagascar: Biodiversity offsetting in the mining sector as a corporate social responsibility strategy," The Extractive Industries and Society 15,101305 (2023), https://www.sciencedirect.com/science/article/pii/S2214790X23000953?via%3Dihub [https://perma.cc/MT4J-RF45].

compensate for unavoidable biodiversity losses."[59] The strategy sought to generate "biodiversity gains" by slowing deforestation associated with local agricultural practices. The mine promotes conservation activities such as "ecological monitoring, establishing community forest management associations and supporting them with the monitoring and enforcement of resource-use restrictions, environmental education programmes and promoting alternative income-generating activities in surrounding communities."[60] Sherritt maintained that the mine footprint, which is regulated by its environmental management plan, has been kept to a minimum.[61]

A 2017 field study reported that the offset strategy adversely affected local people:

> Land issues have contributed to active conflict at Ambatovy where people have been prevented from pursuing traditional practices in specific areas defined by the company for the purposes of forest regeneration and biodiversity conservation. Land is also at issue where soil erosion resulting from pipeline construction caused widespread rice field damage. Ownership is also a source of conflict at Ambatovy where a community has been resettled on land that others claim they own.[62]

Although Sherritt left the project in 2020, studies published in 2022 and 2024 illuminate the mixed results of the offset strategy. An academic study published in 2022 found that some of Ambatovy's offset sites successfully prevented deforestation and that the mine was on track to meet its goal of no net loss of forest. However, the authors acknowledged that forest cover is an imperfect proxy for biodiversity, which they did not measure. They also questioned the permanence of the conserved forest cover once Ambatovy is no longer involved in the strategy, given "chronic underinvestment" in the country's protected areas.[63] The study also documented adverse impacts from the offset strategy on local communities. Local residents harvest food, fuel, and other materials from the forest and use forest land to practice 'shifting' agriculture. The mine's offset program restricts community access to the forest. And while Ambatovy reports investing in alternative income-generating activities for communities, local residents say these benefits do not offset the costs associated with offset restrictions. The study concludes that "poor, rural communities living around the biodiversity offsets are bearing the cost of achieving no net loss."[64]

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[59] CSA Global, supra note 56, at 20.

[60] Devenish et al., supra note 55, at 499.

[61] CSA Global, supra note 56, at 141.

[62] Tony Andrews, Bernarda Elizalde, Philippe Le Billon, Chang Hoon Oh, David Reyes, and Ian Thomson, *The Rise In Conflict Associated With Mining Operations: What Lies Beneath?* (Canadian Resources and Development Institute, 2017), at 66, https://www.academia.edu/90816975/The_Rise_in_Conflict_Associated_with_Mining_Operations_What_Lies_Beneath [https://perma.cc/Q39L-PD6M].

[63] Devenish et al., supra note 55, at 504.

[64] Ibid.

In addition, a 2024 study found that both deforestation and forest degradation increased around Ambatovy's main offset area, referred to as a "spillover effect."[65] According to the authors, "restrictions on local communities' access to forest resources within biodiversity offset areas affect the surrounding landscape and can cause substantial additional adverse environmental impacts there."[66]

(ii) Invasive Species

IFC Performance Standard 6 recognizes that the introduction of invasive species can have detrimental impacts on the environment[67] and requires companies to take steps to prevent this outcome:

> [t]he client will implement measures to avoid the potential for accidental or unintended introductions including the transportation of substrates and vectors (such as soil, ballast, and plant materials) that may harbor alien species.[68]

Scientific experts have raised concerns about the impact of an invasive toad species on Madagascar's biodiversity. The Asian toad is rapidly spreading across the island. The toad is poisonous and poses a risk of killing off native predator species, including snakes. The loss of native predators could have devastating ecological impacts. It could also cause an explosion in the rat population, with implications for public health and local agriculture. A scientist who studied the toad invasion points to the Ambatovy processing plant as the likely source of the toads. Genetic analysis reveals that the toads likely originated in Thailand, Cambodia, or Vietnam. Scientists have determined that the toads arrived in Madagascar between 2005 and 2010. They report that Ambatovy employed a Thailand-based construction company during this period.[69]

When asked for comment on these issues, Sherritt responded that it was no longer involved in the project and that questions should be directed to the current owners.[70] See the displacement chapter for more on Sherritt.

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[65] Sandra Eckert et al., "Spatiotemporal assessment of deforestation and forest degradation indicates spillover effects from mining activities and related biodiversity offsets in Madagascar," Remote Sensing Applications: Society and Environment 36 (2024), at 14. https://www.sciencedirect.com/science/article/pii/S2352938524001332?ref=pdf_download&fr=RR-2&rr=91dc0f821e73ab48 [https://perma.cc/5JFM-H8ZU]

[66] Ibid at 1.

[67] IFC, supra note 6, Performance Standard 6, para 21 at 5.

[68] Ibid, para 22 at 5.

[69] Shreya Dasgupta, "Will mining company drive mass extinction of Madagascar's wildlife?," Mongabay (March 12, 2016), https://news.mongabay.com/2016/03/will-mining-company-drive-mass-extinction-of-madagascars-wildlife/ [https://perma.cc/T28D-G8TL].

[70] Email from Tom Halton, Director, Investor Relations and Corporate Affairs, Sherritt to Shin Imai (September 30, 2024) [https://perma.cc/8FCA-V5BH].

7.4. SAFE STORAGE OF HAZARDOUS WASTE

The *OECD Guidelines* state that the production of hazardous waste should be avoided or minimized.[71] *Performance Standard* 3, "Resource Efficiency and Pollution," sets out extensive provisions on identifying, handling, and minimizing the effects of hazardous substances on the environment and on nearby communities.[72] The *African Charter on Human and Peoples' Rights* requires that states establish standards to ensure that waste disposal systems are environmentally safe. States are obliged to monitor compliance with these standards and to penalize companies engaged in illegal waste disposal.[73] Moreover, extractive companies are required to compensate affected people when their operations damage the environment.[74]

Dundee Precious Minerals in Namibia and Barrick Mining Corporation[75] in Zambia have been criticized for lack of care in the storage of hazardous materials.

7.4.1. DUNDEE PRECIOUS METALS

Tsumeb Smelter, Namibia

Dundee Precious Metals (Dundee) (TSX:DPM) is a gold-mining company that owns and operates the Chelopech and Ada Tepe mines in Bulgaria. The company also holds mineral exploration properties in Serbia, Ecuador, and Bulgaria.[76]

Dundee acquired the Tsumeb smelter in Namibia to process copper ore from its Chelopech mine in Bulgaria, which prohibits ore smelting due to the ore's high arsenic concentration,[77] a dangerous toxin.[78] Instead, Dundee shipped the ore 14,000 km to Namibia, where the laws are

[71] OECD, supra note 2, at 36.

[72] IFC, supra note 6.

[73] African Commission, supra note 9, at para 31.

[74] Ibid at para 59.

[75] In May 2025, the company changed its name from Barrick Gold Corporation to Barrick Mining Corporation.

[76] Dundee Precious Metals, *Annual Information Form for the Year Ended December 31, 2024* (March 25, 2025), at 8, https://www.sedarplus.ca/csa-party/records/document.html?id=e917cf798b835dda08cd822ec55de15ff8c31c6cf1a5bf2fb9195cf9883302bc [https://perma.cc/JWC9-2DQY].

[77] Geoffrey York and Samuel Schlaefli, "In Namibia, a Canadian copper company leaves a legacy of toxic waste," The Globe and Mail (January 15, 2025), https://www.theglobeandmail.com/business/article-dundee-copper-mine-namibia-arsenic-toxic-waste [https://perma.cc/2MX2-BW6E].

[78] Arsenic is a known carcinogen and may cause developmental effects, diabetes, pulmonary disease, and cardiovascular disease. Exposure is associated with adverse pregnancy outcomes and infant mortality (World Health Organization, "Arsenic," https://www.who.int/news-room/fact-sheets/detail/arsenic [https://perma.cc/4DZ2-9R9V]).

more permissive.[79] Dundee owned and operated the Tsumeb smelter from 2010 until 2024, when it sold the complex to Chinese company Sinomine.[80]

The smelter at Tsumeb produces arsenic trioxide, an extremely hazardous compound whose ingestion can be lethal.[81] Although Dundee has not disclosed the volume of arsenic trioxide stored on site at Tsumeb, estimates from former managers place it among the world's largest stockpiles.[82] The waste is stored in a landfill just a few hundred metres from the town of Tsumeb.[83] While some of the waste is contained in bags designed to hold sugar,[84] The Globe and Mail reported in January 2025 that two "huge piles" of arsenic trioxide were also visible on site. According to the newspaper, the landfill is located atop an important aquifer, which the town relies on for its drinking water. The area has known geological faults.[85]

The Globe and Mail explains that, unlike Tsumeb, arsenic trioxide waste at a mine site in northern Canada is sealed in concrete and buried 76 metres underground. The soil around the deposit is permanently frozen to prevent groundwater contamination.[86]

Residents of Tsumeb complain of skin ailments, respiratory problems, headaches, and nausea. Farm workers downwind from the smelter report feeling dizzy and nauseated. According to The Globe and Mail, many former workers at the smelter report being ill.[87]

The newspaper also reported that tests conducted by Swiss researchers in 2025 found "alarming" levels of arsenic in soil and plants near the smelter, as well as in hair samples from smelter employees and local residents. These results reveal "massive" exposure to arsenic among the

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[79] York and Schlaefli, supra note 77.

[80] Dundee Precious Metals, *Annual Information Form for the Year Ended December 31, 2023* (March 26, 2024), at 58, https://www.sedarplus.ca/csa-party/records/document.html?id=13b730d1e65c8bbb0faaf763663b6557fefe4493a42e53da3047d754d36540f7 [https://perma.cc/G6TH-RP7D].

[81] U. S. Agency for Toxic Substances and Disease Registry, "Medical Management Guidelines for Arsenic (As) and Inorganic Arsenic Compounds," https://wwwn.cdc.gov/TSP/MMG/MMGDetails.aspx?mmgid=1424&toxid=3 [https://perma.cc/5YJY-UQ8G].

[82] York and Schlaefli, supra note 77.

[83] CEE Bankwatch Network, "Health reports confirmed widespread over-exposure to toxic arsenic at Tsumeb smelter in Namibia" (December 22, 2015), https://bankwatch.org/blog/health-reports-confirmed-widespread-over-exposure-to-toxic-arsenic-at-tsumeb-smelter-in-namibia [https://perma.cc/LA73-8UKV].

[84] CEE Bankwatch Network, Earthlife Namibia and Za Zemiata – Friends of the Earth Bulgaria, *Dirty Precious Metals: Dumping European toxic waste in Tsumeb, Namibia* (2016), at 4, https://bankwatch.org/wp-content/uploads/2017/06/DirtyPreciousMetals-Namibia.pdf [https://perma.cc/KPK8-347F].

[85] York and Schlaefli, supra note 77.

[86] Ibid.

[87] Ibid.

population of Tsumeb. In fact, since 2011, a number of studies have documented the dangerous levels of pollution in the town, and the resulting risks to workers and residents.[88]

The Globe and Mail further reports that a group of business leaders in Tsumeb attempted to block the 2024 sale of the smelter until commitments were made to safely remove the arsenic waste, test local residents for arsenic poisoning, and compensate individuals for any illness caused by arsenic exposure. No such commitments were made, and Dundee was permitted to exit Tsumeb, unencumbered.[89]

In June 2025, several United Nations special rapporteurs wrote to the government of Namibia, to all the companies operating the smelter, and to the home-state governments of these companies, including Canada, China, and the United Kingdom. The UN experts expressed their "most serious concern" about the smelter's adverse human rights and environmental impacts.[90]

The UN experts draw attention to an environmental "grandfather clause" imposed by Dundee on both Sinomine and Weatherly International, the company from which Dundee acquired the smelter. The provision absolves Dundee of legal responsibility for the environmental harm caused by the smelter. The UN experts express "great concern" about the clause, which they assert is inconsistent with international standards.[91]

The experts report that the smelter has severely impaired local access to clean, safe water. The rapporteurs received information on arsenic contamination of the local aquifer. They also noted that water used in the smelting process, which the company treats and recycles, is shared with local residents. Community members who drink this water are reportedly unaware of its source and report a range of adverse health symptoms, including hair loss, abdominal pain, nausea, vomiting, and fever.[92] The UN experts also report that workers exposed to arsenic at the smelter experience coughing with yellow sputum, lung issues, and chest pain. They describe that a 2016 study commissioned by Dundee found that smelter workers were at significant risk of developing occupational lung cancer.[93] Finally, the UN rapporteurs draw attention to the lack of transparency

[88] Ibid.

[89] Ibid.

[90] Communication from Marcos A. Orellana, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, et al., to the government of Namibia, AL NAM 1/2025 (June 11, 2025), at 9, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29917 [https://perma.cc/P49B-RWBZ].

[91] Ibid.

[92] Ibid at 4.

[93] Ibid at 6.

regarding health and environmental issues at the smelter. Workers and community members are reportedly unable to access information about contaminant levels and the associated risks.[94]

In September 2025, Dundee responded to the UN experts, disputing the allegations in their letter. The company argues that "[a]rsenic concentration in the soil within the Smelter property and the surrounding areas is predominantly due to its natural occurrence in the Tsumeb region and anthropogenic load due to the decades of mining and smelting activities that occurred prior to [Dundee]'s ownership."[95] Dundee describes the measures it took to protect the environment, workers, and local residents during its ownership of the smelter.[96] At the time of writing, the Canadian government had not responded to the UN rapporteurs.

According to The Globe and Mail, Dundee asserts that it monitored air and water quality at the smelter, that the landfill was independently audited, and that the operation complied with Namibian and international standards under its management.[97]

7.4.2. BARRICK MINING CORPORATION

Lumwana Mine, Zambia

Barrick Mining Corporation (Barrick) (TSX:ABX) has mining operations around the world. In Africa, the company owns mines in the Democratic Republic of the Congo (Kibali), Tanzania (Bulyanhulu and North Mara), Mali (Loulo-Gounkoto), Côte d'Ivoire (Tongon), and Zambia (Lumwana).[98]

According to The Globe and Mail, Equinox Minerals owned the Lumwana mine, where it stockpiled more than four million tonnes of uranium. The metal was a byproduct of Equinox Minerals' copper production.[99] In 2011, Barrick acquired Equinox and the Zambian mine.[100] In

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[94] Ibid at 7.

[95] Letter from David Rae, President and Chief Executive Officer, DPM Metals to the Special Procedures Branch, Office of the High Commissioner for Human Rights (September 18, 2025), at 2, https://spcommreports.ohchr.org/TMResultsBase/DownLoadFile?gId=39241 [https://perma.cc/EW64-5GKL].

[96] Ibid.

[97] York and Schlaefli, supra note 77.

[98] Barrick Mining Corporation, "Operations," https://www.barrick.com/English/operations/default.aspx#copper-ops [https://perma.cc/8XTZ-KFLH].

[99] Geoffrey York, "Barrick shuts down water supply after uranium found at copper mine in Zambia," The Globe and Mail (March 19, 2024), https://www.theglobeandmail.com/business/article-barrick-shuts-down-water-supply-after-uranium-found-at-copper-mine-in/ [https://perma.cc/Y26D-CZ3U].

[100] Barrick Mining Corporation, *NI 43-101 Technical Report on the Lumwana Expansion Project, Republic of Zambia* (February 19, 2025), at 2, https://s25.q4cdn.com/322814910/files/doc_downloads/lumwana/Barrick_Lumwana_TechnicalReport_20241231.pdf [https://perma.cc/3BSF-LBWD].

2014, the Auditor General of Zambia reviewed a compliance monitoring report issued by the Zambia Environmental Management Agency to Barrick Lumwana. According to the Auditor General, the report revealed that “waste containing uranium was not properly covered to avoid radiation leaks” and that "copper concentrates high in uranium were stockpiled in open grounds instead of a shed with impermeable floors.”[101] For more on Barrick, see the chapters on conflict, displacement, economic diplomacy, labour, security and violence, and silencing critique.

7.4.4. RECONNAISSANCE ENERGY AFRICA

Petroleum Exploration, Namibia and Botswana

Reconnaissance Energy Africa has been accused of inadequately lining its reserve pits at its first and second drill wells, leading to potential leakage in local water supplies and violations of Namibian law. During oil and gas exploration, large pits are used to store material brought to the surface from drill wells. In addition to mud and liquid, these “reserve” pits may contain hazardous chemicals. Reserve pits risk contaminating surface and underground water systems, as well as surrounding land. Under Namibian law, companies must control substances from their wells, preventing any escape or spillage. To minimize the risk of such contamination, reserve pits are typically lined with impermeable material.[102] This precaution is particularly important in the arid region where ReconAfrica conducts its exploration activity, as communities depend on groundwater for drinking water and to support local agriculture. An expert interviewed by *National Geographic* explained that contamination of the aquifer would be "all but impossible" to contain and clean up.[103] The publication reports that notwithstanding the serious risks of pollution, the reserve pits at ReconAfrica's first and second drill wells are unlined.[104] The company reports that it lines its pits with clay, which swells when wet, creating a physical barrier. However, according to *National Geographic*, aerial photographs reveal erosion on the sides of ReconAfrica's reserve pits.[105]

A farmer from a nearby village expressed concerns with the stability of ReconAfrica’s reserve pits:

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[101] Auditor General of Zambia, *Report of the Auditor General on the Management of Environmental Degradation Caused by Mining Activities in Zambia* (July 2014), at 11, https://www.ago.gov.zm/wp-content/uploads/2025/04/Management-of-Environmental-Degradation-2014.pdf [https://perma.cc/9U57-ZD2C].

[102] Jeffrey Barbee and Laurel Neme, "Test drilling for oil in Namibia’s Okavango region poses toxic risk," National Geographic (March 12, 2021), https://www.nationalgeographic.com/animals/article/test-drilling-oil-namibia-poses-water-risk [https://perma.cc/86TV-2T3C]

[103] Ibid.

[104] Ibid; Jeffrey Barbee and Laurel Neme, "Canadian oil company illegally bulldozes protected land in Africa," National Geographic (February 23, 2022), https://www.nationalgeographic.com/environment/article/canadian-oil-company-illegally-bulldozes-protected-land-in-africa [https://perma.cc/3NKA-LC4S].

[105] Barbee and Neme, supra note 24.

> I am worried that ReconAfrica may be contaminating my water supply. I use underground water from a local well for drinking, sanitation, food and raising cattle. I have heard from community members … that their underground water supply tastes saltier since Recon began drilling near the village. I have been informed that water samples have been collected, however no results have been released. My land is situated 10m from the Mbambi drill site and I am worried that our underground water supply is or will also be contaminated.
>
> I have seen trucks with tanks carrying waste material from the Mbambi and Kauwe drill sites. I was informed that these trucks have been hired by ReconAfrica. I know that wastewater is mixed with toxic chemicals during the drilling process and have reason to believe that these chemicals are polluting my underground water.[106]

Namibia's Standing Committee on Natural Resources also expressed concern about the absence of a water-quality and groundwater-level monitoring strategy for the project. The committee noted that without such a strategy, it would be difficult to detect pollution, should the groundwater become contaminated.[107]

ReconAfrica reports that it uses water-based, organic, biodegradable, and chloride-free drilling fluids. The company asserts that its "chloride-free polyamines system is more expensive to implement than older methods – such as plastic pit liners, which can present challenges during the reclamation phase because they often shred and leak."[108] The company reports that its water-management plan includes groundwater assessments, hydro census, monitoring, and mitigation.[109]

In June 2022, Namibia's environmental commissioner extended ReconAfrica's drill permit.[110] Two appeals were immediately filed by a Namibian civil society organization, conservancies, and community forest associations. The applicants sought a review of the commissioner's decision by

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[106] Affidavit of Witness 5, supra note 1.

[107] Parliament of Namibia, National Assembly Standing Committee on Natural Resources, *Report on the Petitions by the Okavango's Unique Lifestyle (SOUL), Civil Society Organizations in Namibia and Fridays for Future of Windhoek to Stop Oil Drilling in the Okavango*, at 31, https://www.documentcloud.org/documents/22082077-parliamentary-report-on-petition-to-stop-oil-drlling-in-the-okavango-1/#document/p24 [https://perma.cc/4TMB-33WL].

[108] Letter from Reconnaissance Energy Africa Ltd., supra note 26, at 10.

[109] Ibid at 19.

[110] Jeffrey Barbee and Laurel Neme, "They ripped through a protected wilderness to find oil. Instead, they found trouble," National Geographic (March 28, 2023), https://www.nationalgeographic.com/animals/article/oil-drilling-reconafrica-okavango-watershed-protected-wilderness [https://perma.cc/797L-WH7S].

the environment minister.[111] Several days after filing their appeal, the community forest associations brought an application to the High Court of Namibia, seeking an interim injunction to halt ReconAfrica's exploration activity.[112] However, the court determined that it lacked jurisdiction to grant an injunction and issued an adverse costs award against the forest associations.[113]

In December 2022, over 120 local groups and civil society organizations in Namibia called for a public inquiry into the exploration and possible production of oil and gas in the Kavango region.[114] The groups demanded a moratorium on oil drilling, expressing concern about the depletion and contamination of scarce water resources, as well as potential adverse impacts to health, livelihoods, and food security.[115]

In 2021, and 2022, ReconAfrica investors filed three class action lawsuits in New York, alleging that the company misled them. The 2021 case was voluntarily dropped the same year. Two cases filed in 2022 were consolidated by the court. And in 2023, an additional class action was filed against the company in British Columbia.[116] According to *The Globe and Mail,* the company paid US$10.8 million to settle the cases in 2024.[117]

In April 2024, the International Human Rights Program at the University of Toronto filed a complaint with the Canadian Ombudsperson for Responsible Enterprise (CORE) on behalf of

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[111] Saving Okavango's Unique Life and the Economic and Social Justice Trust of Namibia, "Broken Trust: How a Canadian Driller Profits by Exploiting Namibian Laws and Communities" (January 22, 2025), https://savingokavangosuniquelife.blog/2025/01/22/broken-trust-how-a-canadian-driller-profits-by-exploiting-namibian-laws-and-communities [https://perma.cc/28GS-4EYT].

[112] "Namibian NGOs call out flawed legal decision awarding costs against Kavango communities who appealed fracking licenses on communal lands," Heinrick Boll Stiftung (February 16, 2023), https://za.boell.org/en/2023/02/20/namibian-ngos-call-out-flawed-legal-decision-awarding-costs-against-kavango-communities [https://perma.cc/3344-2MGH].

[113] *Ncumcara Community Forest Management Committee et al. v. The Environmental Commissioner et al.*, 2022, High Court of Namibia, https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2022/20220729_HC-MD-CIV-MOT-GEN-202200289-2022-NAHCMD-380-29-July-2022_decision-1.pdf [https://perma.cc/Q9BV-SYR6]; See commentary: Elizabeth Raymer "Oil company defeats challenge by local conservationists in Namibia's High Court" Law 360 Canada, August 3, 2022, https://www.law360.ca/ca/articles/1759147 [https://perma.cc/KXK6-F8HS].

[114] Barbee and Neme, supra note 110.

[115] "Save the Okavango," https://s3.documentcloud.org/documents/23462844/womens-leadership-center.pdf [https://perma.cc/YRR6-4YGP].

[116] Reconnaissance Energy Africa Ltd., "ReconAfrica Announces Proposed Settlement of Class Action Lawsuits" (February 28, 2024), https://reconafrica.com/_resources/news/nr-20240228.pdf [https://perma.cc/M9BA-W6B5].

[117] Niall McGee and Geoffrey York, "ReconAfrica agrees to pay out more than $10-million over allegedly misleading disclosure," The Globe and Mail (May 20, 2024), https://www.theglobeandmail.com/business/article-reconafrica-agrees-to-pay-out-more-than-10-million-over-allegedly/ [https://perma.cc/73BP-9DGP].

Saving Okavango's Unique Life (SOUL).[118] The complaint alleged that ReconAfrica failed to comply with international human rights instruments and requested that the CORE investigate the company's actions in Namibia. SOUL alleged that ReconAfrica's exploration activity involved:

> Encroachment on and use of land without consultation or consent; [d]amage to protected conservancies and forests, including to local vegetation and animal populations; and [p]ossible contamination of water resources and resulting impact on the health of community members.[119]

Over a year later, in August 2025, the complainants had heard very little from the CORE, including whether the office would investigate their complaint. In June 2026, the Canadian government announced it was closing the office.[120]

7.5. POLLUTION

The *OECD Guidelines* and *IFC Performance Standard* 3 have extensive provisions on preventing or minimizing environmental impacts. For example, the *Performance Standard* says:

> The client will avoid the release of pollutants or, when avoidance is not feasible, minimize and/or control the intensity and mass flow of their release. This applies to the release of pollutants to air, water, and land due to routine, non-routine, and accidental circumstances with the potential for local, regional, and transboundary impacts.[121]

The *African Charter on Human and Peoples' Rights* requires states to put in place, monitor, and enforce internationally acceptable standards on environmental protection.[122] Extractive companies have an obligation to ensure compliance with these standards and must compensate affected people when their operations damage the environment.[123]

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[118] International Human Rights Program, University of Toronto Faculty of Law, on behalf of Saving Okavango's Unique Life (SOUL), *Complaint to the Canadian Ombudsperson for Responsible Enterprise regarding Reconnaissance Energy Africa Ltd.'s human rights abuses in Namibia* (April 9, 2024), https://jackmanlaw.utoronto.ca/media/3847/download?inline [https://perma.cc/P839-H486].

[119] Ibid at 3.

[120] Darren Major, "Carney says feds are eliminating watchdog that oversees companies operating abroad," CBC (June 11, 2026), https://www.cbc.ca/news/politics/carney-eliminating-canadian-ombudperson-for-responsible-enterprise-9.7232539 [https://perma.cc/JG6K-YN76].

[121] IFC, supra note 6, Performance Standard 3 at 3.

[122] African Commission, supra note 9, at paras 45 and 47.

[123] Ibid, paras 57 and 59.

Concerns have been raised about air and water pollution at two of First Quantum's mines in Zambia. Sherritt International failed to adequately control pollution at its mine in Madagascar, and seepage from tailings ponds and wastewater containment facilities at a mine owned by a Barrick Mining Corporation subsidiary in Tanzania led to the suspension of operations.

7.5.1. BARRICK MINING CORPORATION
North Mara Mine, Tanzania

The North Mara mine began operating in 2002 with both open-pit and underground operations.[124] It lies near villages with a combined population of about 20,000.[125] Part of the mine is located along the Tighite River (also spelled Thighite and Tigite), which flows into the Mara River and ultimately into Lake Victoria. Approximately 300,000 people depend on the water from these rivers for drinking, livestock, and farming.[126] See the chapter on security and violence for a history of violence associated with this mine.

Community members have raised concerns about leakage from the mine's tailings and other containment ponds since its early years of operation.[127] In May 2009, following heavy rainfall, reddish water escaped from a waste-rock containment pond into the Tighite River and surrounding fields. A researcher who tested water near the mine in 2009 emphasized the potential consequences for communities dependent on local food and water sources:

> [...] the local population base most of their diet on locally produced food and animals that are feed (sic) and watered using local sources not regularly controlled or treated by purification. It is important to stress that the quality of land and water is critical for the local population! [...] This investigation [...] explicitly shows the hazardous potential mining activities pose on the local population (sic) food and

[124] Barrick, "North Mara," https://www.barrick.com/English/operations/north-mara/default.aspx [https://perma.cc/X4W3-JNSV]

[125] Adonijah Abayo, "Message Authenticity, Source Credibility and the Publicised Social Performance for Social Legitimacy: The Case of Barrick Gold, Tanzania," Journal of Governance and Security 1, no. 1 (2026): 1-18, at 7, https://journals.iaa.ac.tz/index.php/JGSS/article/view/619/238 [https://perma.cc/CH7Z-QZW7]

[126] Najat K. Mohamed, A. V. R. Ntarisa, I. N. Makundi and J. Kučera, "Impact of North Mara gold mine on the element contents in fish from the river Mara, Tanzania," Journal of Radioanalytical and Nuclear Chemistry 309, no. 1 (2016): 421-427, at 421. https://www.researchgate.net/publication/297380578_Impact_of_North_Mara_gold_mine_on_the_element_con [https://perma.cc/5UFG-9Z4P]

[127] William John Walwa, "Large-scale mining and the right to a clean, health and safe environment in Tanzania," The African Review: A Journal of African Politics, Development and International Affairs 43, no. 2 (2016): 97-123, at 107 https://www.jstor.org/stable/45341723 [https://perma.cc/5YD5-NH2H] ;Jessie Boylan, "Community Still Worried By Mine Contamination," Inter Press Service (December 30, 2019), https://www.ipsnews.net/2009/12/tanzania-community-still-worried-by-mine-contamination [https://perma.cc/QA9Z-3RKR].

> drinking sources. Episodes of undesired spills may have dramatic consequences as the installation(s) are not 100% water tight and since no effective alarm service system seems to be effectuated preventing undesired exposure to unsuspecting consumers.[128]

Residents reported crop damage and attributed the deaths of hundreds of cattle and 20 people to the polluted water.[129] Barrick disputed these allegations, calling them "blatant lies" and threatened to file a complaint against the newspaper reporting the deaths.[130] The company attributed water-quality problems to artisanal mining, agriculture, and naturally occurring heavy metals.[131] The scientific literature reviewed for this report indicates that these factors may account for the presence of some toxic metals.[132] Other studies, however, identify the mine as a source of contamination in the Tighite and Mara Rivers.[133] As discussed below, studies have found that heavy-metal contamination has worsened since the mine opened;[134] that some boreholes closer to the tailings dam contained higher concentrations of certain metals than boreholes further away;[135] that arsenic and lead concentrations in groundwater near the mine exceeded World

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[128] Åsgeir R. Almås et al., *Investigation of Trace Metal Concentrations in Soil, Sediments and Waters in the Vicinity of "Geita Gold Mine" and "North Mara Gold Mine" in North West Tanzania*, IPM Report (Norwegian University of Life Sciences, 2009), at 22, https://media.business-humanrights.org/media/documents/files/reports-and-materials/Tanzania-trace-metals-in-water-report-Nov-2009.pdf [https://perma.cc/NE5N-C6KV].

[129] Zahra Moloo, "Tanzania: Killings and Toxic Spill Tarnish Barrick Gold," Pambazuka News (May 19, 2011), https://pambazuka.org/tanzania-killings-and-toxic-spill-tarnish-barrick-gold [https://perma.cc/DX7V-TBDH].

[130] Vicent Mnyanyika, "Close North Mara Mine – Activists," The Citizen (June 27, 2009), https://allafrica.com/stories/200906291391.html [https://perma.cc/C6KZ-9TUA].

[131] Barrick Gold Corporation, "Barrick Gold Corporation's response to allegations that leakage from the North Mara gold mine has contaminated water sources in the Mara district of Tanzania with arsenic and other metals" (December 15, 2009), https://media.business-humanrights.org/media/documents/b975ab0486185cf70e114e2de1237c3f2837b4b5.pdf [https://perma.cc/WY44-Q9TT].

[132] Irene Calist Kimario, Msafiri Yusuph Mkonda and Silvia Francis Materu, "The use of water quality indices in evaluating water quality trends from 2003 to 2023 in the Lower Mara River, Tanzania," International Journal of River Basin Management (June 25, 2025), [https://perma.cc/XJ4S-7Q94] [Kimario]

[133] For a summary of the 16 studies we reviewed, see "JCAP Summary of Scientific Studies Connected to the North Mara Mine, 2009-2024," Justice and Corporate Accountability Project (August 15, 2026), https://www.dropbox.com/scl/fi/1eht2ofqtdzf889ueinjt/Summary-of-Scientific-Studies-of-North-Mara-Mine-fin.pdf?rlkey=uuavxfiquntjr7x8sspelkwq8&st=r0epmsi6&dl=0 [https://perma.cc/G3MZ-2EB3]

[134] Manfred F. Bitala et al., "Levels of Heavy Metals and Cyanide in Soil, Sediment and Water from the Vicinity of North Mara Gold Mine in Tarime District, Tanzania" (June 2009), http://www.protestbarrick.net/downloads/North%20Mara%20Pollution%20Report.pdf [https://perma.cc/BP5V-PAVF].

[135] Mwemezi Johaiven Rwiza, Kyoung-Woong Kim and Sang-don Kim, "Geochemical Distribution of Trace Elements in Groundwater from the North Mara Large-Scale Gold Mining Area of Tanzania," Groundwater Monitoring & Remediation 36, no. 2 (2016): 83-93, https://dspace.nm-

Health Organization drinking-water guidelines;[136] and that adverse health effects were more prevalent closer to the mine.[137]

In July 2009, the government banned the use of water from the Tighite River.[138] Approximately 2,500 villagers depended on the river, however, and were not immediately provided with an alternative supply.[139] As of 2010, affected residents reported receiving no compensation,[140] while the National Environment Management Council had not taken a clear position on their claims.[141]

Changes in ownership and management did not resolve the pollution concerns. In 2010, Barrick transferred its African operations to African Barrick Gold (ABG), a majority-owned subsidiary that later became Acacia Mining (Acacia). ABG made efforts to engage more positively with local communities.[142] It constructed a new water treatment plant to address acid from the pits,[143] drilled boreholes for water, funded social and economic development initiatives,[144] signed Village Implementation Benefits Agreements,[145] and provided funding for a small-scale miners' improvement project.[146] Nevertheless, testing conducted by researchers from the University of Dar es Salaam found that consumption of the fish posed a moderate health risk,[147] while government testing continued to detect elevated concentrations of heavy metals in water and in

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aist.ac.tz/server/api/core/bitstreams/4c5db2fc-007e-4b1b-8284-0a9b23954181/content [https://perma.cc/27RT-DLJE]

[136] Ibid at 91.

[137] Isaiah Magambo, Johane Dikgang, Dambala Gelo, and Fiona Tregenna, "Gold-Mining Pollution Exposure, Health Effects and Private Healthcare Expenditure in Tanzania," University of Johannesburg (June 1, 2021), https://mpra.ub.uni-muenchen.de/108800/ [https://perma.cc/UX4K-RXYW]

[138] Patty Magubira, "Govt Bans Use of Water From Tarime River," The Citizen (July 9, 2009), https://allafrica.com/stories/200907100988.html [https://perma.cc/HU54-7JFZ]; Walwa, supra note 127, at 109.].

[139] Magubira, supra note 138. We do not have information about the results of this specific investigation, but in the following years some effort was made to dig more bore holes to retrieve water.

[140] Boylan, supra note 127.

[141] Walwa, supra note 127, at 109.

[142] Ray Naluyaga, "Mining Firm at Loggerheads Again With Tarime Residents," The Citizen (January 22, 2011), https://allafrica.com/stories/201101240524.html [https://perma.cc/BX8V-YRBA].

[143] Tanzania Daily News, "Gold Mine for Environment Protection" (October 13, 2013), https://allafrica.com/stories/201410131615.html [https://perma.cc/XSH6-THLY].

[144] Mugini Jacob, "Tarime Residents Benefit From Barrick Operations," Tanzania Daily News (February 17, 2012), https://allafrica.com/stories/201202170528.html [https://perma.cc/ZZL8-SB45].

[145] Mugini Jacob, "Ministry to Meet Barrick over Mara Mine conflicts," Tanzania Daily News (July 15, 2012), https://allafrica.com/stories/201207161350.html [https://perma.cc/TEL6-YS63].

[146] Naluyaga, supra note 142.

[147] Mohamed et al., supra note 126, at 426.

human and animal blood.[148] An independent study conducted by Tanzanian and South Korean researchers tested 14 boreholes near the mine and found arsenic and lead concentrations above World Health Organization drinking-water guidelines.[149] Additional research also indicated that children living closer to the mine experienced poorer health, including "stunting",[150] while nearby households incurred higher health care costs.[151]

ABG was rebranded as Acacia at the end of 2014. Despite the company's efforts to "create a successful and sustainable business in Tanzania"[152] under the new name, toxic discharge continued to leach from the mine into surrounding rivers. After visiting the mine in January 2016, a deputy minister of the government was "shocked" about how the mine stored the toxic water at its Tailing Storage Facility (TSF),[153] and gave the mine a "two-week ultimatum" to improve the way it was treating water and to obtain permits to discharge water in the Mara River.[154] About six months later, in July 2016, a newspaper reported that the energy and minerals minister announced that "the Tigite River [sic] was no longer a safe water source due to mining activities in the area" and that the government had identified alternative sources of water.[155]

Despite these warnings, Acacia was unable to contain the hazardous waste. It was fined 300 million Tanzanian shillings (US$130,000) in January 2019 for leaking hazardous substances.[156] In May 2019 the company was fined 5.6 billion shillings (US$2.4M) for a leak from its sewage

[148] Leonard Mwakalebela, "Study Faults Mara Mine Effluents," Tanzania Daily News (July 5, 2012), https://allafrica.com/stories/201207050148.html [https://perma.cc/F6G6-LBMW] .

[149] Rwiza et al., supra note 135.

[150] Children are defined as stunted if their height-for-age is more than two standard deviations below the WHO Child Growth Standards median (World Health Organization, "Stunting in a nutshell" (November 19, 2015), https://www.who.int/news/item/19-11-2015-stunting-in-a-nutshell. [https://perma.cc/YR85-JR6R].

[151] Magambo et al., supra note 137.

[152] "Tanzania Mining Giant Changes Name," East African Business Week (November 30, 2014), https://allafrica.com/stories/201412020445.html [https://perma.cc/H4NH-CWJE].

[153] Beldina Nyakeke, "Acacia to Implement Better Waste Management," The Citizen (January 26, 2016), https://allafrica.com/stories/201601270276.html [https://perma.cc/N476-QGKF].

[154] Ibid.

[155] "Village to Get Fresh Water Source Amid Poison Concerns," The Citizen (July 19, 2016), https://allafrica.com/stories/201607200097.html [https://perma.cc/4YBF-5JSK].

[156] "Acacia Fined 300m/ - for Environmental Breaches," Tanzania Daily News (January 11, 2019), https://allafrica.com/stories/201901110627.html [https://perma.cc/S3YC-9TA3].

infrastructure that put "people's health and lives at risk."[157] Then, in August 2019, Acacia was ordered to stop using the tailings facility, forcing the company to suspend operations.[158]

Barrick later acknowledged that the facilities had been "badly neglected" during this period.[159] After Barrick took control of the mine in 2020, it hired engineers who confirmed that the Acacia mine had a "poor management philosophy," "not enough pumps and pumping capacity as well as insufficient maintenance of pumps and pipes," and "poor planning and control of tailings deposition."[160] Barrick hired new engineers to improve the handling of mine waste and put an end to "15 years of poor water management."[161] It invested US$65 million in water management, increased the water treatment plant's capacity 16-fold, and reduced the size of the Tailings Storage Facility pool.[162] In December 2021, Barrick announced that its tailings facility was back in operation.[163]

Barrick also provided local communities with water every day, delivered via trucks, spending US$41,900 on this supply in 2019 and 2020.[164] However, researchers interviewed villagers and found that not enough water was being delivered:

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[157] Fumbuka Ng'wanakilala, "Tanzania fines Acacia Mining $2.4 mln over alleged pollution," Reuters (May 20, 2019), https://www.reuters.com/article/business/finance/tanzania-fines-acacia-mining-24-mln-over-alleged-pollution-idUSKCN1SQ0RA/ [https://perma.cc/QG76-GNH2]. Peter Saramba, "Acacia Fined Sh5.6bn for Leaking Toxic Water," The Citizen (May 17, 2019), https://allafrica.com/stories/201905170596.html [https://perma.cc/9ZZZ-884W].

[158] Beatrice Materu, "Acacia Halts North Mara Gold Processing Over Leak," The East African (August 20, 2019), https://allafrica.com/stories/201908210778.html [https://perma.cc/82U7-H6SF].

[159] Laura Cornish, "Barrick's North Mara brings TSF pond back online," Mining Review Africa (December 29, 2021), https://www.miningreview.com/partners/barricks-north-mara-brings-tsf-pond-back-online [https://perma.cc/JD5N-Z8C9].

[160] Digby Wells Environmental, *Optimising Water Management at North Mara Gold Mine: Response to Excess Water Accumulation on the Tailings Storage Facility* (ASRS Presentation, June 4, 2025, slides 1 and 2), https://www.asrs.us/wp-content/uploads/2026/04/9c1_van-Coller_TSF-WM-at-North-Mara_Draft-2.pdf [https://perma.cc/WD5E-9GUR].

[161] Barrick, "Barrick Partnership with Tanzanian Government Delivers First Major Outcomes" (May 25, 2020), https://www.barrick.com/English/news/news-details/2020/barrick-partnership-with-tanzanian-government-delivers-first-major-outcomes/default.aspx [https://perma.cc/JU2H-GBEY].

[162] Barrick, "Turning the Tide at North Mara and Supplying Clean Water to Surrounding Community," (January 2, 2024), https://www.barrick.com/English/news/news-details/2024/north-mara-supplying-clean-water-to-surrounding-community/default.aspx [https://perma.cc/TZ4S-VS7G].

[163] Laura Cornish, "Barrick's North Mara brings TSF pond back online," Mining Review Africa (December 29, 2021), https://www.miningreview.com/partners/barricks-north-mara-brings-tsf-pond-back-online [https://perma.cc/JD5N-Z8C9].

[164] Immaculate O. Gillo, Odass Bilame and Emiliana A. Assenga, "Corporate social responsibility practices: insights from North Mara gold mine, Tanzania," International Journal of Research in Business and Social Science 12, no. 6, 2023: 79-90, at 84, https://www.ssbfnet.com/ojs/index.php/ijrbs/article/view/2795/1940 [https://perma.cc/PB72-J3GH]

> It was found during the key informant interviews with the village and ward leaders that despite efforts made by the company to supply water, all the study area had water shortage. People were still using water from wells and Tighite River, which was unsafe and unclean.[165]

Water-quality concerns nonetheless persisted after Barrick renovated the TSF. In April 2022, Barrick disclosed an uncontrolled release of low-quality water after a transfer pipeline failed, while maintaining that the incident posed no immediate danger.[166] While a 2025 study reviewing monitoring data from 2003 to 2023 found mercury, cadmium, chromium, and lead concentrations below World Health Organization limits,[167] the authors nevertheless cautioned that even these concentrations could harm aquatic and terrestrial organisms and found that lead, cadmium, and chromium contributed to water degradation near a mine-discharge tributary.[168]

The consequences of earlier mismanagement may continue long after mining ends. Engineers retained by Barrick concluded that the site "[w]ill require continuous treatment that could have been avoided."[169] Local churches and international NGO Source International are therefore training residents to collect water samples and independently monitor toxic metals and chemicals.[170]

7.5.2. FIRST QUANTUM MINERALS

Kansanshi and Mufulira Mines, Zambia

First Quantum Minerals (First Quantum or FQM) (TSX:FM) owns two operating mines in northwest Zambia, Kansanshi and Sentinel, and is developing a third, Enterprise.[171] The Kansanshi complex includes a copper and gold mine, and a smelter. First Quantum acquired an 80% interest in the project in 2001.[172] Several communities are located around the mine

[165] Ibid.

[166] "Tanzania: Barrick's North Mara Experiences Water Pipeline Failure," Tanzania Daily News (April 25, 2022), https://allafrica.com/stories/202204250441.html [https://perma.cc/YM2J-32D4].

[167] Kimario, supra note 132, at 9.

[168] Ibid at 14.

[169] Digby Wells Environmental, supra note 160, slide 12.

[170] Source International, "Monitoring water, soil and air pollution in north mara's gold mines," https://www.source-international.org/featured-north-mara-mine-tanzania [https://perma.cc/WYT8-2KN8].

[171] First Quantum Minerals, "Delivering global growth," https://www.first-quantum.com/English/our-operations/default.aspx [https://perma.cc/8BWD-DCD7].

[172] First Quantum Minerals Ltd., *Annual Information Form for December 31, 2023* (March 28, 2024), at 21, https://www.sedarplus.ca/csa-party/records/document.html?id=58a625e13b25b63ee47c8761102d1db328bf36ef2424f058d53d4bcf03883330 [https://perma.cc/EP58-9K3X].

complex.[173] From 2000[174] to 2013,[175] FQM also held an interest[176] in the company Mopani Copper Mines, which operates the Mufulira mine. The Mufulira complex includes an underground copper mine, a concentrator, a smelter, a sulphuric acid production plant, and a refinery. The problems at the mine continue to this day, but we only describe incidents through 2013, when First Quantum sold its interest in the mine. The Mufulira mine is located near the community of Kankoyo.

(i) The Kansanshi Mine

In 2014, the Zambian auditor general concluded that mining companies were failing to comply with environmental laws, regulations, and licensing conditions, and that measures put in place by the government to manage the sector were not working effectively.[177] The audit identified several environmental infractions at the Kansanshi mine, including oil spills at oil storage facilities, the absence of inspection reports from the mine's environmental department, and a failure to submit surface water monitoring reports to the government.[178]

According to the NGO Southern Africa Resource Watch (SARW), the Kansanshi deposit contains brannerite, silica, arsenic, nitrates, and nitrites. Brannerite contains uranium, which can produce radioactive radon gas. These substances may be liberated during the copper and gold extraction process and can cause serious adverse impacts to the environment and public health. Six years after the auditor general report, SARW reported a lack of transparency regarding whether and how the company monitored these substances and the results of any testing. For example, First Quantum told SARW that it undertook regular radiation and radon testing. However, according to

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[173] Southern Africa Resource Watch, *First Quantum Minerals Corporate Governance and Social Responsibility: Kansanshi Mine* (December 2020), at 18, https://www.sarwatch.co.za/resources/?_resources_search=first%20quantum [https://perma.cc/G6DC-VTTH].

[174] First Quantum Minerals Ltd., *Preliminary Prospectus (April 6, 2001)*, at 9, https://www.sedarplus.ca/csa-party/records/document.html?id=99c1d6c27ffad301989462eb25a4dfb950f9b62b8034b4f8e38e937c43bfb293 [https://perma.cc/J2KX-26D3].

[175] FQM's 2013 Annual Information Form does not include Mopani Copper Mines in a list of the company's subsidiaries. Reports for prior years do list the company (First Quantum Minerals, *Annual Information Form As Of December 31, 2013* (March 27, 2014), at 5-7, https://www.sedarplus.ca/csa-party/records/document.html?id=59ce7b6e34e7e2f6a800c1cc9ec85f347b31a86912c2629525dacdd1789b12d0) [https://perma.cc/V9FV-6Z35].

[176] From 2000 to 2002, First Quantum held a 44% interest in Mopani. In 2002 the company reduced its holding in Mopani to a 16.9% stake ("First Quantum cuts stake in Mopani," The Northern Miner (April 22, 2002), https://northernminer.com/news/first-quantum-cuts-stake-in-mopani/1000004051/ [https://perma.cc/6QDK-9EP3]).

[177] Republic of Zambia, *Report of the Auditor General on the Management of Environmental Degradation Caused by Mining Activities in Zambia* (July 2014), at viii-ix, https://www.ago.gov.zm/wp-content/uploads/2025/04/Management-of-Environmental-Degradation-2014.pdf [https://perma.cc/9U57-ZD2C].

[178] Ibid at 25, 28, 30-31, 50.

SARW, it was unclear whether this testing was carried out in neighbouring communities. First Quantum also informed SARW that it regularly tested its workers for silicosis, a condition caused by exposure to silica. However, SARW reported that the company provided no public-facing information about this testing program or its results. In addition, SARW asserted that although First Quantum collected data on sulphur oxide and nitrous oxide emission levels at Kansanshi, it did not release this information to the public.[179]

SARW reported that communities expressed concerns about airborne dust from the company's tailings and water seepage from the mine. Communities reportedly complained about adverse health impacts to humans and livestock, as well as declining soil fertility. Local residents told SARW that their crops suffered "burn" damage.[180]

SARW reported that untreated wastewater from the mine was stored in unlined ponds. According to SARW, this water seeped into the surrounding environment, generating concerns about the spread of contaminants.[181] Basic water quality testing carried out by SARW on water released from a company discharge drain revealed a high degree of mineralization, including a significant concentration of iron. The water also showed a high value for suspended matter. SARW reported that these measurements were much lower in samples taken from streams upriver of the mine. SARW also tested rainwater in some communities near the mine and found it to be acidic, which it argued could explain the reported burn damage to local crops.[182]

SARW called for independent and transparent testing and oversight of air and water quality in the communities that surround the mine.[183] See the chapters on displacement and labour for more information about Kansanshi.

First Quantum denied many of SARW's allegations and sued the NGO in 2021. The lawsuit was settled with SARW agreeing to include FQM's response to the organization's allegations in a publication about the mine. For more on the lawsuit, see the chapter on silencing critique.

First Quantum asserted that any discharges from Kansanshi were "designed, constructed and managed to ensure full compliance with all applicable laws and standards."[184] The company emphasized that it met "legal requirements to disclose all relevant information to statutory bodies

[179] SARW, supra note 173, at 41-42.

[180] Ibid at 45.

[181] Ibid at 39.

[182] Ibid at 45-48.

[183] Ibid at 42.

[184] Letter from JG Theron, Werksmans Attorneys to Claude Kabemba, SARW (June 9, 2020) qtd in SARW, supra note 173.

since it started operating in 2005."[185] First Quantum stated that it was under no obligation to provide SARW with the results of any testing.[186]

In its 2023 Annual Information Form, First Quantum reported that "Kansanshi's emissions are compliant with the national ambient standards. However, point source emissions from smelter stacks remain non-compliant with the stringent Zambian air quality emissions standards. Studies aimed at achieving compliance are ongoing and have reached an advanced stage."[187]

(ii) The Mufulira Mine

For decades, the Mufulira complex has spewed toxic pollutants, particularly the highly toxic sulphur dioxide,[188] that have affected the town of Kankoyo, with a population of approximately 45,000,[189] which sits downwind from the smelter.[190] Exposure to sulphur dioxide can cause a number of problems, including burning in the eyes, nose, and throat; difficulty breathing; and severe airway obstruction. Short-term exposure to high concentrations of sulphur dioxide can be life-threatening. Long-term exposure may cause children to develop respiratory illnesses as they grow older.[191]

In 2009, the Environmental Council of Zambia, a precursor to the Zambia Environmental Management Agency, reported that sulphur dioxide emissions from the mine exceeded World Health Organization limits by up to 70 times.[192] In 2012, the company's licence was briefly

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[185] Ibid.

[186] Ibid.

[187] FQM, supra note 172, at 30.

[188] Jennifer Chibamba Chansa, "From 'Senta' to 'Acid Fumes': Mufulira, Mopani Copper Mines and Environmental Pollution," https://copperbelt.history.ox.ac.uk/2019/12/18/from-senta-to-acid-fumes-mufulira-mopani-copper-mines-and-environmental-pollution-chibamba-jennifer-chansa/ [https://perma.cc/A8Q6-CE7H].

[189] Ibid.

[190] Darius Muma et al., "Effects of mining operations on air and water quality in Mufulira district of Zambia: A case study of Kankoyo Township," The Journal of the Southern African Institute of Mining and Metallurgy 120 (April 2020), at 297-298, https://www.saimm.co.za/Journal/v120n04p287.pdf [https://perma.cc/8LCG-BJEK]

[191] U. S. Agency for Toxic Substances and Disease Registry, "ToxFAQs for Sulphur Dioxide," (last modified March 26, 2014), https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=252&toxid=46 [https://perma.cc/FH6S-UJ63]; Canadian Centre for Occupational Health and Safety, "Chemical Profiles, Sulfur Dioxide," (last modified January 27, 2023), https://www.ccohs.ca/oshanswers/chemicals/chem_profiles/sulfurdi.pdf [https://perma.cc/CT22-37QM].

[192] Jennifer Chibamba Chansa, "Houses Built on Copper: The Environmental Impact of Current Mining Activities on 'Old' and 'New' Zambian Copperbelt Communities," in *Across the Copperbelt: Urban & Social Change in Central Africa's Borderland Communities*, Miles Larmer et al., ed, (Boydell & Brewer: 2021).

suspended.[193] An investigation by three NGOs reports that sulphur emissions from the smelter caused acid rain damage to homes in Kankoyo. The acidity also affected local soil, rendering it unsuitable for agriculture.[194]

In 2005, Mopani began testing a new method to extract copper from ore at Mufulira, a process that risked contaminating the local water system.[195] Instead of removing rock from the ground and then extracting copper at the surface, the company began using an *in situ* leaching method that seeks to achieve this separation while the rock is still in the ground. The method involves injecting a sulphuric acid solution into the ground, under pressure. The solution dissolves copper, then is pumped to the surface, where the copper is recovered.[196] According to a report by three NGOs, it is difficult to contain the flow of sulphuric acid once it is injected underground, and there is a risk that it will pollute hydrological systems. The NGOs state that acid reportedly contaminated the water system near Mufulira when the company tested the *in situ* method in 2005. Domestic water supplies were reportedly cut off, and some communities went weeks without running water. The NGOs report that in 2008, water supplies in the town of Mufulira were polluted once again, this time resulting in the hospitalization of close to 800 people.[197]

The transportation of sulphuric acid on poor local roads also poses a risk of contamination. NGOs report that in 2009, a truck carrying acid overturned, spilling its contents into a tributary of the Kafue River, the region's main source of water. Fish in the tributary died and surrounding plant life was burned by the acid.[198]

The NGOs also report that leakage from the tailings pipelines transporting toxic waste from the mine's tailings ponds is common. According to the NGOs, large volumes of water flow from the tailings dam into a local river.[199] Although the company repaired the pipe, one resident explains that it failed to remove the waste from the river.[200]

A 2014 auditor general report on environmental management in the Zambian mining sector revealed the full extent of the environmental problems described above. Based on information provided to the government by Mopani Copper Mines, the mine operator, the project released the

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[193] Ibid.

[194] Counter Balance, Centre for Trade Policy and Development, and Les Amis de la Terre, *The Mopani copper mine, Zambia: How European development money has fed a mining scandal* (December 2010), at 19-20, https://counter-balance.org/uploads/files/Reports/Flagship-Reports-Files/2010-Mopani-Report.pdf [https://perma.cc/6T85-FEJ9].

[195] Ibid at 20.

[196] Ibid.

[197] Ibid.

[198] Ibid at 21.

[199] Ibid at 22.

[200] Ibid at 21.

following air pollution in 2009-2011, a period during which First Quantum held an interest in the project:

- the highest emissions of copper recorded by all audited companies, at 854 times the legal limit;
- lead emissions 379 times the statutory limit;
- sulphur dioxide emissions 95 times the prescribed limit; and
- the highest arsenic emissions recorded by all audited companies, 77 times higher than the legal limit.[201]

Waste water and effluent released by the mine also failed to meet legal standards. According to data provided by the company, concentrations of suspended solids, copper, manganese, and iron in company boreholes exceeded legal limits by between 5 and 107 times.[202]

The auditor general inspected the Mufulira facility and observed:

- illegal dumping of industrial waste;[203]
- oil spillages at oil storage facilities;[204] and
- evidence of heavy metal pollution in water that discharged from a tailings containment area into a local stream.[205]

In addition, the company failed to fully comply with its reporting obligations.[206]

Finally, the auditor general found that the company failed to implement the 'development agreement' that the government entered into with Mopani Copper Mines (MCM) when it sold the mine to the company in 2000. The agreement required that the company develop an environmental management plan to bring the smelter into compliance with environmental laws. The company's plan was approved by the Zambian Environmental Management Agency (ZEMA) in 2004. However, the failure to implement this plan, had dire outcomes for the local population:

> Failure by MCM to implement the measures in the agreement has impacted negatively on the communities in close proximity to the mine. In particular, the community most affected is Kankoyo residential area which stretches, in a circular manner, from the eastern through to southern and western side of the plant. Some houses are less than 500m from the plant site fence.

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[201] Republic of Zambia, supra note 177, at 15-16, 45-49.

[202] Ibid at 57-63.

[203] Ibid at 28.

[204] Ibid at 30.

[205] Ibid at 65.

[206] Ibid at 23.

> In addition, a study carried out by Copperbelt Environmental Project (CEMP II) in 2005 revealed that the children in Mufulira (Kankoyo township) had higher respiratory infections, high lead and cadmium concentration in blood than those in Kitwe. Since the economic condition of Mufulira and Kitwe were similar, the study attributed the results to air pollution in Mufulira.[207]

The auditor general emphasized that environmental authorities were barred from taking action to address the company's noncompliance during a 'stability period' established in the development agreement, which ran until 2015.[208]

In a communication to JCAP, First Quantum stated that it was a minority shareholder in Mopani and that it "neither operated, nor had any management control over activities" at the complex.[209] Find more about Mufulira in the chapter on displacement.

7.5.3. SHERRITT INTERNATIONAL

Ambatovy Mine, Madagascar

In 2012, an association of small farmers and a fruit company filed a complaint regarding the Ambatovy mine with the European Investment Bank (EIB). The EIB is a public institution owned by the member states of the European Union. The bank provided some of the financing required to develop Ambatovy. The EIB Complaints Mechanism undertook a fact-finding mission to Madagascar and released a report in 2018.[210] The complaints mechanism found that Ambatovy complied with applicable standards regarding several of the issues flagged in the complaint, but was non-compliant in others. For example, farmers as much as 30 km from the mine complained that bees disappeared, pollination ceased, and crops began to die when Ambatovy sprayed insecticides to protect construction workers from malaria. One of the complainant farmers reported that bees began to return when the mine stopped spraying the chemicals.[211] The EIB Complaint Mechanism found that the mine complied with applicable standards regarding pesticide

[207] Ibid at 18.

[208] Ibid at 19.

[209] Letter from John Gladston, Director Corporate Affairs, First Quantum Minerals Ltd to Shin Imai, Justice and Corporate Accountability Project (June 30, 2026), at 6. For the full text of the letter, see Appendix C.

[210] European Investment Bank Complaints Mechanism, *Ambatovy Nickel Project, Madagascar, Complaint SG/E/2012/04, Conclusions Report* (March 19, 2018), https://www.eib.org/attachments/complaints/2018-03-19-sg-e-2012-04-ambatovy-conclusions-report-en.pdf [https://perma.cc/9MMY-TPQ9].

[211] Laurence Soustras and Riana Raymonde Randrianarisoa*, A tale of reverse development - the Ambatovy mine case* (Counter Balance, June 16, 2017), https://counter-balance.org/news/a-tale-of-reverse-development-the-ambatovy-mine-case [https://perma.cc/T9K6-Y8GC].

use and described uncertainty regarding a causal connection between Ambatovy's use of insecticides and the bee deaths and crop failures.[212]

For several other issues, the complaint mechanism concluded that the mine was noncompliant at the time of the complaint but that it subsequently achieved compliance. This second group of issues included: leaks in the pipeline carrying tailings to the containment facility; the absence of a disaster plan and dedicated disaster response resources; poor quality homes and the lack of health facilities for displaced residents; and the failure to restore the livelihoods of resettled residents.[213] See the displacement chapter for information about resettlement at the Ambatovy Mine.

Finally, the complaint mechanism identified two areas where the project remained noncompliant when it issued its report in 2018. The EIB experts reported that for years, seepage from the Ambatovy tailings facility contaminated local water, which exceeded standards for manganese concentration. The complaints mechanism also reported that sulphur dioxide emissions in excess of applicable standards were occasionally released from the mine processing plant.[214] A Madagascan organization, Collectif pour la défense des terres malgaches (TANY), claims that four sulphur dioxide leaks took place during testing of Ambatovy's newly constructed plant in 2012. TANY reports that the leaks caused the deaths of two adults and two babies and made approximately 50 people ill.[215] The EIB Complaints Mechanism found that no sulphur dioxide releases resulted in fatalities or serious impacts to the health of the local population.[216]

Sherritt reports that it conducted regular surveys along the tailings pipeline at Ambatovy. According to the company, air quality monitors were installed within the mine property's perimeter in 2012 to provide continuous ambient air quality monitoring.[217] Moreover, alarms were reportedly triggered when an "event" affected air quality.[218] The company explained that "[e]nvironmental management at the Property is adaptive and consists of applying the ‘mitigation hierarchy’ (which

[212] EIB, supra note 209, at 14-15.

[213] Ibid at 40.

[214] Ibid.

[215] Collectif pour la défense des terres malgaches (TANY), “ACTION ALERT: Sherritt Must Be Accountable for All Human and Environmental Damage Caused by the Ambatovy Project”, MiningWatch Canada Blog (May 2, 2012), https://miningwatch.ca/blog/2012/5/2/action-alert-sherritt-must-be-accountable-all-human-and-environmental-damage-caused [https://perma.cc/Z6ZU-MUSN].

[216] EIB, supra note 209, at 26,

[217] CSA Global, *NI 43-101 Technical Report Ambatovy Nickel Project, Madagascar (June 30, 2018)*, at 142, https://www.sedarplus.ca/csa-party/records/document.html?id=4f0cc07814d4bf7ab270f326494d1b724257b97b40dcc4e4ff0059ab3110fdd6 [https://perma.cc/7GHP-8UG4].

[218] Ibid.

includes impact avoidance, minimisation and, where necessary, compensation or offsetting) informed by regular monitoring of the physical and biological environment."[219]

[219] Ibid at 143.



08

ECONOMIC DIPLOMACY:

Canadian Government Support to Extractive Companies

8. ECONOMIC DIPLOMACY: CANADIAN GOVERNMENT SUPPORT TO EXTRACTIVE COMPANIES

Your government is here to support your journey every step of the way.

The Honourable Mary Ng, Minister of International Trade, speaking to Canadian businesses abroad[1]

In this chapter, we examine how Canadian foreign policy, foreign aid, and diplomatic resources are directed, "every step of the way,"[2] toward supporting the "journey" of extractive companies incorporated in the country. Although certain mechanisms allow communities to report environmental and human rights violations by these companies, in practice corporate interests take priority.

First, Global Affairs Canada provides diplomatic support and advice to companies incorporated in Canada and directly intervenes with host governments when Canadian companies face operational barriers (see case studies on Reconnaissance Energy Africa, Barrick Mining Corporation, Nevsun Resources Ltd., Ethiopia, and Sutton Resources). The Canadian government also intervened in a United States court case to support a Canadian oil company that allowed its infrastructure to be used for offensive bombing and gunship raids against civilian populations in Sudan (see the case study on Talisman Energy).

Second, Canada has tied foreign aid to mining-related projects. In 2011, under the Conservative government of Stephen Harper, Canada began funding non-governmental organizations to deliver programs that would bolster local communities' support for mining companies.[3] Later, in

[1] Global Affairs Canada, *Responsible Business Conduct Abroad: Canada's Strategy for the Future* (2021) at 1, https://www.international.gc.ca/trade-commerce/assets/pdfs/rbc-cre/strategy-2021-strategie-1-eng.pdf [https://perma.cc/TS6F-QZ2R].

[2] For an overview of the types of support, see Canadian Network on Corporate Accountability, *Dirty Business, Dirty Practices: How the Federal Government Supports Canadian Mining, Oil and Gas Companies Abroad* (May 2007), https://www.halifaxinitiative.org/sites/default/files/DirtyPractices.pdf [https://perma.cc/54PU-DHE5].

[3] Sakura Saunders, "Undermining Accountability: Barrick Gold, the University of Toronto, and the Corporate Capture of the Canadian Government," in *Capitalism and Dispossession: Corporate Canada at Home and Abroad*, David P. Thomas and Veldon Coburn, ed. (Fernwood Publishing, 2022), 144.

2017, the Liberal government of Justin Trudeau launched the feminist international assistance policy, which also focused on mining.[4]

Third, Canada promotes international investment agreements that allow companies incorporated in Canada to sue host countries if those countries adopt measures that threaten the companies' prospective earnings. These mechanisms include provisions in free trade agreements and "foreign investment promotion and protection agreements (FIPAs)." They have been condemned for restricting states' ability to adopt policies for the public good (see the case study on Burkina Faso).

Finally, Canada provides numerous other forms of support to the private sector. For example, Crown corporation Export Development Canada provided several of the Canadian mining companies described in this report with financing, guarantees, and insurance.[5] There is also a tax advantage to being incorporated in Canada, as companies pay no tax on profits repatriated from their African operations.[6]

8.1. DIPLOMATIC SUPPORT

This section examines the diplomatic support provided by Canadian embassies under a policy adopted in 2007, which entrenched "economic diplomacy" as the "driving force behind the Government of Canada's trade promotion activities."[7] The policy is committed to marshalling "all diplomatic assets of the Government of Canada … on behalf of the private sector" to support the commercial success of Canadian companies and investors abroad.[8] Presumably, the idea was that promoting Canadian companies abroad would bring financial benefits to Canada. In the extractive sector, however, companies do not pay tax in Canada on profits from their African operations. Our analysis of submissions under the *Extractive Sector Transparency Measures Act*[9] from 2020–2025 by companies named in this report shows that some companies active in Africa,

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[4] Global Affairs Canada, "Canada launches new Feminist International Assistance Policy" (June 9, 2017), https://www.canada.ca/en/global-affairs/news/2017/06/canada_launches_newfeministinternationalassistancepolicy.html [https://perma.cc/U8TM-3C2L].

[5] David R. Black, *Canada and Africa in the New Millennium: The Politics of Consistent Inconsistency* (Wilfred Laurier University Press, 2015), 161.

[6] Shin Imai, "Social Conflict and Indigenous Consent in Mining: A primer on CSR, ESG and social disclosures to investors," Osgoode Legal Studies Research Paper No. 5057458 (December 15, 2024), at 7, https://ssrn.com/abstract=5057458 or http://dx.doi.org/10.2139/ssrn.5057458.

[7] Government of Canada, *Global Markets Action Plan* (2013), at 4, https://publications.gc.ca/collections/collection_2013/aecic-faitc/FR5-84-2013-eng.pdf [https://perma.cc/G63M-4ZWW].

[8] Ibid at 11.

[9] S.C. 2014, c. 39, s. 376.

such as First Quantum Minerals, paid no tax at all in Canada, and some paid tax in Canada on their Canadian operations (but not on their African operations).[10] The economic benefits to Canada of a company with operations in Africa that pays no tax in Canada are unclear.

The Canadian government acknowledges that Canadian extractive companies may engage in controversial activities while operating abroad. The current *Responsible Business Conduct Abroad* policy, as well as its predecessors, address the issue by outlining what the government expects of companies:

> Canada will always advocate and stand up for human rights around the world. Our government expects and encourages Canadian companies operating at home and abroad to meet high standards for responsible business conduct.[11]

To reconcile the promotion of business interests abroad with its human rights commitments, Canada adopted the *Voices at Risk*[12] policy, intended to protect human rights defenders and put Canadian embassies in the role of "facilitating dialogue" when there is community opposition to Canadian projects.[13] However, our case studies reveal the difficulty of reconciling the aspirations contained in the *Voices at Risk* policy with practice in the field.

Canadian embassy practice in Africa is consistent with what JCAP found about Canadian embassies in Latin America. Instead of "facilitating dialogue," in alignment with the *Voices at Risk* policy, embassies routinely intervened with host governments to suppress protests. In one case

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[10] Justice & Corporate Accountability Project, "Taxes Paid by Canadian Mining Companies 2020-2025 (September 2026)," https://www.dropbox.com/scl/fi/xah857sa1nn9bk552zakr/Taxes-Paid-by-Canadian-Mining-Companies-Final-26-10-05.pdf?rlkey=4qdjx362w6i05bnb2nzdkkldw&st=27vgsbr5&dl=0 [https://perma.cc/Q89U-EFJ6].

[11] Global Affairs Canada, *Responsible Business Conduct Abroad, Canada's Strategy for the Future* (2021), at 1, https://www.international.gc.ca/trade-commerce/assets/pdfs/rbc-cre/strategy-2021-strategie-1-eng.pdf [https://perma.cc/YSK9-7NAE].

[12] Global Affairs Canada, *Voices at Risk* (2019), https://www.international.gc.ca/world-monde/assets/pdfs/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders-guide-defenseurs_droits_en.pdf?_ga=2.80161886.892011602.1561380370-393872282.1556447473 [https://perma.cc/ED48-MYE8].

[13] Testimony of Grant Manuge, director general of the Trade Commissioner Service, Parliament of Canada, Standing Committee on Foreign Affairs and International Development (December 1, 2009), https://www.ourcommons.ca/documentviewer/en/40-2/FAAE/meeting-43/evidence [https://perma.cc/5EKR-9LHP].

> It may be helpful to review the current practice of the department when DFAIT officials are presented with allegations of wrongdoing by a Canadian company abroad. When the department learns of such allegations, we take these very seriously and try to play a constructive and helpful role. Our heads of missions and foreign service officers in Canada and abroad consult and work closely with companies and the affected communities, and with governments, indigenous peoples, and civil society organizations to facilitate an open and informed dialogue among all parties.

we investigated in Mexico, a community defender was murdered in broad daylight seven weeks after the Canadian embassy pressured a Mexican state governor to do something to stop community protests against the mine.[14] At no point did the embassy make an effort to "facilitate dialogue" with the community, and we have not seen any evidence of the Canadian embassy taking a neutral stance in any of our case studies in Africa.

International bodies, such as the Inter-American Commission on Human Rights (IACHR) and the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, have raised concerns about the adverse impacts of Canadian economic diplomacy. They have urged the Canadian government to condition state support on adherence to human rights standards and to avoid adopting policies that exclusively benefit corporate economic interests.[15] In 2023, JCAP submitted a brief to the United Nations Human Rights Council documenting cases of Canadian embassy officials lobbying governments in Latin America to act against protesters and even interfering in the Inter-American Commission on Human Rights' decision-making.[16]

Although Canada has set up two corporate grievance mechanisms that may recommend denying or withdrawing support when a company fails to participate in their complaint processes in good faith, this has rarely been done. The National Contact Point,[17] a committee of civil servants, mediates complaints about Canadian companies that have allegedly violated the OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct*.[18] The Canadian Ombudsperson for Responsible Enterprise (CORE), which was established in 2019, received complaints about Canadian company conduct.[19] However, both mechanisms have proven

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[14] Justice & Corporate Accountability Project, "Petition Against Canada for Violations of the Right to Life and Other Rights of Mariano Abarca" (June 27, 2023), https://justice-project.org/2023/06/07/petition-against-canada-mariano-abarca [https://perma.cc/Y3A2-T23W]; see also general criticism of the implementation of the Voices at Risk policy in Charis Kamphuis and Charlotte Connolly, *The Two Faces of Canadian Diplomacy: Undermining Human Rights and Environmental Defenders to Support Canadian Mining* (Justice & Corporate Accountability Project, 2022), https://justice-project.org/wp-content/uploads/2022/12/2022-12-09_JCAP_TheTwoFacesofCanadianDiplomacy_Reduced-2.pdf [https://perma.cc/X6NK-JVA9].

[15] Ibid.

[16] Charis Kamphuis and Charlotte Connolly, "Canada's Systematic Failure to Fulfill its International Obligations to Human and Environmental Rights Defenders Abroad: Submission to the UPR Working Group of the United Nations Human Rights Council In anticipation of the 2023 Universal Periodic Review (UPR) of Canada" (Justice & Corporate Accountability Project, 2023), https://justice-project.org/2023/04/04/canadas-systematic-failure-to-fulfill-its-international-obligations-to-human-and-environmental-rights-defenders-abroad [https://perma.cc/GDY9-5U2W].

[17] Government of Canada, "Canada's National Contact Point," https://www.international.gc.ca/trade-commerce/ncp-pcn/index.aspx?lang=eng [https://perma.cc/R9UV-GQ3H].

[18] OECD, *Guidelines for Multinational Enterprises on Responsible Business Conduct* (2023), https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_81f92357-en.html [https://perma.cc/29LV-UNDJ].

[19] Order in Council 2019-1323, https://orders-in-council.canada.ca/attachment.php?attach=38652&lang=en [https://perma.cc/8V98-K6JR].

ineffective:[20] neither can compel companies to disclose information or even answer questions;[21] nor are there any remedies available to complainants.[22] Their principal sanction is a recommendation that the government withhold or withdraw diplomatic services and future support from Export Development Canada and, where applicable, the Canadian Commercial Corporation.[23] Given how actively Canadian embassies promote corporate interests abroad, the loss of this support would appear to be consequential. In practice, however, each mechanism has recommended withdrawing future support from EDC and the relevant embassy only *once*, in relation to companies operating in China.[24]

Although the CORE was originally conceived to investigate corporate conduct robustly, it ultimately lacked the investigative power to compel the co-operation of mining companies after

[20] Penelope Simons, "Developments in Canada on business and human rights: One step forward two steps back," Leiden Journal of International Law 36, no. 2 (2023): 1-26, at 14-17; OECD Watch, Above Ground, MiningWatch Canada, "*Canada is Back." But Still Far Behind* (2016), https://aboveground.ngo/wp-content/uploads/2017/01/Canada-is-back-report-web.pdf [https://perma.cc/M6ME-MFRF].

[21] Unlike the National Contact Point, the Canadian ombudsperson was mandated to investigate allegations of human rights abuse linked to Canadian corporate activity abroad. See commentary from the Canadian Network for Corporate Accountability regarding the absence of tools required to fulfil this mandate: "Canadians want our companies to conduct their business abroad responsibly" (October 22, 2025), https://cnca-rcrce.ca/2025/10/22/why-is-core-vacant [https://perma.cc/J6RB-H7Y7].

[22] Under its Human Rights Responsibility Mechanism, the CORE had the mandate to issue recommendations, including financial compensation, formal apology, or any other appropriate reparation. See Government of Canada, "Operating Procedures for the Human Rights Responsibility Mechanism of the Canadian Ombudsperson for Responsible Enterprise (CORE)" (2023), (s. 13.3.2), online: <coreombuds.canada.ca/core_ombuds-cre_ombuds/operating_procedures_exploitation.aspx?lang=eng#A> [https://perma.cc/7AHQ-U83Z].

[23] Global Affairs Canada, supra note 11, at 14. Although the Canadian government's responsible business conduct abroad policy mentions the Canadian Commercial Corporation, the Order in Council concerning the Canadian ombudsperson does not: see Order in Council 2019-1323, para 10, https://orders-in-council.canada.ca/attachment.php?attach=38652&lang=en [https://perma.cc/65UU-R23K].

[24] Global Affairs Canada, "Final Statement on the Request for Review regarding the Operations of China Gold International Resources Corp. Ltd., at the Copper Polymetallic Mine at the Gyama Valley, Tibet Autonomous Region" (January 28, 2014), https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/statement-gyama-valley.aspx?lang=eng [https://perma.cc/4VWU-YNG2]. In 2024, the Canadian ombudsperson issued recommendations that Dynasty Gold Corporation be denied support from Global Affairs and Export Development Canada: CORE OCRE, Final Report: Investigation, Dynasty Gold Corporation (2024), at para 93, https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/assets/pdfs/2024-03-18-dynasty-gold-en.pdf [https://perma.cc/JL4D-K2JX].

heavy industry lobbying.[25] It conducted only a handful of investigations before being dissolved in June 2026.[26]

The five case studies included here illustrate how the Canadian embassy has supported companies despite serious allegations of wrong-doing, including failing to obtain consent from Indigenous communities (Reconnaissance Energy Africa); displacing and harming people near the mine (Barrick Mining Corporation); utilizing conscripted labour (Nevsun Resources); advocating for the removal of hundreds of thousands from an artisanal mining area in Tanzania (Sutton Resources); and backing Ethiopia's mining sector despite the atrocities committed during the civil war in Tigray, going so far as to continue to provide aid to Ethiopia that promotes mining. The Canadian government also intervened in a U.S. court case to support a company accused of aiding repressive actions against civilians (Talisman Resources).

8.1.1. RECONNAISSANCE ENERGY AFRICA
Namibia

Reconnaissance Energy Africa (ReconAfrica) (TSXV: RECO) is a Calgary-based junior oil and gas company currently conducting exploration activities in Namibia, Angola, and Gabon.

The company holds oil and gas exploration licences covering an enormous area that straddles the border between Namibia and Botswana. The area has exceptional environmental value. Since 2020, National Geographic has documented what it alleges are numerous infractions of Namibian law, and a series of environmental and social harms caused by the company.[27]

ReconAfrica also faces opposition from local people and civil society organizations (CSOs). In 2021, a Namibian farmer sued ReconAfrica, claiming that the company unlawfully occupied and cleared his land.[28] The following year, more than 120 local groups and Namibian CSOs called for

[25] Justice & Corporate Accountability Project, "Lobbying by mining industry on the proposed Canadian Ombudsperson for Responsible Enterprise" (July 14, 2019), https://www.dropbox.com/scl/fi/2zv2vm8bgio84lsqu93v6/2.-Report-on-Lobbying-by-Mining-Industry-july-24-fin.pdf?rlkey=rm1eg0j47pqqqn9yobafspbht&st=eslliyjq&dl=0 [https://perma.cc/3Q9A-FA6N].

[26] Darren Major, "Carney says feds are eliminating watchdog that oversees companies operating abroad," CBC (June 11, 2026), https://www.cbc.ca/news/politics/carney-eliminating-canadian-ombudperson-for-responsible-enterprise-9.7232539 [https://perma.cc/FA89-JMXT].

[27] Jeffrey Barbee and Laurel Neme, "Canadian oil company illegally bulldozes protected land in Africa," National Geographic (February 23, 2022), https://www.nationalgeographic.com/environment/article/canadian-oil-company-illegally-bulldozes-protected-land-in-africa [https://perma.cc/M3GM-LJPT]; Jeffrey Barbee and Laurel Neme, "They ripped through a protected wilderness to find oil. Instead, they found trouble," National Geographic (March 28, 2023), https://www.nationalgeographic.com/animals/article/oil-drilling-reconafrica-okavango-watershed-protected-wilderness [https://perma.cc/58G2-H7SL].

[28] Ibid.

a public inquiry into the exploration and possible production of oil and gas in the region. The groups demanded a moratorium on oil drilling, expressing concern about the depletion and contamination of scarce water resources, as well as potential adverse impacts to health, livelihoods, and food security.[29] Also in 2022, Namibian CSOs, conservancies and community forest associations appealed a decision by the Namibian environmental commissioner to extend ReconAfrica's drill permit.[30]

In 2021, the United Nations expressed concern that the company failed to obtain the free, prior, informed consent of San Indigenous people for the project.[31] The following year, The Globe and Mail reported that the Royal Canadian Mounted Police was investigating ReconAfrica for corruption and securities fraud.[32] And in 2022 and 2023, ReconAfrica investors filed class action lawsuits in New York and British Columbia, alleging that the company misled them. The company paid US$10.8 million to settle the cases.[33] For more information about ReconAfrica, see the corruption, displacement, and environment chapters of this report.

Internal government correspondence obtained under access to information legislation indicates the support ReconAfrica received from the Canadian government between December 2020 and April 2022. The Trade Commissioner Service (TCS) at Global Affairs Canada provides Canadian businesses with access to funding and support programs, international opportunities, and a worldwide network of trade commissioners.[34] An undated government document reveals that

[29] "Save the Okavango," https://s3.documentcloud.org/documents/23462844/womens-leadership-center.pdf [https://perma.cc/94SF-9LFL].

[30] Saving Okavango's Unique Life and the Economic and Social Justice Trust of Namibia, *Broken Trust: How a Canadian Driller Profits by Exploiting Namibian Laws and Communities* (January 22, 2025), https://savingokavangosuniquelife.blog/2025/01/22/broken-trust-how-a-canadian-driller-profits-by-exploiting-namibian-laws-and-communities [https://perma.cc/7Z7A-NEWA].

[31] Letter from José Francisco Cali Tzay, Special Rapporteur on the rights of indigenous peoples, et al., to Misters Park and Evans, ReconAfrica (November 17, 2021), at 2, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=26806 [https://perma.cc/5EXU-QH4X].

[32] Geoffrey York, "RCMP investigating Canadian oil company ReconAfrica after complaints of alleged corruption and fraud," The Globe and Mail (July 22, 2022), https://www.theglobeandmail.com/business/article-rcmp-investigating-canadian-oil-company-reconafrica-after-complaints [https://perma.cc/8W7E-4HTZ].

[33] Niall McGee and Geoffrey York, "ReconAfrica agrees to pay out more than $10-million over allegedly misleading disclosure," The Globe and Mail (May 20, 2024), https://www.theglobeandmail.com/business/article-reconafrica-agrees-to-pay-out-more-than-10-million-over-allegedly [https://perma.cc/65ZV-DNMS].

[34] Government of Canada, "Trade Commissioner Service," https://www.tradecommissioner.gc.ca/index.aspx?lang=eng [https://perma.cc/TAK9-A9XP].

ReconAfrica became a registered TCS client during the first half of 2021.[35] The company received support from TCS staff at both the high commission trade office in Johannesburg and in Ottawa.[36]

During the period covered by the documents, Global Affairs staff arranged at least nine meetings between ReconAfrica representatives and Canadian government officials.[37] These included a meeting with Bob Rae, Canada's then ambassador to the United Nations, who provided the company with suggestions for contacts in Namibia and Botswana.[38] A ReconAfrica consultant described the meeting as "very helpful."[39]

Government documents show that Global Affairs staff were aware of the allegations made against ReconAfrica. In a September 2021 email, trade commissioner staff suggested that ReconAfrica "engage with our senior folks everywhere to help set the record straight."[40]

8.1.2. BARRICK MINING CORPORATION

Tanzania

Barrick Mining Corporation[41] (Barrick) (TSX: ABX) operates mines worldwide. In Africa, the company owns mines in the Democratic Republic of the Congo (Kibali), Tanzania (Bulyanhulu and North Mara), Mali (Loulo-Gounkoto), Côte d'Ivoire (Tongon), and Zambia (Lumwana).

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[35] Above Ground, "Brief background on the issue," https://aboveground.ngo/wp-content/uploads/2024/05/Return-to-Above-Ground-access-to-info-request-on-ReconAfrica-A202300575_2023-09-26_09-54-22.pdf [https://perma.cc/ED3Q-EAEJ].

[36] Email from Ayan Hersi, Global Affairs Canada (July 29, 2021), https://aboveground.ngo/wp-content/uploads/2024/02/Recon-release-A202100849_2022-10-03_08-49-10.pdf [https://perma.cc/DVU4-JBVL].

[37] Above Ground, "Canadian support to ReconAfrica lacks transparency and sufficient regulation" (March 7, 2024), https://aboveground.ngo/canadian-support-to-reconafrica-lacks-transparency-and-regulation [https://perma.cc/GD72-6JQJ].

[38] John Woodside, "When a Canadian gas company was under fire for environmental destruction, Global Affairs jumped in to help," National Observer (August 9, 2023), https://www.nationalobserver.com/2023/08/09/investigations/when-canadian-gas-company-was-under-fire-environmental-destruction-global-affairs [https://perma.cc/M53U-MWGM].

[39] Email from Will Adams, Intuit (September 3, 2021), https://aboveground.ngo/wp-content/uploads/2024/02/Recon-release-A202100849_2022-10-03_08-49-10.pdf [https://perma.cc/6M2Z-NKJP].

[40] Email from Keith Banerjee, Global Affairs Canada (September 15, 2021), https://aboveground.ngo/wp-content/uploads/2024/02/Recon-release-A202100849_2022-10-03_08-49-10.pdf [https://perma.cc/T2SZ-6DDH].

[41] In May 2025, the company changed its name from Barrick Gold Corporation to Barrick Mining Corporation

Allegations of human rights abuses linked to the North Mara mine are longstanding. According to reports by non-governmental organizations (NGOs), villagers around the mine were displaced from their land in 2012 and from 2020 to 2023. The displacements were reportedly devastating for many villagers. NGOs report that people's homes were bulldozed while they still occupied their land; there were problems with the level of compensation; and there was a deterioration in the quality of relocated residents' lives, with some people left poor and homeless. Barrick denies that forced evictions have taken place at North Mara.[42] See the displacement chapter for more information on these allegations.

For well over a decade, NGOs and journalists have documented allegations of grave violence committed against villagers by security forces at the mine. According to these reports, mine security forces and police have killed almost 100 local people and injured hundreds more. Local villagers report violent beatings and other forms of torture by the police; being held in degrading conditions; and being denied medical attention after suffering injuries. In 2011, the company admitted that it had sexual assault and harassment problems at both its North Mara and Bulyanhulu mines.[43] This legacy prompted the NGO Rights and Accountability in Development to classify North Mara as one of the deadliest industrial mines in Africa. Barrick reports that it does not have "direct operations" in Tanzania and denies responsibility for the conduct of forces working at the North Mara mine. For more information about these allegations, see the chapter on security and violence at North Mara.

This case study shows that, notwithstanding these allegations of human rights abuse, Canada provided diplomatic support to Barrick during disputes with the Tanzanian government and allegedly raised the issue of Canadian foreign aid with Tanzanian authorities in these discussions. We have no evidence that Canada considered allegations of abuse associated with Barrick's operations in Tanzania or that it attempted to "facilitate dialogue" with impacted communities, as required under the *Voices at Risk* policy.

[42] Barrick Mining Corporation, "Barrick Provides Detailed Response to Unsubstantiated UN Human Rights Allegations" (June 20, 2024), https://www.barrick.com/English/news/news-details/2024/barrick-UN-human-rights-response/default.aspx [https://perma.cc/6UCA-KWDJ].

[43] Geoffrey York, "African Barrick to compensate rape victims," The Globe and Mail (December 19, 2013), https://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/african-barrick-to-compensate-assault-victims/article16063262 [https://perma.cc/N3NE-C6QX]; *Nicodemu G. Mwita v. Bulyanhulu Gold Mine Ltd.*, High Court of Tanzania, High Court Labour Division at Shinyanga (November 15, 2013), https://compendium.itcilo.org/en/compendium-decisions/supreme-court-of-tanzania-labour-chamber-nicodemu-mwita-v-bulyanhulu-gold-mine-review-no-12-of-2013-15-november-2013/at_download/attachedfile [https://perma.cc/GWV3-8YTH].

In March 2017, the Tanzanian government banned the export of metallic concentrates to promote a domestic smelting and refining industry.[44] Barrick reports that its primary African subsidiary,[45] Acacia Mining (Acacia), halted exports of gold and copper concentrate from Tanzania when the ban was imposed.[46] A few months later, the Tanzanian government accused Acacia of avoiding taxes by underreporting the value of its exports.[47] The Tanzania Revenue Authority produced adjusted tax assessments for Acacia for the years 2000 to 2017, charging the company roughly $190 billion in unpaid taxes, interest, and penalties.[48] These actions by the Tanzanian government precipitated "one of the worst crises in the history of Barrick's operations in Africa."[49] After several years of negotiations, Barrick reached an agreement with the Tanzanian government on the taxation dispute, and in 2020 the export ban was lifted.[50]

The Globe and Mail reports that Barrick relied extensively on the Canadian government during the dispute. Correspondence obtained through access to information legislation shows that Canadian diplomats engaged the Tanzanian government at senior levels, encouraging it to lift the export ban.[51] An internal email reveals that Canadian officials sought a meeting with the president of Tanzania "to advocate on Acacia's behalf."[52]

At the time, Tanzania was the fourth-largest recipient of Canadian foreign aid. This support included funding for the Tanzania Minerals Audit Agency, which played a central role in the tax dispute. The Globe and Mail reports that a Barrick executive complained to Canadian officials about the government's support for the audit agency.[53] According to the newspaper, in November 2017 the Canadian High Commissioner met with the Tanzanian Minister of Mines. The High Commissioner advocated for the lifting of the export ban and "emphasized Canada's foreign aid to Tanzania, including its aid to the minerals audit agency."[54]

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[44] Geoffrey York, "Canadian foreign aid was discussed during Barrick tax dispute in Tanzania, internal e-mails show," The Globe and Mail (May 24, 2022), https://www.theglobeandmail.com/business/article-barrick-gold-canadian-foreign-aid [https://perma.cc/X35X-VQET].

[45] Ibid.

[46] Barrick Mining Corporation, *Annual Information Form for the year ended December 31, 2019* (March 25, 2020), at 105, https://www.sedarplus.ca/csa-party/records/document.html?id=31b9bcc50d5710deea1ea78e54def5fe02c41e7c37ffca637a57ea68012e41bd [https://perma.cc/EDT9-BJEP].

[47] York, supra note 43.

[48] Barrick, supra note 46, at 119.

[49] York, supra note 43.

[50] Ibid.

[51] Ibid.

[52] Ibid.

[53] Ibid.

[54] Ibid.

The correspondence reveals that Canadian officials were aware of corporate social responsibility (CSR) concerns regarding the alleged human rights violations at Barrick's mine. One official wrote, "[i]f the Canada brand is to accompany this project, along with any other work we do on behalf of Barrick, we'll need to do some serious work on the CSR front."[55] However, it appears these concerns evaporated, as Canadian officials continued to advocate for Barrick in meetings with the Tanzanian government.[56] For more information about the North Mara mine, see the chapter on security and violence. For more information about Barrick, see the displacement, workers, silencing critique, and environment chapters.

8.1.3. NEVSUN RESOURCES
Eritrea

Nevsun Resources Ltd. (Nevsun) was a Vancouver-based gold mining company that owned an interest in the Bisha mine in Eritrea and the undeveloped Timok project in Serbia. The Bisha mine was a joint venture between Nevsun and the Eritrean government. For more information about Nevsun, see the labour chapter of this report.

In 2015, a United Nations (UN) commission of inquiry found that "systematic, widespread and gross human rights violations have been and are being committed in Eritrea under the authority of the Government. Some of these violations may constitute crimes against humanity."[57] Among other grave issues, the commission found that Eritreans were subject to an abusive system of national service that involves forced labour. The UN reported that some conscripts performed non-military activities, including in the mining sector. Both the UN and NGO Human Rights Watch assert that the Bisha mine was constructed using forced labour.

In November 2014, three former workers commenced a class action in British Columbia against Nevsun regarding forced labour and inhumane working conditions. Nevsun denied the allegations. Just two months after the lawsuit against Nevsun was filed, Canada's non-resident ambassador to Eritrea, Dominique Rossetti, travelled to Eritrea, where he met with a Nevsun executive and toured the mine site. Mr. Rossetti was accompanied by Conservative Member of Parliament Scott Reid, then chair of the Parliamentary Subcommittee on International Human Rights. Following their visit to the Bisha mine, Ambassador Rossetti and Mr. Reid testified before the subcommittee.[58]

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[55] Ibid.

[56] Ibid.

[57] United Nations Human Rights Council, *Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea*, A/HRC/29/CRP.1 (June 5, 2015) at 1, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoIEritrea/A_HRC_29_CRP-1.pdf [https://perma.cc/MP3R-2BXY].

[58] Testimony of Member of Parliament Scott Reid, Parliament of Canada, Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development (March 12, 2015),

Ambassador Rossetti told subcommittee members that given the short duration of the trip, it was only possible to "scratch the surface" of the situation at the mine. Yet the ambassador stated: "[w]hile I am not an expert in the matter, worker safety rules appear to conform to international standards." Mr. Rossetti's sole basis for reaching this conclusion appears to be information he received from Nevsun regarding the absence of worker injuries at the mine. Ambassador Rossetti also used his time in Parliament to praise the company's CSR efforts.[59]

Mr. Reid told the subcommittee: "my impression is that it is highly unlikely that forced labour is being used at present, or will be used in the future, by state-owned subcontractors at the Bisha mine [...]." Mr. Reid provided several reasons for this assertion, including the argument that it was cheaper for the company to hire local villagers than state conscripts:

> [...] the use of conscripted labour [is] less economical than an outside observer might guess. Bisha is located in an area populated by pastoralists — herdsmen, essentially — with no alternative source of monetary income. For unskilled or casual labour, local villages are the obvious source of labourers, who will be happy to work for very modest wages paid in cash, as nobody has a bank account. Local villagers at the mine site are bused home each night, saving [the mine] the cost of room and board. With the availability of such a low-cost source of free labour, by which I mean non-indentured labour, indentured or forced labour drawn from the local population is simply not competitive.[60]

The United Nations reports that the wages paid to conscripts are "far below the subsistence level in Eritrea" and are "too low to buy enough food to supplement their poor military rations, let alone support a family."[61]

Mr. Reid also asserted that most Eritreans are released from national service after 18 months.[62] However, just three months after Mr. Reid shared this insight, the United Nations commission of inquiry on Eritrea reported "a pattern of conscription into the national service at an early age without any prospect of being formally discharged or otherwise released. There is a clear pattern of conscription beyond the statutory period of 18 months of national service."[63]

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https://www.ourcommons.ca/documentviewer/en/41-2/SDIR/meeting-60/evidence [https://perma.cc/6WEN-KK39].

[59] Ibid, Testimony of Dominique Rossetti, Ambassador to Eritrea.

[60] Reid Testimony, supra note 58.

[61] UNHRC, supra note 57, at 421.

[62] Reid Testimony, supra note 58.

[63] UNHRC, supra note 57, at 361.

Todd Romaine, vice president for corporate social responsibility at Nevsun, was also given an opportunity to testify before the subcommittee. Mr. Romaine told Canadian parliamentarians about commissioning a human rights impact assessment at the mine site, which found no human rights violations.[64]

8.1.4. CANADIAN MINING INTERESTS IN ETHIOPIA

In November 2020, the Ethiopian government began military operations in Tigray, a semi-autonomous region in the country's north. The government accused Tigray's ruling party of attacking an Ethiopian military base.[65] The resulting civil war lasted two years and impacted over 20 million people.[66] According to Human Rights Watch:

> [...] regional security forces, with the acquiescence and possible participation of Ethiopian federal forces, committed numerous grave abuses as part of a widespread and systematic attack against the Tigrayan civilian population that amount to crimes against humanity as well as war crimes. These crimes include murder, enforced disappearances, torture, deportation or forcible transfer, rape, sexual slavery and other sexual violence, persecution, unlawful imprisonment, possible extermination, and other inhumane acts.[67]

A 2024 report affirms there is a "reasonable basis" to believe that members of the Ethiopian National Defence Force and its allies committed genocide against Tigrayans.[68] Tigrayan fighters are also accused of committing brutal human rights violations.[69]

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[64] Testimony of Todd Romaine, vice president for corporate social responsibility, Nevsun, Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development, (June 5, 2014), https://www.ourcommons.ca/DocumentViewer/en/41-2/SDIR/meeting-32/evidence [https://perma.cc/KQ6H-N34X].

[65] Human Rights Watch, "Ethiopia: Protect People as Tigray Crisis Escalates" (November 13, 2020), https://www.hrw.org/news/2020/11/13/ethiopia-protect-people-tigray-crisis-escalates [https://perma.cc/9TAC-ALAE].

[66] Wilson Center, "Ethiopia's Tigray War and its Devastating Impact on Tigrayan Children's Education" (April 18, 2023), https://www.wilsoncenter.org/blog-post/tigray-war-and-education [https://perma.cc/JAR2-ZNN8].

[67] Human Rights Watch, "We Will Erase You From this Land" (April 6, 2022), https://www.hrw.org/report/2022/04/06/we-will-erase-you-land/crimes-against-humanity-and-ethnic-cleansing-ethiopias [https://perma.cc/4EJW-4FUP].

[68] New Lines Institute, *Genocide in Tigray: Serious breaches of international law in the Tigray conflict, Ethiopia, and paths to accountability* (June 3, 2024), at 24, https://newlinesinstitute.org/rules-based-international-order/genocide-in-tigray-serious-breaches-of-international-law-in-the-tigray-conflict-ethiopia-and-paths-to-accountability-2 [https://perma.cc/HA6W-L34W].

[69] Zecharias Zelalem, "Trade Trumps Human Rights for Trudeau in Ethiopia's Civil War," Open Canada (April 13, 2022), https://opencanada.org/canada-ethiopia-civil-war [https://perma.cc/L3K9-YLP7].

In 2021, the European Union suspended aid to the government of Ethiopia, citing ethnic cleansing in Tigray.[70] The following year, the United States identified "gross violations of internationally recognized human rights being perpetrated by the Government of Ethiopia" as the rationale for removing the country from a preferential trade program.[71]

Canada, in contrast, treated Ethiopia differently.[72] According to journalist Zecharias Zelalem:

> [o]n the same day in February 2021 that Amnesty International published a blow by blow account of how Eritrean troops went around Axum, dragging men from homes and killing them in the town's streets as Ethiopian troops stood by, Prime Minister Trudeau and his Ethiopian counterpart spoke over the phone in a conversation where, according to a readout from Trudeau's office, the two leaders 'affirmed the deep and enduring friendship between Canada and Ethiopia.'[73]

Ethiopia is a top recipient of Canadian aid, and as described below in section 2, Global Affairs Canada has funded development projects to boost the country's mining sector. An evaluation of one project by Canadian Executive Service Overseas discusses a perceived link between Trudeau's anemic response to the war and Canadian mining interests in Tigray:

> [due to] Canada's failure to call out the massive human rights abuses in the region which observers have now listed as including state-sanctioned mass-murder, the burning of crops, the withholding of food aid, and the mass rape of women, the Canadian government may be seen to be protecting its development aid investment and the interests of Canadian mining companies with licenses to operate in the region.[74]

According to The Globe and Mail, as the civil war waged:

> [...] the Canadian embassy in Ethiopia tweeted that the Canadian ambassador, Stéphane Jobin, had met with Ethiopia's Mining Minister, Takele Uma Banti, to

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[70] Evan Dyer, "As allies accuse Ethiopia's Abiy Ahmed of atrocities in Tigray, Canada stands back," CBC News (July 10, 2021), https://www.cbc.ca/news/politics/ethopia-tigray-abiy-ahmed-1.6097250 [https://perma.cc/K52N-3MYH].

[71] Office of the United States Trade Representative, "U.S. Terminates AGOA Trade Preference Program for Ethiopia, Mali and Guinea" (January 1, 2022), https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/january/us-terminates-agoa-trade-preference-program-ethiopia-mali-and-guinea [https://perma.cc/SB7R-FYMU].

[72] Dyer, supra note 70.

[73] Zelalem, supra note 69.

[74] Sidney Coles, *CESO-CIRDI SUMM Gender Mainstreaming Project*, Ministry of Mining and Petroleum, Government of Ethiopia (June 20, 2021), at 19, https://www.dropbox.com/scl/fi/4kw0u7f8e6h1r7surz7l5/CESO_Consultant_Report_MMoP_Ethiopia.pdf?rlkey=w4rnb6lfhi5qs5xwzn6saqzhk&st=b0wumd1t&dl=0 [https://perma.cc/R2MY-MLZD].

discuss the potential for further investment in the mining sector "when conditions allow." The tweet was later deleted.[75]

A few months later, in October 2021, the paper reported that two Canadian mining companies with assets in Tigray were assisted by Canada's Trade Commissioner Service. In 2025, it revealed that most foreign mining licences in the region were held by Canadian companies.[76]

That year, Canada drew criticism for resuming military cooperation with Ethiopia. Critics cited the lack of accountability for atrocities allegedly committed by Ethiopian forces during the civil war and the army's continued attacks against civilians.[77]

8.1.5. SUTTON RESOURCES LTD.

Tanzania

Sutton Resources Ltd. (Sutton) (VSE:STT) was a mineral exploration company incorporated in British Columbia.[78] Kahama Mining Corporation Limited (KMCL), a subsidiary of Sutton, received a licence to mine gold in Bulyanhulu in 1994. It was one of the world's largest gold deposits at the time,[79] but the area was already being mined by hundreds of thousands of artisanal miners. In 1999, it was purchased by Barrick Gold Corporation.

Before the concession was awarded to Sutton, the state-owned State Mining Corporation (STAMICO) held the site.[80] In 1990, the Tanzanian central bank decided to buy gold from artisanal

[75] Geoffrey York and Zecharias Zelalem, "Canadian miners pursue prospects in war-torn Tigray," The Globe and Mail (October 3, 2021), https://www.theglobeandmail.com/business/article-canadian-miners-pursue-prospects-in-war-torn-tigray [https://perma.cc/KV55-ZSJF].

[76] Claire Wilmot and Ashenafi Endale, "How gold tarnished Tigray," The Globe and Mail (November 13, 2025), https://www.theglobeandmail.com/world/article-illegal-gold-mining-tigray-ethiopia-east-africa-metals-canadian [https://perma.cc/N8L7-45DS].

[77] Geoffrey York, "Canada revives military co-operation with Ethiopia despite genocide allegations," The Globe and Mail (March 13, 2025), https://www.theglobeandmail.com/world/article-canada-ethiopia-military-co-operation-genocide-allegations [https://perma.cc/LRE9-JJ6S].

[78] Sutton Resources Ltd., *Long Form Prospectus* (June 23, 1997), at i, https://www.sedarplus.ca/csa-party/records/document.html?id=f6b49cf19df25d4b748c2351fce5988ba7370a0a150740b51330ee0c115f5a40 [https://perma.cc/2BN8-VWRG].

[79] Dennis Tessier, *The Challenge of the Mines: The Role of Stakeholder Engagement in the Sustainable Development of Tanzania's Gold Mining Sector, A Case Study of Shinyanga* (MA diss., University of Dar es Salaam, 2005), at 64, https://miningwatch.ca/sites/default/files/the_challenge_of_the_mines_0.pdf [https://perma.cc/4JL2-V7P9]; Siri Lange, "Gold and Governance: Legal Injustices and Lost Opportunities In Tanzania" African Affairs 110, no. 439 (2011): 233-252, https://www.cmi.no/publications/3894-gold-and-governance [https://perma.cc/W9H6-BGTK].

[80] A.A. Mwamunyange (for Inspector General of Police), "Allegations Of Deaths In Mine Pits At The Bulyanhulu Gold Mines, Shinyanga Region," Press Release (August 21, 1996),

miners.[81] In 1993, government officials began building local political institutions by establishing an elected Small Scale Miners Committee (SSMC) to represent miners' interests. In August 1993, the then president of Tanzania, Ali Hassan Mwinyi, visited the site and recommended that artisanal miners sell their gold directly to the government through the National Bank of Commerce.[82] That year, the central bank bought up to $40 million in gold from artisanal miners.[83]

However, in 1994, Tanzania came under pressure from external actors, including the International Monetary Fund (IMF), to open the mining sector to foreign companies. The IMF withheld hundreds of millions of dollars in loans until Tanzania reformed the sector. Canadian aid was also reduced.[84]

In September 1994, the government granted the Bulyanhulu concession to KMCL. In December 1995, Benjamin Mkapa was elected president, and on July 30, 1996, he ordered that artisanal miners be removed from the concession. Suddenly, Tanzanians in the area became "illegal trespassers." There are different estimates of the number of people displaced, but according to the Tanzanian police, about 200,000 were forced to move.[85]

For more information about the controversial forced removal, including allegations that artisanal miners were buried alive, see the displacement chapter.

Documents obtained under access to information legislation by the non-governmental organization Probe International reveal that Canadian diplomats worked extensively to advance Sutton's interests in Tanzania. A 1996 memo from the Department of Foreign Affairs and International Trade (DFAIT) describes the motivation behind these efforts:

> Tanzania's rich and undeveloped natural resources present lucrative opportunities for Canadian investment and joint ventures. Canadian investments in the mining and energy sectors, if facilitated by a conducive investment environment, could

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https://www.dropbox.com/scl/fi/nfnztz02qsb22ed1ikcbr/Bulyanhulu-police-report-1996.pdf?rlkey=39718dad9bpcwoavw6gviza5h&st=bi2ckytq&dl=0 [https://perma.cc/3E98-QS9K].

[81] Stephen Kerr and Kelly Holloway, "The Men Who Moil for Gold," The Varsity and the Atkinsonian (April 15, 2002), at 2, https://miningwatch.ca/sites/default/files/Bulyanhulu.pdf [https://perma.cc/D5BT-GC5T]; Letter from Kent Thompson to Kathleen Mahoney (June 7, 2022), [https://perma.cc/D3NW-GU9Q]; Samwel J. Kabote and Elliott P. Niboye, "Socio-economic Effects of Large-scale Gold Mining on Artisanal Miners in Tanzania: Experiences from Bulyanhulu Gold Fields," Draft Report presented to REPOA, https://www.repoa.or.tz/documents_storage/GD10.pdf [https://perma.cc/G2WA-FWJU].

[82] Kerr and Holloway, supra note 81; Letter from Kent Thompson to Kathleen Mahoney (June 7, 2022), supra note 81.

[83] Thompson Letter, supra note 81, at 3.

[84] Kerr and Holloway, supra note 81;

[85] Mwamunyange, supra note 80.

result in $1 billion in investment/joint ventures within a five to seven year timeframe.[86]

The DFAIT documents, dated from March 1995 to July 1997, show that the Canadian High Commissioner in Dar es Salaam, Verona Edelstein, used several strategies to persuade the Tanzanian government to remove artisanal miners from Sutton's mining concession. Through persistent engagement with the Tanzanian president and senior members of cabinet, the High Commissioner pushed the message that the mining sector could "easily and rapidly" generate the resources needed to secure the country's development.[87] Ms. Edelstein emphasized that in order for investors to secure capital on Canadian stock exchanges, "outstanding problems relating to title and to illegal activities" would need to be resolved.[88]

The High Commission reinforced this message through an aggressive media campaign. After a series of media interviews in 1996, described by DFAIT as a major publicity coup, the High Commission enthused, "the decision makers will be fully aware of how important this mining sector, Canadian participation, and rule of law is to their economy."[89]

The High Commission also arranged meetings between Sutton representatives and senior officials in Tanzania. At one such meeting in 1995, Ms. Edelstein advised the president of Tanzania that his country had been reinstated as a Canadian development assistance partner. She identified several projects that could be pursued, including the possible development of a mine training centre together with Sutton and other mining companies, assuming "current problems could be and would be resolved."[90]

According to reporting by The Varsity and The Atkinsonian, the Canadian High Commissioner indicated in a 1995 meeting with the Tanzanian Prime Minister that funds from the Canadian

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[86] Communication from Verona Edelstein to Jean-François Somcynsky, Document 303654 (August 28, 1996), https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT].

[87] Communication from Jean Gauthier, Document 203814 (December 19, 1995), https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT].

[88] Communication from Verona Edelstein, Document 392846 (April 14, 1997), https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT].

[89] Communication from High Commission in Dar es Salaam (June 28, 1996), https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT].

[90] Communication from Verona Edelstein (March 28, 1995), https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT].

International Development Agency (CIDA) could be used to relocate artisanal miners. A CIDA spokesperson told reporters that such funding was never provided.[91]

Finally, when an opposition political party named a commission of enquiry to investigate the alleged burial of artisanal miners at Bulyanhulu, Ms. Edelstein attempted to influence the commission's findings. The High Commissioner sought out the party chairman, informing him that the Canadian High Commission had monitored the situation at Bulyanhulu at every stage and was "satisfied that no person had been killed or injured during the government removal of the miners." Ms. Edelstein suggested that the enquiry investigate "the harassment and intimidation of a legitimate company."[92]

8.1.6. TALISMAN ENERGY INC.

Sudan

Talisman Energy Inc. was a Calgary-based oil and gas company in operation from 1992 to 2015. The company operated in Sudan during the country's deadly civil war. In 1999, the Canadian government appointed John Harker to investigate the alleged connection between oil extraction and human rights violations in Sudan. Harker's mission reported that oil infrastructure was being used by the military in brutal attacks against civilians. The mission concluded that a ceasefire was virtually impossible while oil revenue continued to fund the government of Sudan.[93]

Talisman retained lobbyists to dissuade the Canadian government from acting on the Harker report. Its CEO wrote to the Minister of Foreign Affairs, arguing against government intervention, a move that succeeded: Canada took no meaningful action in response to Harker's findings, and the company continued to operate in Sudan.[94] The United States, by contrast, adopted measures to prohibit American companies and citizens from doing business with the Sudanese joint venture in which Talisman held an interest.[95]

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[91] Kerr and Holloway, supra note 81, at 6.

[92] Communication from Verona Edelstein, Document 337991 (November 27, 1996), https://www.dropbox.com/scl/fi/v5zoyeo8vt30jnqoryhky/Access-to-Info-docs.pdf?rlkey=e2cwp0q3i1owoi5j17qrxpd1y&st=n103xc5g&dl=0 [https://perma.cc/2FUG-M2HT].

[93] John Harker, *Human Security in Sudan: The Report of a Canadian Assessment Mission* (January 2020), at 16, https://publications.gc.ca/collections/Collection/E2-198-2000E.pdf [https://perma.cc/Y9YA-DDBZ].

[94] Penelope Simons and Audrey Macklin, *The Governance Gap: Extractive Industries, human rights, and the home state advantage* (Routledge, 2014), at 53.

[95] Joseph Kahn, "International Business; U.S. Imposes Sanctions On Oil Venture in Sudan," The New York Times (February 17, 2000), https://www.nytimes.com/2000/02/17/business/international-business-us-imposes-sanctions-on-oil-venture-in-sudan.html [https://perma.cc/U87T-YAQ9].

In 2001, plaintiffs filed a class action in New York against Talisman and the Republic of Sudan. The plaintiffs sought damages for grave violations of international human rights law.[96] Canada intervened in the litigation in support of Talisman. It first sent a "diplomatic note" regarding the litigation to the U.S. State Department. The United States Attorney subsequently submitted a "statement of interest" to the court, referencing the diplomatic note and expressing concern about the litigation. In response to the government's statement, Talisman moved to dismiss the litigation.[97]

In its note, Canada argued that by providing financial and diplomatic support to Canadian companies, it promoted peace in foreign jurisdictions. The court described the diplomatic note as follows:

> [t]he Canada Letter conveys Canada's view that this Court's exercise of jurisdiction in this case "constitutes an infringement in the conduct of foreign relations by the Government of Canada" and creates a 'chilling effect' on Canadian firms engaging in Sudan and the ability of the Canadian government to implement its foreign policy initiatives through the granting and denial of trade support services." [...] Canada states that it uses trade support services as "both a stick and carrot in support of peace," and that while the "inducement for Sudan if they achieve peaceful resolution of their internal disputes will be the reinstatement of trade support services[,] ... the impending US court action removes that inducement."[98]

The government services identified by Canada included "trade support to Canadian exporters and importers, assistance from the Canadian Trade Commissioner Service, export credits and insurance for the purpose of doing business in Sudan and entering its markets."[99]

In its submissions, Talisman explained that "Canada adopted a policy of constructive engagement towards Sudan in 1999 and encouraged Talisman to invest in Sudan [...]." The company argued that the legal action should be dismissed "out of respect for Canada's sovereign interests in pursuing its own foreign policy towards Sudan and in regulating the activities of Canadian companies operating there."[100]

The court responded:

> [w]hile this Court may not question either the accuracy of the description of Canada's foreign policy in its Letter, or the wisdom and effectiveness of that foreign

[96] Simons and Macklin, supra note 94, at 65.

[97] *Presbyterian Church of Sudan v. Talisman Energy Inc.* (SDNY 30 August 2005), https://www.casemine.com/judgement/us/5914b608add7b049347766c4 [https://perma.cc/JPY6-CDL8].

[98] Ibid.

[99] Ibid.

[100] Ibid.

> policy, it remains appropriate to consider the degree to which that articulated foreign policy applies to this litigation.[101]

The court found that Canada's foreign policy objectives did not warrant dismissal of the case, and for this and other reasons, denied Talisman's motion.[102]

Canada later intervened directly in the litigation as *amicus curiae*, expressing its opposition to a finding of civil liability against the company.[103] In 2009, the United States Court of Appeals for the Second Circuit ruled in favour of Talisman and the Sudanese government, dismissing the survivors' claims.[104] See the conflict chapter for more about Talisman.

8.2. USING FOREIGN AID TO SUPPORT THE EXTRACTIVE SECTOR

The Conservative government of Stephen Harper instituted a foreign aid policy that focused on Canadian business needs, particularly in the mining sector. According to The Globe and Mail, an internal report produced by CIDA in 2013 reveals a shift in Canada's development objectives towards promoting trade and investment. The newspaper reports that "[a] majority of the three dozen countries included in the foreign aid report are promoted as destinations for Canadian aid in part because of the commercial benefits they can offer to Canada." More than a dozen countries are identified as containing mineral resources of interest to Canadian companies.[105]

The Canadian Investment Fund for Africa (CIFA), which operated from 2005 to 2016, facilitated private-sector investment in Africa, including in the oil, gas, and mining sectors,[106] by providing $100 million[107] in venture capital. Public financing was used to leverage additional private-sector investment.[108]

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[101] Ibid.

[102] Ibid.

[103] Simons and Macklin, supra note 94, at 68.

[104] *Presbyterian Church of Sudan v. Talisman Energy Inc.*, 582 F3d 244 (2nd Cir 2009).

[105] Kim Mackrael, "Commercial motives driving Canada's foreign aid, documents reveal," The Globe and Mail (January 8, 2014), https://www.theglobeandmail.com/news/politics/commercial-interests-taking-focus-in-canadas-aid-to-developing-world/article16240406 [https://perma.cc/NM9P-ZPX9].

[106] Government of Canada, "Project profile - Canada Investment Fund for Africa," [CIFA] https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/a032944001 [https://perma.cc/QDS4-HHJM].

[107] Government of Canada, "Canada Fund for Africa: Summative Evaluation Executive Report," at 10, https://web.archive.org/web/20141015112531/http://www.international.gc.ca/department-ministere/assets/pdfs/evaluation/2011/dev-aeer-aer11-eng.pdf [https://perma.cc/HPQ5-4S86].

[108] CIFA, supra note 106.

When the Liberal Party under Justin Trudeau came to power in 2015, they announced a new direction with Canada's first "feminist" foreign policy:

> Canada's Feminist International Assistance Policy (FIAP) guides the delivery of Canadian international assistance. Between 2017–18 and 2022–23, Canada provided $18.4 billion in international assistance to sub-Saharan Africa. Canada's international assistance is supporting efforts to improve the lives of the poorest and most marginalized through better health, nutrition, food security, education and economic well-being.[109]

Despite the new strategy, the old priorities remained. The FIAP used international assistance "to broaden and deepen" Canada's engagement with the private sector.[110] In March 2025, Global Affairs Canada announced the country's first Africa strategy. It includes a new Africa trade and development program at Global Affairs that will "support development initiatives that foster stronger trade and investment environments."[111]

Global Affairs Canada has published online information about the international assistance projects it funds since 2002. We identified up to $337 million for African projects between 2002 and 2024, focused in whole or in part on the extractive industries.[112]

Some of the stated objectives for these projects include:

- increasing investment in the extractive sectors;
- reducing poverty through mining operations;
- leveraging the power of the private sector to achieve sustainable development results;
- enabling sustainable mining;
- improving the performance of small businesses in the extractive sector; and
- enhancing the economic development of communities 'hosting' mining projects.[113]

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[109] Government of Canada, "Canada and Africa," https://www.international.gc.ca/world-monde/international_relations-relations_internationales/africa-afrique/index.aspx?lang=eng [https://perma.cc/GA7B-JCXB].

[110] Government of Canada, "Private Sector Engagement for Sustainable Development," https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/priorities-priorites/fiap_private_sector-paif_secteur_prive.aspx?lang=eng [https://perma.cc/8VBX-38AB].

[111] Global Affairs Canada, "Canada launches its first global Africa Strategy: A partnership for shared prosperity and security" (March 6, 2025), https://www.canada.ca/en/global-affairs/news/2025/03/canada-launches-its-first-global-africa-strategy-a-partnership-for-shared-prosperity-and-security.html [https://perma.cc/9SPF-N5RE].

[112] Government of Canada, "International assistance projects funded by Global Affairs Canada," https://w05.international.gc.ca/projectbrowser-banqueprojets/filter-filtre#resultsTbl [https://perma.cc/B69Q-SCKF]. We used this database to identify projects in Africa that focused on the extractive industries during the period 2002 - 2024. Together, these projects totaled $337 million.

[113] Ibid.

The projects seek to achieve these objectives through strategies that include:

- strengthening mining policy, governance, and administration;
- supporting voluntary industry guidelines;
- supporting vocational development in the extractive sectors; and
- developing policies on corporate social responsibility.[114]

Several projects in different countries merit further discussion.

8.2.1. ETHIOPIA

Two multimillion-dollar projects directed at the extractive sector were launched in Ethiopia in 2016. The first, a $12 million project that ran from 2016 to 2022, aimed to strengthen education in natural resource management in Ethiopia. It worked with universities and technical institutes to, among other things, “align them more closely with the needs of the private sector.”[115]

The second, a $15 million project launched in 2016, sought to strengthen governance of Ethiopia's mining sector. The project aimed to “enable the Ministry of Mines to effectively develop, supervise and monitor regulations and policies for the sector that secure greater economic and social benefits for all Ethiopians and mitigate negative environmental impacts.”[116] Global Affairs Canada states that the project led to dramatic growth in capital investment in the mining sector and a substantial increase in the number of exploration licences issued by the Ethiopian government. The amount of time taken to process mining licences also fell precipitously.[117]

Despite being launched under Canada’s new feminist foreign policy, an evaluation by the NGO Canadian Executive Service Overseas (CESO) found that the project was inconsistent with this policy.[118] CESO reported that neither the project team nor the ministry “were working with nor had any collaborative partnerships with any women-led, grassroots or community organizations engaged directly or indirectly in the mining sector.”[119] The evaluation concluded that without input from such groups, women's perspectives and needs could not meaningfully be addressed in

[114] Ibid.

[115] Government of Canada, "Project profile - Strengthening Education in Natural Resource Management in Ethiopia," https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d000284001 [https://perma.cc/XPD6-D6LJ].

[116] Government of Canada, “Project profile - Supporting the Ministry of Mines to Strengthen Governance and Management of the Mining Sector,” https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d003320001 [https://perma.cc/T75B-UNAU].

[117] Ibid.

[118] Coles, supra note 74.

[119] Ibid at 8.

proposed policies and practices. This oversight is a serious shortcoming in the project, given "the potential for human rights and women's rights abuses in a sector already ubiquitously steeped in such abuses historically and around the world."[120]

8.2.2. TANZANIA

In 2016, Canada provided the World Bank's International Finance Corporation (IFC) with $9 million to improve the business environment in Tanzania. The IFC worked with Tanzania's government, the private sector, and Canadian experts, including Export Development Canada, to "reform national business, tax and trade regulations in order to improve market access, increase trade, investment and job creation and enhance private sector competitiveness" in the extractive and other sectors.[121]

8.2.3. MALI

One project started in 2016 aimed to support communities living near a Canadian-owned mine. The $5.3 million project provided employment skills to community members living near the Fekola mine owned by B2Gold. Global Affairs Canada states that the project led to 13 cooperatives signing supply contracts with the company.[122]

8.2.4. BURKINA FASO

One project in Burkina Faso involved the Canadian government, together with the NGO Plan International, partnering with the mining company IAMGOLD Corporation (IAMGOLD) to promote the industry. The program trained youth for the "labour market needs in the mining sector and its sub-sectors."[123] Global Affairs identified several anticipated results, including a "stronger partnership between government institutions, mining companies, donors and Non-Governmental

[120] Ibid at 10.

[121] Government of Canada, "Project profile - Creating a Business Enabling Environment for Sustainable Economic Growth," https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d001588001 [https://perma.cc/6QM9-X89L].

[122] Government of Canada, "Project profile - Training-Employment Adequacy in the Kéniéba District of Mali," https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/d002669001 [https://perma.cc/JG39-WWZK].

[123] Paula Butler, "Gold 'n' Girls: Why Canada Weds Gender Equality with Mining Capitalism in Burkina Faso" in *Obligations and Omissions: Canada's Ambiguous Actions on Gender Equality*, Rebecca Tiessen and Stephen Baranyi, eds (McGill-Queen's University Press, 2017) at 154.

Organizations (NGOs) to increase investments in Corporate Social Responsibility (CSR)."[124] Canada contributed $5.7 million, IAMGOLD just $1 million, and Plan Canada $0.9 million to the program, which ran from 2011–2017.[125] This partnership was established despite the removal of of almost 17,000 people from IAMGOLD's Essakane mine in 2009–2013. While the company provided concrete homes and other infrastructure improvements for the displaced communities, they nonetheless lost land they had used for artisanal mining, grazing, and farming.

Canadian scholar Paula Butler argues that this development assistance would have been more effective if it had been devoted to formalizing the artisanal mining sector, which was central to local communities before IAMGOLD's arrival. She explains:

> Western mining companies generally oppose efforts by African countries to prioritize artisanal mining because they may lose access to lucrative resources. In that context, [Department of Foreign Affairs and International Trade], Plan Canada, and IAMGOLD claim to increase opportunities for employment and reduce poverty for male and female Burkinabé youth, why has no consideration been given to opportunities in artisanal mining? None of the jobs for which the project is training Burkinabé youth is likely to generate monthly incomes comparable to what can be obtained from small-scale mining.[126]

Read more about IAMGOLD's Essakane mine in the displacement and labour chapters.

8.3. PROMOTING INTERNATIONAL INVESTMENT AGREEMENTS

International investment agreements are a structural mechanism Canada uses to support domestically incorporated extractive companies abroad. These arrangements, often included in trade agreements and FIPAs, allow foreign companies to seek compensation from host countries for any regulatory action that threatens prospective profits, even when that action has legitimate public policy objectives, such as protecting public health or the environment. Corporate claims arising from these agreements are not settled by courts but rather through a private arbitration process called investor-state dispute settlement (ISDS). Osgoode Hall Law School professor Gus

[124] Government of Canada, "Project profile - Capacity-Building of Youth to Grow the Economy: a Public-Private Partnership," https://w05.international.gc.ca/projectbrowser-banqueprojets/project-projet/details/s065292002 [https://perma.cc/TP95-5BER].

[125] Butler, supra note 123.

[126] Ibid at 157.

Van Harten contends this arbitration is "not independent. It's not fair. It's not balanced. It's also not respectful to domestic institutions."[127]

The *United Nations Guiding Principles on Business and Human Rights* caution that bilateral investment treaties and free trade agreements "may constrain States from fully implementing new human rights legislation, or put them at risk of binding international arbitration if they do so." The principles advise states to "retain adequate policy and regulatory ability to protect human rights under the terms of such agreements, while providing the necessary investor protection."[128]

The *African Charter on Human and Peoples' Rights* requires that signatories undertake to eliminate all forms of foreign economic exploitation so as to enable their peoples to fully benefit from the advantages derived from their national resources.[129] Approximately 30 years after the adoption of the *Charter*, the African Commission on Human and Peoples' Rights adopted guidelines on its application in the context of the extractive industries.[130] The guidelines provide

> [e]xisting bilateral and multilateral agreements between states, or with international financial institutions, that are not in line with Article 21(5) should be revised or renegotiated. The negotiation of such agreements should include the minimum guarantees under Article 21 of the African Charter including responsibility of international economic actors for the human and peoples' rights consequences of their activities and for fully meeting all fiscal obligations and respecting internationally acceptable labour and environmental standards.[131]

Canada nevertheless continues to promote ISDS in Africa, even though it removed the corresponding provision from its free trade agreement with the U.S. and Mexico.[132] According to Chrystia Freeland, Canada's then Deputy Prime Minister, Canada opposed the inclusion of ISDS in the agreement because "ISDS elevates the rights of corporations over those of sovereign

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[127] Testimony of Gus Van Harten, Osgoode Hall Law School, Parliament of Canada, Standing Committee on International Trade, March 22, 2021, https://www.ourcommons.ca/DocumentViewer/en/43-2/CIIT/meeting-20/evidence#Int-11193037 [https://perma.cc/9D6J-BX9D].

[128] United Nations High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights* (2011) at 11, https://www.ohchr.org/sites/default/files/2022-02/Formatted-version-of-the-guidance-EN_0.pdf [https://perma.cc/W3PT-B6MX].

[129] Organization of African Unity, *African (Banjul) Charter on Human and Peoples' Rights* (1981), article 21 (5), https://treaties.un.org/doc/Publication/UNTS/Volume%201520/volume-1520-I-26363-English.pdf [https://perma.cc/AX7J-5ZM5].

[130] African Commission on Human and People's Rights, *State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment* (2018), https://achpr.au.int/en/node/845 [https://perma.cc/9S5C-HSA4].

[131] Ibid at para 18.

[132] Hannah Johnston and Rena Taggar, "The Negative Cost of ISDS on Canadian Sovereignty," Blog: Canadian Journal of Commercial Arbitration, https://cjca.queenslaw.ca/news/the-negative-cost-of-isds-on-canadian-sovereignty-nafta-lone-pine-and-beyond [https://perma.cc/3ZWV-YXPH].

governments. In removing it, we have strengthened our government's right to regulate in the public interest, to protect public health and the environment, for example."[133]

While Canada has protected itself against claims by U.S. companies, it continues to facilitate Canadian companies' claims *against* countries in Africa. Scott Sinclair at the Canadian Centre for Policy Alternatives reports that "Canadian investors, especially from the mining and energy sectors, are aggressive users of ISDS against other governments."[134]

Canada currently has FIPAs with Benin, Burkina Faso, Cameroon, Côte d'Ivoire, Guinea, Mali, and Senegal. Agreements are in development with the Democratic Republic of the Congo, Nigeria, Tanzania, Tunisia, and Zambia.[135]

The circumstances surrounding the conclusion of Canada's FIPA with Burkina Faso demonstrate how vital these instruments are to protecting Canadian extractive companies operating abroad. In October 2014, after days of violent protests, then President Blaise Compaoré of Burkina Faso stepped down. The uprising followed Mr. Compaoré's bid to extend his 27-year tenure through a constitutional amendment. The armed forces quickly appointed Lieutenant-Colonel Isaac Yacouba Zida as transitional head of state.[136] Six months later, in April 2015, Mr. Zida came to Ottawa to sign a foreign investment promotion and protection agreement.[137] At that time, 15 Canadian mining companies held assets in Burkina Faso valued at over $1.6 billion.[138]

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[133] Prime Minister of Canada, "Prime Minister Trudeau and Minister Freeland speaking notes for the United States-Mexico-Canada Agreement press conference" (October 1, 2018), https://www.pm.gc.ca/en/news/speeches/2018/10/01/prime-minister-trudeau-and-minister-freeland-speaking-notes-united-states [https://perma.cc/RJ8A-D999].

[134] Scott Sinclair, *The Rise and Demise of NAFTA Chapter 11* (Canadian Centre for Policy Alternatives, April 2021), at 22, https://www.policyalternatives.ca/wp-content/uploads/attachments/The_Rise_and_Demise_of_NAFTA_Chapter_11.pdf [https://perma.cc/3NGQ-6JDA].

[135] Government of Canada, "Trade and investment agreements," https://international.canada.ca/en/global-affairs/services/trade/agreements-negotiations/investment-agreements#dataset-filter1 [https://perma.cc/3JRB-3965].

[136] The Associated Press, "Lt.-Col. Isaac Yacouba Zida declared Burkina Faso's new leader" (November 1, 2014), https://www.cbc.ca/news/world/lt-col-isaac-yacouba-zida-declared-burkina-faso-s-new-leader-1.2820991 [https://perma.cc/DB6T-E6MQ].

[137] Government of Canada, "Canada Signs Investment Agreement with Burkina Faso" (April 20, 2015), https://www.canada.ca/en/news/archive/2015/04/canada-signs-investment-agreement-burkina-faso.html [https://perma.cc/UHH5-6VPC]; W.R Nadège Compaoré and Tongnoma Zongo, "Canadian Mining in Burkina Faso: Artisanal and Small-scale Mining (ASM) Delegitimation as Structural Displacement, " in *Capitalism and Dispossession: Corporate Canada at Home and Abroad*, David P. Thomas and Veldon Coburn, eds (Fernwood Publishing, 2022), 231.

[138] This figure was previously reported by Natural Resources Canada on "Canadian Mining Assets (CMA) by Country and Region, 2013 and 2014," which is no longer available online. The amount was confirmed in Natalie Nanowski, "Burkina Faso: Quebec's links to the West African nation," CBC News (January 18, 2016),

Elections were held in Burkina Faso in November 2015, marking the end of the transitional government. The following month, Mr. Zida was given permission to visit his family in Canada. When his leave expired in February 2016, Mr. Zida remained in the country. He was charged with "desertion in peacetime and refusal to obey" in Burkina Faso and was dismissed from the army. An international arrest warrant was issued for Mr. Zida, but was subsequently lifted.[139]

According to the Canadian Broadcasting Corporation, members of the 2014/2015 transitional government faced allegations of corruption. For example, an audit conducted by anti-corruption authorities in Burkina Faso revealed that many of the public procurement contracts awarded during the transition government failed to comply with applicable laws.[140]

8.4. EXPORT DEVELOPMENT CANADA

Export Development Canada (EDC) is an export credit agency mandated to support Canadian business, both in Canada and overseas. A Crown corporation, EDC provides loans, guarantees, and political risk insurance. In 2019, The Globe and Mail published a major exposé of the Crown corporation, explaining that:

> [EDC] deals carry the federal government's stamp of approval and they are backed by its AAA credit rating. That allows EDC to assume risks that private banks would deem unacceptably high. Its clients include companies that have been dogged for years by corruption allegations and graft investigations. Others have even been accused of human-rights violations or environmental abuses. Even so, EDC has held fast with many Canadian exporters and foreign state-owned companies amid embarrassing scandals, and stood by them as other institutions imposed sanctions on them or cut them loose. In the most severe cases, this exposes the federal government to the risk of receiving tainted funds.[141]

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https://www.cbc.ca/news/canada/montreal/quebec-burkina-faso-link-1.3409458 [https://perma.cc/5SJY-XE43].

[139] "Burkina Faso: la justice militaire lève le mandat d'arrêt international contre Isaac Zida," RFI (June 2, 2023), https://www.rfi.fr/fr/afrique/20230602-burkina-la-justice-militaire-lève-le-mandat-d-arrêt-international-contre-isaac-zida [https://perma.cc/HK8V-T486].

[140] "En permission au Canada, un ex-premier ministre burkinabé est poursuivi pour désertion," *Radio-Canada*, September 15, 2016, https://ici.radio-canada.ca/nouvelle/803371/isaac-zida-desertion-canada-burkina-faso-premier-ministre-exil-refuge [https://perma.cc/QD6K-KWCQ].

[141] Matthew McClearn and Geoffrey York, "See no evil: How Canada is bankrolling companies accused of bid-rigging, graft and human-rights violation," The Globe and Mail (June 1, 2019), https://www.theglobeandmail.com/canada/article-export-development-canada-investigation [https://perma.cc/WVL9-YXTA].

Several companies profiled in this report have received EDC financing. In 2000, EDC provided Barrick with $173 million in political risk insurance for the Bulyanhulu mine in Tanzania.[142] Barrick acquired the mine in 1999 after hundreds of thousands of small-scale miners were displaced without compensation to make way for the mine, as described in the displacement chapter. In 2007, the Crown corporation provided Sherritt International with approximately $500 million in financing for the Ambatovy mine in Madagascar.[143] The mine, which was operated by Sherritt until 2020, has caused environmental and social harm, as described in the environment chapter.

From 2012 to 2019, EDC provided Kinross Gold with up to $850 million in general corporate loans.[144] Clients may use these loans at their discretion, in the jurisdiction of their choosing. EDC also provided a $100 million loan in 2019 for the Tasiast mine in Mauritania.[145] From 2011 to 2019, workers at the mine went on strike four times to improve pay and working conditions, as described in the labour chapter. Just months after the 2019 loan for Tasiast was approved, workers went on strike yet again. Moreover, in 2018 the United States Securities and Exchange Commission ruled that Kinross violated the *Foreign Corrupt Practices Act* at its mines in Mauritania and Ghana, as described in the corruption chapter. Even after the SEC issued its decision, EDC provided the company with loans in 2018 and 2019.[146]

Finally, from 2012 to 2020, EDC provided IAMGOLD with up to $200 million in loans.[147] The company displaced almost 17,000 people at the Essakane mine in Burkina Faso between 2009 and 2013. As described in the displacement chapter, the move was devastating for many community members and local artisanal miners.

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[142] The NGO Working Group on the Export Development Corporation, *Reckless Lending Volume II: How Canada's Export Development Corporation puts People and the Environment at Risk* (May 2001), https://probeinternational.org/library/wp-content/uploads/2011/12/Reckless-Lending-Volume-II.pdf [https://perma.cc/AAH6-VPNC]; Black, supra note 5, at 171-172.

[143] Export Development Canada, "Signed Category A Projects prior to Nov. 1, 2010," https://www.edc.ca/en/about-us/corporate/disclosure/reporting-transactions/signed-category-a-prior-november-2010.html [https://perma.cc/8DAX-FFB2].

[144] Export Development Canada, "Historical Individual Transaction Information," https://www.edc.ca/en/about-us/corporate/disclosure/reporting-transactions/historic-individual-transactions.html. For individual years, see: https://perma.cc/6H33-5QUY, https://perma.cc/4CAC-8E39, https://perma.cc/RQ4C-763T, https://perma.cc/V89K-842U, https://perma.cc/2M2B-U958, https://perma.cc/P3FU-BNCD, https://perma.cc/269K-G5WK.

[145] Export Development Canada, "Signed Category A projects after Nov. 1, 2010," https://www.edc.ca/en/about-us/corporate/disclosure/reporting-transactions/signed-category-a-after-november-2010.html [https://perma.cc/PPV9-8N6G].

[146] EDC, supra note 144. For individual years, see: https://perma.cc/BE5K-DGAR, https://perma.cc/269K-G5WK.

[147] Ibid. For individual years, see: https://perma.cc/6H33-5QUY, https://perma.cc/P3FU-BNCD, https://perma.cc/LW7S-EN6Q, https://perma.cc/C2UK-RU2U.

COMPANY INDEX

ALLIED GOLD CORPORATION

Allied (TSX: AAUC) is incorporated in Ontario.[1] The company owns the Sadiola mine in Mali, the Bonikro and Agbaou mines in Côte d'Ivoire, and the Kurmuk project in Ethiopia.[2] Zijin Mining Group announced a deal in January 2026 to acquire Allied Gold, which would transfer ownership of these assets to them upon closing.[3]

Allied Gold Corporation is included in the conflict chapter.

ANVIL MINING

Anvil was incorporated in the Northwest Territories in 2004.[4] The company operated three copper, silver, and cobalt mines in the Democratic Republic of the Congo: Kinsevere, Dikulushi, and Mutoshi.[5] In 2012 Anvil was purchased by Minmetals Resources Ltd., a company incorporated in Hong Kong.[6]

Anvil Mining is included in the conflict and corruption chapters.

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[1] Allied Gold Corporation, *Annual Information Form for the Financial Year Ended December 31, 2024* (March 31, 2025), https://www.sedarplus.ca/csa-party/records/document.html?id=8641a1ca478790379e4d2e3f81b0a84c96ffcd9a5ef5241fa25373dced030809 [https://perma.cc/KMP7-NV6E].

[2] "Our Portfolio," Allied Gold Corporation, https://alliedgold.com/overview/default.aspx#.

[3] "Zijin Gold International to Buy Allied Gold for C$5.5 Billion" (January 28, 2026) https://www.zijinmining.com/news/news-detail-122569.htm [https://perma.cc/D6JC-R5TS].

[4] Anvil Mining, *Annual Information Form For Financial Year Ended December 31, 2009* (March 31, 2010), https://www.sedarplus.ca/csa-party/records/document.html?id=8664f7c370dbef3cd1966d21911b5fd587fb2210281a2feb30302b9016716718 [https://perma.cc/8RUT-7Y2Y].

[5] Ibid.

[6] MMG, "Minmetals Resources Limited completes compulsory acquisition of remaining common shares of Anvil Mining Limited" (March 20, 2012), https://www.mmg.com/media-release/compulsory-acquisition-of-anvil-mining-limited-d37/ [perma.cc/XWU3-VDAP].

B2GOLD CORPORATION

B2Gold (TSX: BTO) is incorporated in British Columbia.[7] B2Gold is a gold mining company with interests around the world. In Africa, the company owns mines in Mali (Fekola) and Namibia (Otjikoto).[8]

B2Gold Corporation is included in the conflict and economic diplomacy chapters.

BANRO CORPORATION

Banro was a gold mining company incorporated federally in Canada and headquartered in Toronto.[9] It operated two gold mines in the Democratic Republic of the Congo: Twangiza and Namoya. In 2017 the company was unable to meet its financial obligations and was granted creditor protection. The following year it delisted from the Toronto Stock Exchange. In 2019 one of its principal shareholders, a Chinese investment fund, took control of the Twangiza mine.[10] The following year, Banro sold the Namoya mine.[11]

Banro Corporation is included in the displacement, labour, and silencing critique chapters.

BARRICK MINING CORPORATION

Barrick (TSX: ABX) is incorporated in British Columbia.[12] The company has mining operations around the world. In Africa, Barrick owns mines in the Democratic Republic of the Congo (Kibali),

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[7] B2Gold, *Annual Information Form* (March 28, 2025), https://www.sedarplus.ca/csa-party/records/document.html?id=10679e94d7370cc44b1a5f4d3cf8638a28db7981d7bc7539762338ad4e53d511 [https://perma.cc/8ZFZ-ESZ7].

[8] B2Gold, "Operations Overview," https://www.b2gold.com/operations-projects/overview/default.aspx [https://perma.cc/9G85-55CD].

[9] Banro Corporation, *Annual Information Form For the financial year ended December 31, 2015* (March 28, 2016), https://www.sedarplus.ca/csa-party/records/document.html?id=909986f85c72c3f2c0a719346b3ae5706c4ef2b9451ac6ce87843a84df95fc54 [https://perma.cc/JB8Q-AWZC].

[10] Ben Radley, *Disrupted Development in the Congo: The Fragile Foundations of the African Mining Consensus* (Oxford Academic Books, 2023).

[11] Mining News Magazine, "Shomka Resources Ltd signs definitive agreement to acquire 100% of the shares of the Namoya Mine in the Maniema Province, DR of Congo (DRC) from Banro Corporation Ltd in exchange for payment of royalties from production" (June 23, 2020), https://miningnewsmagazine.org/shomka-resources-ltd-signs-definitive-agreement-to-acquire-100-of-the-shares-of-the-namoya-mine-in-the-maniema-province-dr-of-congo-drc-from-banro-corporation-ltd-in-exchange-for-payment-of-royalti/ [perma.cc/BKX7-5GDE].

[12] Barrick Gold Corporation, *Annual Information Form. For the year ended December 31, 2023* (March 15, 2024),

Tanzania (Bulyanhulu and North Mara), Mali (Loulo-Gounkoto), Côte d'Ivoire (Tongon), and Zambia (Lumwana).[13]

Barrick Mining is included in the conflict, economic diplomacy, environment, and displacement, labour, security and violence, and silencing critique chapters.

DIAMONDWORKS LTD.

DiamondWorks was incorporated in the Yukon Territory.[14] Its principal properties were in Sierra Leone, Angola, and the Central African Republic.[15]

DiamondWorks Ltd. is included in the conflict chapter.

DUNDEE PRECIOUS METALS

Dundee Precious Metals Inc. (TSX: DPM) is incorporated federally in Canada.[16] The company owns and operates the Chelopech and Ada Tepe mines in Bulgaria, and holds exploration properties in Serbia, Ecuador, and Bulgaria.[17]

Dundee Precious Metals is included in the environment chapter.

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https://s25.q4cdn.com/322814910/files/doc_downloads/agm/2024/Barrick_Annual_Information_Form_2023.pdf [https://perma.cc/83N7-T8ME].

[13] Barrick Gold Corporation, "Operations," https://www.barrick.com/English/operations/default.aspx#copper-ops [https://perma.cc/2889-5LUR].

[14] DiamondWorks Ltd., *Longform Prospectus* (October 24, 1997), https://www.sedarplus.ca/csa-party/records/document.html?id=d4f0610cad08fe05e4e81cbc72e47168dedc01c98e121ca254334e1386888356 [https://perma.cc/VQX3-K7N2].

[15] DiamondWorks Ltd., *Material Change Report* (May 14, 2004), https://www.sedarplus.ca/csa-party/records/document.html?id=d7f89b7190a143d09042095431dd427c2aad1a54f53e2eee5d73aabd3ef6c01a [https://perma.cc/VBL3-3C3J].

[16] Dundee Precious Metals, *Annual Information Form For the Year Ended December 31, 2024* (March 25, 2025) https://www.sedarplus.ca/csa-party/records/document.html?id=e917cf798b835dda08cd822ec55de15ff8c31c6cf1a5bf2fb9195cf9883302bc [https://perma.cc/K2TQ-AU39].

[17] Ibid.

EAST AFRICA METALS INC.

East Africa Metals (TSX: EAM.V) is incorporated federally in Canada. The junior mining company holds interests in Ethiopia (Terakimti gold heap leach project and the Mato Bula and Da Tambuk projects) and Tanzania (Magambazi).[18]

East Africa Metals is included in the conflict chapter.

FIRST QUANTUM MINERALS

First Quantum (TSX: FM) is incorporated in British Columbia.[19] The company has mining operations around the globe. In Africa, the company operates in Mauritania (Guelb Moghrein) and Zambia (Sentinel and Kansanshi).[20]

First Quantum Minerals is included in the corruption, environment, displacement, labour, and silencing critique chapters.

GRIFFITHS ENERGY INTERNATIONAL

Griffiths Energy, incorporated federally in Canada,[21] was a Calgary-based oil exploration and development company with operations in Chad, including the Mangara and Badila oilfields.[22]

Griffiths Energy is included in the corruption chapter.

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[18] East Africa Minerals Inc., *Management Discussion and Analysis For The Three Month Period Ended June 30, 2025*, https://www.sedarplus.ca/csa-party/records/document.html?id=724a3faa74e85f27c1ed53ff04343b19af7b6054b22c59f08b5569dff5db85f3 [https://perma.cc/ZP29-PU74].

[19] First Quantum Minerals Ltd., *Annual Information Form. As at December 31, 2023* (March 28, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=58a625e13b25b63ee47c8761102d1db328bf36ef2424f058d53d4bcf03883330 [https://perma.cc/A7AV-FXWH].

[20] First Quantum Minerals, "Delivering global growth," https://www.first-quantum.com/English/our-operations/default.aspx [perma.cc/KES2-XY9U].

[21] Griffiths Energy International, *Preliminary Prospectus* (November 22, 2011), https://www.sedarplus.ca/csa-party/records/document.html?id=da6d31dc8f8cee9d1cc653e83fd4f2df309502d650856d5f6ec89d96b5a4eb23 [https://perma.cc/H44T-X88Q].

[22] Carrie Tait, "Griffiths, Glencore team up in Chad," The Globe and Mail (September 19, 2012), https://www.theglobeandmail.com/report-on-business/streetwise/griffiths-glencore-team-up-in-chad/article4553150/ [https://perma.cc/75PX-V8VR].

IAMGOLD CORPORATION

IAMGOLD (TSX: IMG) is incorporated federally in Canada.[23] The company has three operating gold mines: Essakane in Burkina Faso, and Westwood and Côté in Canada.[24]

IAMGOLD is included in the economic diplomacy, displacement, and labour chapters.

IVANHOE MINES

Ivanhoe (TSX: IVN) is incorporated in British Columbia.[25] The company operates three mines in Africa: Kamoa-Kakula and Kipushi in the Democratic Republic of the Congo, and Platreef in South Africa.[26]

Ivanhoe Mines is included in the corruption and displacement chapters.

KINROSS GOLD CORPORATION

Kinross (TSX: K.TO) is incorporated in Ontario.[27] The company owns mines around the world. In Africa, Kinross operates the Tasiast gold mine in Mauritania.[28]

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[23] IAMGOLD Corporation, *Annual Information Form For the financial year ended December 31, 2023* (March 14, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=5209ed368df3e822e7ddaa380a105ba7e2d6a6510172f153beb373720cc40235 [https://perma.cc/26KP-L2M8].

[24] IAMGOLD Corporation, "Operations," https://www.iamgold.com/English/operations/guidance/default.aspx [perma.cc/ZBS4-7L28].

[25] Ivanhoe Mines, *Annual Information Form. For the year ended December 31, 2023* (March 27, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=dd9a69e5b27a6c5c804331e276512cc3e1f636b5a84fa2dea9b41f4c8d07e4a3 [https://perma.cc/U86N-R6H6].

[26] Ivanhoe Mines, "Operations & Projects," https://www.ivanhoemines.com/what-we-do/operations-projects/kamoa-kakula-mining-complex/ [https://perma.cc/8V3E-VQWX].

[27] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31, 2023* (March 27, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=952b8b020a38f7b8f947bf33bedf2c70324036144b610a3126715a6d02c004cd [https://perma.cc/U6KV-63U8].

[28] Kinross Gold Corporation, "Operations," https://www.kinross.com/operations/default.aspx#exploration [https://perma.cc/J5RU-GC9B].

From 2010[29] to 2022, the company held a 90% interest in the Chirano gold mine in Ghana.[30] Kinross Gold is included in the corruption, economic diplomacy, and labour chapters.

LUCARA DIAMOND CORPORATION

Lucara (TSX: LU) is incorporated in British Columbia.[31] The company produces diamonds at its wholly owned Karowe mine in Botswana.

Lucara Diamond Corporation is included in the labour chapter.

NEVSUN RESOURCES LTD.

Nevsun, incorporated in British Columbia,[32] was a Vancouver-based gold mining company that held an interest in the Bisha mine in Eritrea and the undeveloped Timok project in Serbia.[33]

Nevsun Resources is included in the economic diplomacy and labour chapters.

RECONNAISSANCE ENERGY AFRICA

Reconnaissance Energy Africa (ReconAfrica) (TSXV: RECO) is incorporated in British Columbia.[34] ReconAfrica is a Calgary-based junior oil and gas company currently conducting

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[29] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31, 2019* (March 30, 2020), https://www.sedarplus.ca/csa-party/records/document.html?id=61112485c5640d8aa33343bd2d35c85dda4ee635bcacbd676aafc777d8050924 [https://perma.cc/YRV6-H8PZ].

[30] Kinross Gold Corporation, *Annual Information Form For the Year Ended December 31, 2023* (March 27, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=952b8b020a38f7b8f947bf33bedf2c70324036144b610a3126715a6d02c004cd. [https://perma.cc/U6KV-63U8].

[31] Lucara Diamond, *Annual Information Form For the Year Ended December 31, 2023* (March 28, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=4f2bf6b64c9bb8196594a2f61ece46b74d73665729ac59cb777b4203d8ecda5c [https://perma.cc/6WA6-JSCC].

[32] Nevsun Resources Ltd., *Amended Annual Information Form For the year ended December 31, 2017* (April 19, 2018), https://www.sedarplus.ca/csa-party/records/document.html?id=27020f85d1718be4d250185822ce0a8c098b8adc06fd130071ab708cb111283d [https://perma.cc/7GB6-CZH8].

[33] Ibid.

[34] Reconnaissance Energy Africa Ltd., *Annual Information Form For the Year Ended March 31, 2024* (July 29, 2024), https://www.sedarplus.ca/csa-

exploration activities in Namibia.[35] The company also holds interests in Botswana, Angola, and Gabon.[36]

Reconnaissance Energy Africa is included in the corruption, economic diplomacy, environment, and displacement chapters.

REX DIAMOND MINING CORPORATION

Rex Diamond was incorporated in Ontario. The company had interests in Sierra Leone and South Africa.[37]

Rex Diamond Mining Corporation is included in the conflict chapter.

SEMAFO

SEMAFO was incorporated in Quebec and operated two gold mines in Burkina Faso: Mana and Boungou.[38] In 2020, SEMAFO was acquired by Endeavour Mining.[39]

SEMAFO is included in the labour chapter.

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party/records/document.html?id=938f2c5d160b080798870b6226ebd7f8ea4dde9d891f2c3479da4e43d49d061f [https://perma.cc/K6BV-RTK4].

[35] ReconAfrica, "About ReconAfrica," https://reconafrica.com/about/about-reconafrica/ [perma.cc/W99R-L3RP].

[36] See the company's news releases: https://reconafrica.com/news-media/news-releases/ [perma.cc/4Z8L-HF8S].

[37] Rex Diamond Mining Corporation, *Long Form Prospectus* (August 27, 1997), https://www.sedarplus.ca/csa-party/records/document.html?id=4a03ad797efde6d1e658092a60495641fd7841b107641c7c3f1dfd3b0b016f9d [https://perma.cc/KMQ7-F876].

[38] SEMAFO, *Annual Information Form For the financial year ended December 31, 2019* (March 4, 2020), https://www.sedarplus.ca/csa-party/records/document.html?id=9417915c3cc434614a22e7573bbbd52823053ba9afb515ca707926f1e59385c0 [https://perma.cc/BUR7-AKFT].

[39] Endeavour Mining, *Annual Information Form for the financial year ended December 31, 2024* (March 28, 2025), https://www.sedarplus.ca/csa-party/records/document.html?id=6fa0e379f945f894f71e7c1ab9c0902444bcba4200101387c2974d378b207914 [https://perma.cc/WTM9-KRL9].

SHERRITT INTERNATIONAL

Sherritt (TSX: S) is incorporated federally in Canada.[40] The company currently has mining operations in Canada and Cuba. From 2007[41] to 2020,[42] Sherritt was a joint-venture partner at the Ambatovy nickel and cobalt mine in Madagascar.

Sherritt International is included in the economic diplomacy, environment, and displacement chapters.

SUTTON RESOURCES LTD.

Sutton (VSE: STT) was a mineral exploration company incorporated in British Columbia.[43] In 1994 the company received a license for the Bulyanhulu gold mine in Tanzania. In 1999 Sutton was purchased by Barrick Gold.[44]

Sutton Resources is included in the economic diplomacy and displacement chapters.

TALISMAN ENERGY INC.

Talisman Energy, incorporated federally in Canada,[45] was a Calgary-based oil and gas company that operated between 1992 and 2015.[46]

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[40] Sherritt International Corporation, *2023 Annual Information Form* (March 21, 2024), https://www.sedarplus.ca/csa-party/records/document.html?id=9619096d093e0f96ee1af20d2f3cb04419a58fd66b37fe7799ee6ffc77ab4650 [https://perma.cc/FA8H-WMVM].

[41] Sherritt International Corporation, *2008 Annual Information Form* (March 23, 2009), https://www.sedarplus.ca/csa-party/records/document.html?id=b68240c538d76116f5f45942eab6d0f63afbd1a651f9e60922d19f7c8c1346fc [https://perma.cc/E6FY-EM3Q].

[42] Sherritt International Corporation, *2020 Annual Information Form* (March 17, 2021), https://www.sedarplus.ca/csa-party/records/document.html?id=91de68d1c8566299e6c1ef5f8a758b386647bfe98261f2f57f9b4bdbdbbb53d1 [https://perma.cc/T429-J4YL].

[43] Sutton Resources Ltd., *Long Form Prospectus* (June 23, 1997), https://www.sedarplus.ca/csa-party/records/document.html?id=f6b49cf19df25d4b748c2351fce5988ba7370a0a150740b51330ee0c115f5a40 [https://perma.cc/FDX4-AS62].

[44] CBC News, "Barrick completes Sutton takeover" (March 29, 1999), https://www.cbc.ca/news/business/barrick-completes-sutton-takeover-1.187893 [perma.cc/K7AY-4LVE].

[45] Talisman Energy, *Annual Information Form For the financial year ended December 31, 2014* (March 4, 2015), https://www.sedarplus.ca/csa-party/records/document.html?id=92366dfa88a86da669de1a08c89e9d72138251f7506ae367b211a6bd6df2615a [https://perma.cc/TH97-W83V].

[46] Repsol Oil & Gas Canada Inc., *Annual Information Form for the year ended December 31, 2015* (February 26, 2016) https://www.sedarplus.ca/csa-

The company had operations around the globe, including in Sudan. In 2015 Talisman was acquired by Repsol.[47]

Talisman is included in the conflict and economic diplomacy chapters.

TIOMIN RESOURCES INC.

Tiomin Resources, incorporated federally in Canada,[48] was a mineral exploration and development company. Its interests in Africa consisted of four Kenyan mineral sands projects (Kwale, Kilifi, Vipingo, and Mambrui).[49]

Tiomin Resources is included in the environment and displacement chapters.

TREVALI MINING CORPORATION

Trevali, incorporated in British Columbia,[50] was a base metals mining company headquartered in Vancouver. It owned the Caribou mine in Canada, the Perkoa mine in Burkina Faso, and the Rosh Pinah mine in Namibia.[51] In 2022 Trevali obtained creditor protection[52] and was delisted from the Toronto Stock Exchange.[53]

Trevali Mining Corporation is included in the labour chapter.

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party/records/document.html?id=10f456d204be77c6769efbca1f222564ec67004095b5445a091d06e107c7f550 [https://perma.cc/8W7A-UDAX].

[47] Ibid.

[48] Tiomin Resources Inc., *2008 Annual Information Form* (March 13, 2009), https://www.sedarplus.ca/csa-party/records/document.html?id=4519c8f184569bb0681b86a4d0933a22e7557f16e133d6bcca0e40fe3ccaf525 [https://perma.cc/6KU2-JRA7].

[49] Vaaldiam Mining Inc., *2009 Annual Information Form* (March 26, 2010), https://www.sedarplus.ca/csa-party/records/document.html?id=3c53b7d7ed8d0f02badbf6641b538c308f64fb95b896475c87d939e39d84caed [https://perma.cc/M2NT-RGFP].

[50] Trevali Mining Corporation, *Annual Information Form For the Year Ended December 31, 2021* (March 31, 2022), https://www.sedarplus.ca/csa-party/records/document.html?id=b659d5a99951f7c1cc58acab71f63cb1d8262f59f4c28432d926cac2651282e3 [https://perma.cc/LU8L-ZKPU].

[51] Ibid.

[52] Trevali Mining Corporation, "Trevali Receives Initial Order for CCAA Protection and Provides Operations Update" (August 19, 2022), https://www.sedarplus.ca/csa-party/records/document.html?id=367c7a94f8f57eec6ead2839a21114e69024c24ce28c0cd7d6309849e5a87fc5 [https://perma.cc/NRL6-RJDM].

[53] The Canadian Press, "B.C. mining CEO resigns after two executives convicted of involuntary manslaughter" (September 16, 2022), https://www.cbc.ca/news/canada/british-columbia/trevali-ceo-resigns-1.6586150 [https://perma.cc/GK43-XA9C].

Company Responses

A

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10 December, 2024

Dear Shin

I am writing in response to your email of November 16, 2024, addressed to our CEO, Mark Bristow, in which you asked us to provide our views in respect of matters, complaints and allegations set out in a letter you first sent to Barrick on September 13, 2024, other than those that pertain to the North Mara Gold Mine in Tanzania (to which we have already responded). Your letter of September 13 also purports to summarize Barrick's position concerning many of these issues based on publicly available materials.

Our CEO previously responded to your September letter on October 8, 2024 by directing you to numerous materials that have been posted on Barrick's website concerning the situation at North Mara. He did so because when you first transmitted your letter to Lois Wark, Barrick's Group Corporate Communications and Investor Relations Executive, you specifically asked us to "comment on the human rights situation in Tanzania". It appears that you have now invited Barrick to engage with the Justice and Corporate Accountability Project ("**JCAP**") concerning a host of topics pertaining to four different mines over a period of almost 30 years, some dating back to long discredited and entirely false allegations of mass genocide at the site of the Bulyanhulu Mine in Tanzania in 1996.

A. Barrick's Commitment to Sustainability and Willingness to Engage with NGOs

As you are no doubt aware, the Barrick Group of Companies is committed to sustainable mining at all of our operations throughout the world. Our vision of sustainability includes regular engagement with members of local communities and other stakeholders in the areas where our mines and projects are located. We also interact regularly with well-intentioned non-governmental organizations. For instance, North Mara Gold Mine Limited ("**NMGML**"), our Tanzanian affiliate that owns and operates the North Mara Gold Mine, engages with numerous local NGOs in an effort to improve the health, safety and quality of life of residents of the 11 villages located in the immediate vicinity of the Mine. Our community engagement activities there have focused on matters such as food security, the provision of clean potable water,

protecting the natural environment, improving access to health care, local economic development and the development of education and skills for local villagers.

By way of example only, NMGML has funded:

- HIV, tuberculosis and cervical cancer screening programs;
- Improvements to education and health-related infrastructure, including classrooms, pediatric and maternal wards at a local hospital as well as a laboratory;
- A community water project that benefits more than 50,000 residents of neighbouring villages; and
- 21 agribusiness groups that supply produce to local villagers and provide direct and indirect employment for hundreds of local residents, including youth and women.

In order to direct funding to deserving local projects, NMGML has established a Community Development Committee at North Mara. That Committee consists of, local leaders and villagers elected by members of their communities, as well as representatives of local women's groups and youth groups NGML, has one seat on this committee. These local stakeholders work together to allocate a community investment budget to projects and initiatives selected by them.

That said, it is an inevitable reality that no matter how properly a mine is constructed and operated, and how much effort the mine devotes to engaging with members of local communities and other stakeholders, disagreements may arise from time to time. This goes well beyond the Barrick Group of Companies. It is a reality both of the mining business and of the extractives sector more generally. Issues raised can range from complaints about noise or dust to environmental and human rights concerns. This is why the Barrick Group of Companies has developed operational-level mechanisms to ensure that individuals proximate to mines can register grievances and be confident that they will be investigated and addressed in a meaningful, timely and appropriate way. These grievance mechanisms are developed in line with the United Nations Guiding Principles on Business and Human Rights and the IFC Performance Standards, thereby ensuring that our grievance mechanisms are, among other things, accessible, predictable, consistent, transparent and culturally appropriate. We also

partner with local NGOs to review, refine and create public awareness about our grievance mechanisms on an ongoing basis.

Grievance mechanisms have been deployed with significant success at mine sites owned and operated by Barrick's affiliates in numerous countries around the world. Information concerning grievances received and the categories they fall into is disclosed publicly by Barrick on an annual basis.

We are aware of claims made by certain international NGOs that the grievance mechanisms in question are inadequate. Those NGOs have never shared with us information concerning their perceived shortcomings. Nor have they provided us with recommendations for how these mechanisms might be improved.

As materials that are readily accessible on our website clearly demonstrate, we interact regularly with NGOs concerning North Mara, and have repeatedly invited representatives of international NGOs to visit the Mine and engage in constructive discussions with representatives of Barrick and NMGML.

Regrettably, however, we have also had the experience of being targeted and criticized by irresponsible NGOs that appear to have little interest in ascertaining the relevant facts, in conducting even a modicum of due diligence before they launch campaigns against us, or in engaging with us in good faith. Instead, they use their misguided attacks as vehicles for fundraising. We are disheartened that certain members of the NGO community have felt entitled to make hyperbolic, unsubstantiated, manifestly false and often defamatory allegations about the Barrick Group of Companies or our operations. A number of them have done so over an extended period, as demonstrated by our discussion of the "Noir Canada" matter below. Their conduct has done nothing to enhance their stature or credibility, or to uplift or benefit members of local communities whose interests they claim to serve.

B. JCAP's Regrettable Conduct in Respect of the North Mara Gold Mine

Against this backdrop, and in view of very recent conduct representatives of JCAP have engaged in, we are left with considerable doubt that your organization is fair, open minded or genuinely interested in good faith engagement.

As recently as October 15, 2024, JCAP issued a joint press release with MiningWatch Canada ("**MWC**") and the Canadian Network on Corporate Accountability entitled "Barrick in Toronto Court over Allegations of Acts of Extreme Violence at North Mara Mine in Tanzania". This occurred immediately prior to the commencement of a three-day hearing of a "*forum non conveniens*" motion brought by Barrick in the Superior Court of Ontario to stay or dismiss litigation commenced against it in Ontario in respect of alleged incidents involving members of the Tanzania Police Force at or in the vicinity of the North Mara Gold Mine. The basis of the motion was that Tanzania is a more appropriate forum than Ontario in which to litigate and adjudicate matters of this nature.

MWC has a singularly unfortunate track record of making irresponsible and unfounded allegations against Barrick. It has done so repeatedly over a period of decades, including in respect of the Bulyanhulu matter discussed below. In the circumstances, JCAP's willingness to partner with MWC without apparently conducting an appropriate diligence review concerning its conduct and credibility is troubling.

Perhaps even more concerning is that in this joint press release JCAP considered it appropriate to opine on the underlying merits of the litigation in Ontario. JCAP did so despite the fact that:

(a) The merits of the various claims and allegations made by Plaintiffs in that litigation were not at issue in Barrick's motion;

(b) The Plaintiffs filed virtually no evidence to substantiate or establish any of their claims, complaints or allegations;

(c) None of those claims or allegations has been proved or established. Instead, they are heavily contested; and

(d) JCAP appears to have done nothing to investigate the truth or falsity of the claims and allegations at issue before opining on them.

This too is troubling.

Indeed, JCAP went so far as to express its desire that the litigation brought against Barrick in the Superior Court of Ontario succeed. In this regard, Professor Sara Ghebremusse—who sits

on JCAP's Board of Directors—extolled the virtues of the litigation in the joint press release. She stated the following:

> This lawsuit is a critical step toward properly adjudicating the claims of the Kuria people, whose lives have been deeply affected by Barrick Gold's operations at the North Mara Mine. […] Our organization stands with the plaintiffs as they seek to overcome the procedural obstacles that they face to securing a fair and independent hearing in Canada and the opportunity to access legal remedies for the devastating harm they report having suffered. We hope this case will significantly advance the law governing access to judicial remedy for communities affected by Canadian mining operations abroad.

I am told by my colleagues that Professor Ghebremusse attended all three days of the hearing of Barrick's motion on October 15,16 and 17, 2024. Regrettably, she proceeded to give an interview 10 days later, on October 28, 2024, to Yves Engler in which she made entirely unfair, inaccurate and defamatory comments concerning the North Mara Gold Mine that are flatly inconsistent with unchallenged evidence adduced by Barrick in respect of the motion. Of particular note, she stated the following:

> And what has occurred at North Mara, given its proximity to the local population, like it, the Mine literally borders several communities that are, you know, right next to the Mine. [...] And so a number of individuals have ventured into the Mine, into you know, areas that are where the waste rock is located, and actually tried to gather gold from the waste rock in order to sell it. [...] Barrick's lawyers even went so far in the hearing to describe these individuals as part of a criminal syndicate or a gang to allege that they are, you know, intentionally venturing onto the Mine to steal, you know, Barrick's property, Barrick's assets, even though this is waste rock that Barrick has no intention of actually using.

Having attended the hearing, Professor Ghebremusse must surely have known that her description of circumstances on the ground at North Mara was far from accurate, and in fact was completely inconsistent with the very evidence she purported to describe. In effect, she chose to create her own "facts" in an effort to support her false narrative regarding North Mara. Somewhat remarkably, during the same interview she appeared to take issue with the "conceptions of private property that … mining companies have", suggesting that it should not be considered unlawful for armed trespassers to repeatedly invade the North Mara Gold Mine for the purpose of stealing and damaging valuable property and equipment.

Although our external counsel wrote to Professor Ghebremusse concerning this matter on October 31, 2024 to complain about the fairness of her comments, he received no response. Professor Ghebremusse instead posted tweets about the matter that are unfortunate, at best. Copies of the relevant correspondence and of Professor Ghebremusse's tweets are enclosed with this letter.

On November 26, 2024, Justice Morgan of the Superior Court of Ontario granted Barrick's motion to dismiss or stay the proceedings in question. In doing so, Justice Morgan made a number of important findings concerning the administration of justice in Tanzania and the situation at the North Mara Gold Mine. Of particular note, Justice Morgan held in paragraph 30 of his Decision that "the Tanzania Police Force "is a national police force that operates under its own independent chain of command in all of Tanzania". He also pointed out in paragraphs 49 to 51 that trespassers routinely engage in violence while invading the mine site. He noted that: (i) "Contemporaneous press releases … describe several of the incidents in issue as armed intrusions by masses of local people onto the Mine's property, with some of the injuries and deaths of the Plaintiffs being a result of those participating in these intrusions fighting among themselves"; (ii) the evidence does not establish whether any of the Plaintiffs or their family members "were innocent victims of the police, were shot in self-defense by the police, or were attacked by others invading the Mine at the same time and competing for the gold ore found there"; and (iii) the evidence "likewise does not reveal whether the deceased Plaintiffs were themselves armed or carrying implements that could be used as weapons, whether the police opened fire unnecessarily on isolated individuals or were overwhelmed by a large number of people invading the Mine property, etc."

Justice Morgan is a senior and highly respected Justice of the Superior Court of Ontario. He found in favour of Barrick on every relevant issue even though its position on the motion was derided publicly by prominent representatives of both JCAP and MWC.

The Decision of Justice Morgan can easily be found at 2024 ONSC 6420. For your convenience, a copy of the Decision is also enclosed with this letter.

C. JCAP's Failure to Conduct Any Proper Investigation

The appendix to your letter of September 13, 2024, which purportedly contains "a summary of what [JCAP has] found" in respect of the operations of Barrick's affiliates in several countries, including Tanzania, the Democratic Republic of Congo and Zambia, raises serious concerns. In reality, that "summary" is nothing more than a lengthy chart that contains no "findings" at all. Instead, it is effectively a "data dump" that recycles a broad array of unfounded and discredited accusations concerning Barrick's operations in Africa, as well as claims concerning mistreatment that several members of the media have allegedly been subjected to by foreign governments. It is readily apparent that JCAP has conducted no independent investigation of its own, and that it appears to have paid little regard to the credibility or reliability of accusations it has presented Barrick with. That, of course, calls into question the professionalism and independence of JCAP as well as those who purport to speak on its behalf.

The chart identifies various "sources" from which the accusations in question are derived. Those sources do not support the relevant accusations. One of the "sources" is "Do we need a citation here?", which again calls into question the professionalism of JCAP and the seriousness of the research it claims to have conducted, as well as the thoroughness and reliability of any vetting process JCAP actually engaged in before you sent your letter. Notably, several of these "sources" are articles published by an NGO based in London, England called Rights and Accountability in Development ("**RAID**"). Like MWC, RAID has a well-documented penchant for making false and unsubstantiated claims and allegations concerning the North Mara Gold Mine, despite having no presence on the ground in Tanzania. Moreover, RAID has failed or refused to provide evidence in support of its claims even though Barrick has asked it repeatedly to do so. Barrick has commented on a number of occasions concerning its engagement with RAID in respect of the North Mara Gold Mine. I invite you to read Barrick's public statements concerning RAID at your convenience.[1]

D. Irresponsible Allegations Concerning the Bulyanhulu Mine

Although we have no intention of responding to every one of the unmeritorious accusations contained in your letter, they are all flatly denied. In fact, unchallenged evidence filed by Barrick

[1] The statements in question can be accessed here.

in the *forum non conveniens* motion referred to above answers and refutes a number of allegations contained in your chart.

By way of example only, your chart repeats meritless allegations made by RAID that "Barrick's preference for using [the Tanzania Police Force at North Mara] instead of mine security indicates a desire to prevent exposing the company to personal liability". Barrick's uncontested evidence establishes that, in fact: (i) the presence of the Tanzania Police Force at and in the area of the North Mara Gold Mine is indispensable because the Mine has been invaded repeatedly by large groups of armed intruders who scale 14-foot walls topped by electric fence, often in the dead of night, to steal gold-bearing rock and valuable equipment and other property while threatening, intimidating or assaulting employees of NMGML as well as local Tanzanian contractors; and (ii) the use of the Tanzania Police Force to safeguard the lives and safety of local Tanzanians as well as valuable property and equipment of NMGML is entirely consistent with the Voluntary Principles on Security and Human Rights. As you must surely be aware, the Voluntary Principles on Security and Human Rights are the leading international instrument governing arrangements of this nature in the extractives sector. Canada is a signatory to the Voluntary Principles and hosts its permanent Secretariat. These uncontroverted facts have been consistently ignored by RAID, MWC and Professor Ghebremusse, who choose instead to propagate their false and defamatory narratives regarding the North Mara Gold Mine.

One particularly problematic accusation contained in your chart is worthy of comment. Under the headings "Barrick Gold Corporation and the Bulyanhulu mine" and "Litigation Against *Noir Canada* Authors", your chart set outs the following allegation: "*Noir Canada*, a book published by Alain Deneault, Delphine Abadie and William Sacher, accused Barrick of being complicit in the deaths of 52 Tanzanian miners who, the book alleged, were buried alive during a forced eviction by state forces acting at the behest of the company".

This accusation concerning Barrick's alleged complicity in mass genocide at Bulyanhulu is manifestly false. Although this allegation concerns the most serious misconduct imaginable, it was made and repeated cavalierly years ago by multiple NGOs that did virtually nothing to investigate whether there was any substance to the allegations. Those NGOs included your partner MWC. These allegations have long since been discredited as having no foundation whatsoever.

Your chart indicates that this allegation is from 2008, when *Noir Canada* was published. In fact, the alleged incident at Bulyanhulu was alleged to have occurred some 12 years earlier, in August 1996. At the time, Bulyanhulu was owned by a subsidiary of a small Canadian mining company called Sutton Resources Inc., rather than by Barrick. Indeed, Barrick had no presence in Tanzania in 1996 and no involvement whatsoever in the events in question. Barrick did not acquire Sutton until approximately three years later, in 1999.

Moreover, the accusation that 52 people "were buried alive during a forced eviction … at the behest of" Barrick is nothing short of an outright fabrication. This false allegation was first made against Sutton—not Barrick—in the Tanzanian media as part of an extortion scheme perpetrated by a local Tanzanian criminal named Maalim Kadau after Sutton refused to accede to his demands for payment when local artisanal miners he had taken advantage of and stolen money and property from were safely removed from the site in question by members of the Tanzanian Military and Police in August 1996.

Even though the Tanzania Police Force determined within days that Kadau's allegations were demonstrably false—including because multiple people he alleged had been buried alive were located alive and well in a nearby village—Kadau's false allegations were repeated a year or so later in the Annual Report of Amnesty International and characterized as statements of fact rather than as allegations. They were then repeated by NGOs like MWC as well as by members of the mainstream media who somehow managed to transform these entirely false but extraordinarily serious allegations of misconduct against Sutton into allegations against Barrick. Remarkably, neither Amnesty International, MWC nor any of the other NGOs who made or repeated these allegations made so much as a single telephone call to Sutton to verify the truth of these allegations before they were made.

These entirely false allegations were finally debunked in a lengthy exposé published in December 2001 by a prominent and highly regarded Canadian journalist named Brian Hutchinson in an article in the National Post entitled "Barrick's African Tribulations: Canadian Company Takes Bum Rap For Deaths of Miners". I have also attached a copy of Mr. Hutchinson's article to this letter. I take from your letter of September 13, 2024 that you have never seen this important article, which could easily have been found if JCAP had conducted anything approaching proper, careful research before sending your letter.

The observations and conclusions reached by Mr. Hutchinson after months of careful investigation include the following:

- "[A]ctivists [advancing the accusation] continue to rely upon evidence that's dubious, at best". One activist said that there was no guarantee the "evidence" had not been "manufactured";
- "[A] mafia-like organization once ran an extensive, illegal mining operation at Bulyanhulu". That organization was led by Maalim Kadau, whom the former President of Sutton described as "the Tony Soprano of Tanzanian mining". Kadau was the person responsible for the accusation of mass live burials at Bulyanhulu, which he fed to a Tanzanian newspaper that first published it;
- A contemporaneous investigation conducted by the Tanzania Police Force determined that there was no truth to the allegation that Sutton's subsidiary had buried 52 people alive;
- The accusation was recycled by Amnesty International in 1997. Amnesty subsequently admitted (i) in 1998 that "the claimed high figure of 52 deaths is not supported by any evidence so far available" and (ii) in 2000 that the organization "was unable to substantiate the allegations of deaths". The Secretary-General of Amnesty International Canada later conceded that the organization "got it wrong" in its original statement about the matter;
- In November 2000, a newspaper in England regurgitated the accusation and connected the alleged massacre to Barrick. The newspaper later retracted the article after Barrick sued it for libel;
- In September 2001, MWC and another Canadian organization joined with a Tanzanian politician to resuscitate the accusation. Although they promised "dramatic new evidence", they had nothing of the sort. The principal "evidence" they relied upon was video footage from the Police investigation that Mr. Hutchinson found to be "utterly inconclusive". MWC could not identify a single person who was allegedly murdered and could not say that 52 people had died. The Tanzanian politician later claimed that the accusation of live burials was proven by video footage that turned out to be from September 1996—well after the alleged burials had taken place;
- "If anything, conditions at Bulyanhulu have improved since the Canadians arrived"; and

- “[I]n their rush to vilify members of the Canadian mining establishment, activists have seriously weakened their own credibility and usefulness”.

In 2008, approximately seven years after the National Post published Mr. Hutchinson’s exposé, the authors of *Noir Canada* sought to revive the debunked accusation of mass burials at Bulyanhulu. To make matters worse, they made their false allegations against Barrick, rather than against Sutton Resources. They went so far as to falsely accuse Barrick of complicity in “involuntary homicide and genocide”. As a result, Barrick sued the authors and their publisher for defamation. The litigation was ultimately settled. As part of the settlement, the publisher agreed to cease publishing and reprinting *Noir Canada*.

It is frankly shocking that in 2024—some 23 years after the National Post first published Mr. Hutchinson’s lengthy expose—JCAP would reproduce and pursue the entirely false accusation that Barrick was somehow complicit in the deaths of 52 artisanal miners at Bulyanhulu. The fact that JCAP has attributed this long-debunked accusation to the authors of *Noir Canada* does not improve matters. It is also perplexing that you would seemingly fault Barrick for having sued the authors and publisher of *Noir Canada*. Any responsible public company with a reputation to protect faced with manifestly false accusations as serious as participating in mass genocide would have done exactly what we did. The outcome of this litigation, as well as the litigation in the United Kingdom referred to above, speaks volumes.

The entire saga that ultimately unfolded in respect of Bulyanhulu is a cautionary tale concerning the remarkably cavalier approach that too many NGOs appear to take in respect of matters that both private and public companies in the extractives sector take extremely seriously. They appear to operate as if the rule of law stops at their doorsteps and that they are somehow entitled to sling serious but unfounded allegations of impropriety around with impunity. Unfortunately, by making or repeating false allegations of serious impropriety and misconduct, NGOs like JCAP can inflict massive reputational harm while sacrificing their own credibility and exposing themselves to a real risk of potential liability.

Before concluding, I would also like to express Barrick’s very serious concern at the contents of a section of JCAP’s chart titled “Barrick Gold Corporation and Reporters”. None of the entries under that heading suggests or asserts that Barrick engaged in improper conduct involving members of the press. However, the mere fact that these entries are set out underneath the above-referenced heading and included in a chart you are asking us to comment on leads us

to wonder whether JCAP seriously believes that Barrick played a role or engaged in conduct similar to any of the actions described in entries in question. To be perfectly clear, Barrick has done no such thing.

As I stated at the outset of this letter, Barrick is pleased to engage in good faith with NGOs that wish to have constructive discussions and care about the truth. Conversely, however, there appears to be little point in engaging with organizations that do not consider themselves bound by the facts or that traffic in salacious but unfounded allegations of misconduct.

If you would like to discuss this matter, and are ready and willing to do so in good faith and with an open mind, please do not hesitate to reach out to me.

Yours very truly,



Grant Beringer
Sustainability Executive

B

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United Kingdom

30 June 2025

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Dear Sirs/Mesdames:

Re: Justice and Corporate Accountability Project Letter

We confirm receipt of your letter dated December 27, 2024.

With respect to your request seeking an understanding of the incidents that you raise in your letter, we refer you to Endeavour Mining's profile on SEDAR+ where, as a publicly listed company, Endeavour Mining discloses any events deemed material through the platform. With respect to incidents concerning SEMAFO, we refer you to SEMAFO's profile on SEDAR+ as these incidents took place prior to the acquisition of SEMAFO by Endeavour Mining.

In response to your summary of events that occurred on August 27, 2022, we note that your facts are incorrect. The individuals that sadly lost their lives outside the mine site were not workers of Endeavour Mining or otherwise working under Endeavour Mining's control and, as such, Endeavour Mining is not in a position to comment on that incident.

Sincerely,

Samantha Campbell

EVP- Group General Counsel

Endeavour Mining plc

C

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Professor Shin Imai
Justice and Corporate Accountability Project

By email: info@justice-project.org

30 June 2026

Dear Professor Imai,

First Quantum Minerals Ltd Response to Justice and Corporate Accountability Project Research Findings

We write in response to your letter of 24 May 2026, in which you reproduce certain historic allegations that have previously been levelled against First Quantum Minerals Ltd. ("First Quantum"). We acknowledge your interest in these matters, and have provided a thorough response.

You wish to ensure that your understanding of events is accurate. However, no event occurs in isolation. As researchers, you will appreciate the vital importance of context, especially when one is seeking to understand the social impacts from an activity such as mining.

First Quantum has a long history in Zambia, spanning nearly three decades. Since First Quantum's Kansanshi mine commenced production in 2005, our mining operations have delivered profound fiscal and economic benefits to Zambia, and to North-Western Province in particular.

Historically, North-Western Province had been a developmental backwater, with minimal infrastructure or economic linkages to the rest of the country. To date, we have invested many billions of dollars into the province, not only directly into the activity of mining, but also in associated infrastructure – from the power grid, to roads, towns, businesses and beyond.[1] To give you some idea of the economic consequence of this investment, you may be interested to

[1] https://interactive.nkwazimagazine.com/bridges-beyond-the-minehow-first-quantum-minerals-is-shaping-national-infrastructure/

read our latest (2025) Tax Transparency and Economic Contributions Report[2]. You will see that our economic contribution to Zambia totalled $3.46 billion last year, with $2.14 billion spent on procurement through Zambian registered businesses – an amount representing roughly 7% of national GDP.

We would argue that, for a low-income country such as Zambia, economic growth and development is of prime importance. However, we understand very well that mining has many more impacts, positive and potentially negative, and spawns first through to fourth order consequences, that are inherently difficult to anticipate and which require multi-stakeholder, or a whole system response.

Investment and increased economic opportunity inevitably produce uneven outcomes – not everyone benefits equally – and this can generate internal community tensions and dissatisfaction for some. Similarly, opportunity brings migration, as populations vote with their feet. The consequence is a heightened competition for resources, and strain on existing infrastructure. We see this in North-Western Province, just as it is happening across the 'western' developed world, where the social impact can, similarly, produce resentment and division.

These are complex systems, and need to be recognised as such. First Quantum does not have all the answers or, rightly, autonomy of action over matters affecting Zambian society. However, we are a learning organisation, and we believe that our deliberate, proactive actions to address evolving impacts is evidence of that. For example, to address the risk of migration-fuelled urban sprawl – the blight of 'the mining town' – we invested $200 million, via the Kalumbila Town Development Corporation, to build Zambia's first privately developed town, to establish a long term civic and economic hub that would outlast the finite lifespan of the nearby Trident mining project.

Similarly, as a means of both offsetting our mining footprint and promoting alternative economies, First Quantum helped found and fund the West Lunga Conservation Project, near Kalumbila. We have invested approximately $68 million to date, in partnership with government agencies, international NGOs and community organisations, to restore nearly 12 000km² of the West Lunga ecosystem, reviving wildlife habitats and populations, and building a community-driven conservation economy.

Opened in 2025, the Wumi Mini Hospital is the latest investment under FQM's Butuntulu Bwa Nyaunda (Health for the Community) programme. The hospital provides doctor consultations,

[2] https://www.first-quantum.com/wp-content/uploads/2026/05/2025-tax-transparency-report.pdf

laboratory services, X-ray imaging and ultrasound care, with more than 10 700 patients treated in its first six months from opening.
Beyond this, the entire programme involves 5 health facilities constructed in Kalumbila District, major upgrades to the Solwezi General Hospital, the refurbishment and redesign of Kisasa Rural Health Centre, and support to 18 government health clinics in the Kalumbila and Solwezi districts. This is over and above the health care services provided to each of our mines. 000 staff, and up to five of their dependents.
These are just a few examples, albeit significant ones, of the hundreds of social investments that our foundations have made over the decades[3] – focused on health, education and economic opportunity – to ensure that the developmental impact of our activities is as beneficial, widespread, and as sustainable as possible.

Although these are not matters you have enquired about, understanding our approach, to information transparency – our open book approach to host societies – and to the economic, environmental and social impacts that we can and do have wherever we mine, is vital when you come to assess the plausibility of the allegations that you have reproduced for our comment.

Fatal Accidents

Though no allegation is made, you do correctly record the occurrence of four fatal accidents at our Zambia mining operations in the period 2022-2024.

The health and safety of our colleagues is unquestionably First Quantum's top priority, and so any serious accident – especially a fatality – is mourned by us all. We are engaged in a continuous endeavour to balance human behaviour, and the exercise of judgement, with strict operating procedures and protocols. As our Chief Executive said, we are absolutely committed to continuously improving upon our safety procedures.

While we cannot obviously share specific details relating to these incidents, we can assure you of the process that First Quantum follows in relation to each such incident.

Firstly, each First Quantum Zambian operation has an emergency response team (ERT), with trained paramedics, that are first responders to an emergency call. These, and subsequent actors, are co-ordinated by a crisis management team (CMT), formed in the site control room, who also report through to our corporate head office in real time. The CMT works from pre-planned scenarios to guide and hasten the response to any developing situation. First Quantum has medical facilities on site, including the Kansanshi and Trident Mine Hospitals, and also has

[3] For reference, First Quantum invested $24 million in social investments in Zambia in 2025 alone.

the use of local private hospitals in Solwezi, Ndola and Lusaka. Where necessary, we have the services of an air ambulance provider and medical facilities in Johannesburg, South Africa. Designated family members accompany the injured, wherever they are taken.

Further, the Mines Regulatory Commission (MRC)[4], Zambian Police Service, and – in the case of a fatality – the Coroner's Office, are all notified. All employees are communicated with, usually as the start of a down time period (i.e. the ceasing of production while investigations take place), and counselling is offered to all employees who require or request it.

Firstly, the MRC conducts an independent, external investigation. Only when this is completed, and all witnesses and physical evidence logged and released, can First Quantum's own internal investigation begin. The MRC's investigation report is shared with the National Prosecuting Office, for any determination on criminal culpability, and with the Workers Compensation Board. The findings of both external and internal investigations are reviewed by First Quantum, up to Board level, and all learnings are shared across the company.

In relation to the four fatal incidents in question, there were no subsequent criminal or non-criminal proceedings, regulatory adverse findings or penalties issued. Mine operations were suspended for as long as was necessary for the investigations to be thoroughly concluded.

More broadly, First Quantum's health and safety (and environmental) standards are measured by external ESG agencies. With regard to S&P's 2025 rankings, First Quantum scored particularly well on occupational health and safety programs and LTIFR[5] rates, and overall, our 2025 health & safety score improved 10 points compared to 2024. Similarly, First Quantum recorded a 2025 occupational health & safety score of 59.5 – rated in the highest category as 'strong' – by the ESG ratings agency, Sustainalytics.

Sentinel resettlement

You refer to the extensive resettlement process undertaken to make way for the development of the Sentinel mine, near Kalumbila, under the heading 'forced evictions'. Not only do we reject that classification, but it was also not a finding of the 2019 Swedwatch report that you quote extensively (and exclusively) from. Furthermore, your selective quotations from the report omit any of the positive findings. For balance, we therefore reproduce the first two paragraphs of the section entitled 'Swedwatch's comment to findings and FQM's actions to address impacts'[6]:

[4] Formerly the Mines Safety Department
[5] Lost Time Injury Frequency Rate
[6] Page 49 of the Swedwatch Report

It is commendable that FQM has shown transparency in information-sharing and openness in communication with Swedwatch. This is in line with the UNGPs' principle of transparency. However, FQM declined to share its resettlement action plan with reference to that the document included personal data. FQM also declined to share audit reports with Swedwatch as they are internal documents. Swedwatch could not access the resettlement action plan through ZEMA, as suggested by FQM. ZEMA did not respond to Swedwatch's inquiries.

It is encouraging that FQM has acknowledged the importance of taking on a constructive and inclusive approach towards local communities and has created a grievance mechanism in line with IFC standards. Further, it is positive that FQM has provided compensation to resettled community members, developed community investment programmes and made investments in infrastructure with the objectives of long-term development, community resilience and livelihood restoration.

An involuntary relocation, by its nature, is an incredibly complex and sensitive process, and we acknowledge the impact to lives and livelihoods that it entails. However, we believe the Resettlement and Compensation Plan (RCP) and the subsequent Resettlement Action Plan (RAP), developed and carried out with the assistance of Nomad Consulting – recognised experts in the field – were both industry-leading examples of their time. We are confident also that the ongoing impact has been broadly positive, in terms of living and livelihoods restoration. [Of course, more than a decade has since passed, and much can happen during that time.] Our engagement with our near-mine communities, including those resettled, is and will continue to be ongoing.

It is correct that Leigh Day has written to First Quantum threatening to bring a claim in the English Courts on behalf of a number of resettled community members. Our position, as will be clear from the above, is that the allegations made by Leigh Day are without merit and do not reflect the reality on the ground.

Allegations relating to Mopani Copper Mines

You reproduce two historic allegations relating to the operational conduct of the Mufulira complex of Mopani Copper Mines PLC (MCM).

First Quantum was a minority shareholder in MCM, through its stake in Carlisa Investments. First Quantum therefore neither operated, nor had any management control over activities at MCM's

Mufulira or Nkana complexes. We therefore recommend that you direct these enquiries to Mopani Copper Mines PLC, or to Glencore, as the majority owner and operator of MCM during the period in question (2000-2021), or to ZCCM-IH (pre-2000, and again 2021-2024).

You do refer to an NCP dialogue process in 2001 that involved First Quantum. From the NCP's own records, First Quantum participated constructively and in good faith, and the matter was concluded satisfactorily. We reproduce the relevant section below[7]:

> ***First Quantum Minerals Ltd and Oxfam Canada***
>
> *In July 2001, the NCP received a submission from Oxfam Canada involving the operations of First Quantum Minerals Ltd in Zambia. The NGO reported that the operations of the company were not respecting three OECD Guideline recommendations: 1) Chapter II, paragraph 2, regarding respect for human rights; 2) Chapter II, paragraph 7, regarding development of practices that foster confidence and trust between companies and the societies in which they operate; and, 3) Chapter V, paragraph 2(b), regarding communication and consultation with communities on environmental, health and safety policies. The central underlying issue that gave rise to the submission was the impending removal of local farmers from company-owned land. To address this issue, the Canadian NCP facilitated a flow of communications between the company's headquarters in Canada and the Canadian office of the NGO. Both Canadian parties in turn communicated with their operations in Zambia where face-to-face meetings took place. While there was a variance in the facts and opinions reported on each side, a resolution was reached after the company met with groups from the affected communities and worked out an approach whereby the farmers could continue to use the land in the short-term. The Canadian NCP sent a final communication to the Canadian company, copied to the Canadian NGO that welcomed the spirit of cooperation demonstrated by both parties. The NCP also encouraged the company to maintain an open line of communication with the Canadian NGO and other groups concerned about the welfare of people affected by the operations of the company in Zambia. Throughout the process, the Canadian NCP kept its counterpart in Switzerland informed of developments.*

[7] https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/specific-specifique.aspx?lang=eng#first

Southern Africa Resource Watch (SARW)

First Quantum's approach – as should be evident from the foregoing – is to engage potential critics, not to silence them.

As regards SARW, there were many engagements initiated by First Quantum personnel, all aimed at producing a factually accurate account of events, given the gross inaccuracies of initial reporting. This included visits to Kansanshi and its environs, as well as proposals for a joint validation exercise[8]. Despite repeated subsequent notifications, SARW's researchers persisted – for reasons best known to themselves – with a range of sensational and demonstrably false claims, leaving First Quantum with no alternative but to institute legal proceedings to prevent the wilful publication of misinformation.

Legal action was, and always will be, a last resort in our engagements with civil society. We believe in good faith engagement, in pursuit of accuracy – if not agreement. However, where parties do not come in good faith, are motivated to pursue a sensationalist and pre-determined line of condemnation, and where the resulting publication is untruthful and defamatory, we will not hesitate to defend our reputation, our interests, and our contribution to Zambia.

Allegations relating to the Kolwezi mine

Lastly, you draw our attention to the work of the UN Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo, in the early 2000s.

Although First Quantum Minerals was originally listed under Annex III[9] of the Panel's initial 2002 report, following further inquiries, the company was completely exonerated in the final report of October 2003.[10]

This accords with the Canadian NCP's records:

[8] The letter addressed to Mary Lawlor, of February 2024, sets out the steps taken. See also the supporting documents referred to in that letter.
[9] Companies listed in Annex III had no direct or indirect link to conflict protagonists but were suspected of breaching the OECD Guidelines for Multinational Enterprises.
[10] https://digitallibrary.un.org/record/504884?v=pdf

Canadian Companies named in the Second UN Panel of Experts Report on Illegal exploitation of natural resources and other riches in the Democratic Republic of Congo (DRC)

In October 2002, the Second UN Panel of Experts Report on Illegal exploitation of natural resources and other riches in the Democratic Republic of Congo (DRC) included an annex listing companies which, in their view, violated the Guidelines. In October 2003, the UN published a subsequent report in which seven of the eight Canadian companies were listed as issues "resolved - no further action required." One company was listed as "Pending Cases with Governments". The NCP accepted the Panel's conclusions and followed up with the "eighth" company Kakanda Development Corporation. In response to the NCP's follow-up actions, the company replied with a letter describing their involvement in the DRC. The letter indicated that the company had not been active in the DRC since 1997 and they had officially halted all activities in the DRC as of June 4, 2004. The NCP subsequently brought this case to a close as a specific instance procedure.

Thank you for your interest in our operations' impact in North-Western province, Zambia. We hope these responses are helpful, as an additional, alternative perspective on the events themselves, and the allegations that have been made. As always, we remain open to good faith engagement.

Yours sincerely,



John Gladston
Director Corporate Affairs
First Quantum Minerals Ltd

D

KAMOA COPPER S.A.
Société anonyme avec conseil d'administration

Appartements 3 et 4, bâtiment 2404
999, RN 39, Avenue Route Likasi, Quartier Joli-site
Commune de Manika, Ville de Kolwezi
Province du Lualaba, République Démocratique du Congo

May 9, 2023

To: Mark Dummett,
Head of Business and Human Rights,
Amnesty International
mark.dummet@amnesty.org

Dear Mark Dummett,

Re: Response to your Field Research Report on Human Rights Impacts by Mines around Kolwezi

Thank you for your correspondence, dated April 25, 2023, affording Kamoa Copper SA (hereinafter "Kamoa", or "the Company") the opportunity to comment on the text named "Annex 1" comprising the findings and conclusion about purported human rights violations that you have identified, and further providing Kamoa an opportunity to reply ahead of its publication. We are honored to clarify the context and respond to those findings, while we also take note of your recommendations.

Kamoa is set to become a world-class copper mining complex, striving to operate with excellence, as enshrined in the Company's vision, mission and value statements. Forthrightly so, it is ideal to note that in any mine development of a similar magnitude, involuntary relocation and the subsequent resettlement of affected people with their goods, as well as economic displacement, are inevitable. Moreover, resettlement should indeed be the very last solution if the planned mining infrastructural areas cannot deviate from such an impactful and relentless exercise. It is in this context that the '**Muvunda'** relocation and resettlement, recorded as Kakula Phase I in our books, occurred.

Another important aspect to note is that the said 'Phase' took place before the current Mining Code and Regulations were promulgated in 2018; the 2002 code had significant ambiguity. Despite operating under such an ambiguous environment, Kamoa managed to carry out this task by relying on international best practices. The reason why you have found, after your investigation, our resettlement model contrasted with other mining operators you have investigated, as stated in the conclusion of your report.

Considering the aforementioned facts, we reviewed the report by your respective teams with a view to providing further insights from Kamoa in order to complement your findings and objectively achieve the sought results by all stakeholders – to improve lives.

To render this report conclusive, find attached a table with feedback on respective points of concern showing further testimony of how Kamoa takes stakeholder engagements with affected communities very seriously, aligning ourselves to the International Finance Corporation (IFC) Performance Standards, to ensure that we reduce the impact to the minimum – if not avert it completely – as well as to ensure that project affected persons are left better off compared to their initial lifestyle.

Lastly, we hereby provide you with the assurance that where we deem the recommendations to be valid and applicable, and where feedback has been provided, we shall effectively follow through with appropriate implementations or alignments.

Please feel free to contact us directly if any further clarifications are required.

Sincerely,

Adriaan Vermeulen
Managing Director

KAMOA COPPER S.A. FEEDBACK TO AMNESTY INTERNATIONAL / IBDH REPORT ANNEX 1

#	IBDH FINDINGS	PAGE / PARAGRAPH	KAMOA FEEDBACK
1	Kamoa Copper S.A. (Kamoa), a joint venture between [...] and Congolese state-owned company Gécamines (20%)	p. 3, para. 2	Kamoa's shareholding includes 20% owned by the Government of the Democratic Republic of Congo (and not Gécamines).
2	They ask us to share our demands and we replied: we want jobs, and for you to improve our living conditions but up until now, nothing's been done.	p. 4, para. 4	Kamoa prioritizes the inclusion of project-affected persons (PAPs) when opportunities for employment or small businesses become available. The Kakula Phase I relocation (referred to as Muvunda in your report) concerned 45 households that have been successfully resettled. Currently, our skills community database shows 29/43 PAPs eligible for work have been employed at the Company. We can share those details if needed. Other initiatives for Muvunda PAPs include: - Three beneficiaries (all women) as shareholders at the brickmaking project; - Four beneficiaries (two women and two men) as shareholders at the truck parking restaurant; and - Two beneficiaries (all women) as shareholders at the Muvunda poultry project.
3	... I had to use a good part of the money to build two other annexes to accommodate my many children	p. 5, para. 4	The resettlement working group (RWG), comprised of representatives of the PAPs, local leadership, government, and the Company, provided the framework determining the size of the house to be built in lieu of the existing hamlet structure. As such, each household received a house according to the results of the identification and the surveys based on what was decided by the RWG committee according to the design signed and attached to the individual transfer deed. The Jackson Kibanda case (the PAP who spoke to the auditors) is depicted below: **Before:**  **After:** he received a three bedroomed house and a kitchen (compared to others with two bedrooms) since he previously had these two structures

			
4	They gave us money, but we don't know how to keep money in the same way we know how to preserve and yield a profit from our farmlands. We exhausted the money received in a short period of time and landed in misery.	p. 5, para. 5	Money management was explained during the RWG meetings. Kamoa went as far as supporting and facilitating the opening of bank accounts, and all payments made securely to PAPs through electronic transmission directly into their respective bank accounts. Moreover, some PAPs have also been placed into entrepreneurial projects such as poultry, brickmaking, restaurant, etc., where that money is intended to be used for diversification of income. The case of the PAPs who spoke to the auditors is illustrated below. **Before:** a sample of some ten beneficiaries from 'Muvunda'   **After:** they received houses like the one in point three above and are also happy beneficiaries of a restaurant at the Kamoa truck park totally constructed and equipped by Kamoa. They were encouraged to put their compensation benefits into the restaurant business and are operating it very well.   *Includes Jackson Kibanda*
5	Substitute plots Kamoa provided are located a long distance away from their resettlement houses	p. 6, para. 1	Land replacement was the choice made by the PAPs in the presence of their self-selected delegates and is located at +-2km from the Muvunda community. This is what Kamoa has implemented, comprising a mix of cropland.

6	Borehole has stopped working in the past, sometimes for months at a time	p. 6, para. 2	Today, three boreholes are fully functioning. The first borehole installed was vandalized by Muvunda residents during a dispute linked to the handover of power in the Muvunda Chiefdom. The borehole has since been repaired and paid for by Kamoa. However, Kamoa has added two more boreholes and all are fully functioning.
7	The company's construction work led to an increase in the river's turbidity	p. 6, para. 4	This situation was temporary and was rectified a long time ago, and our water monitoring indicates that the water quality was restored.
8	House not running water, electricity....	p. 7, para. 4	At the time when Muvunda relocation happened (2017), Kamoa relocation standards were benchmarked to International best practices as defined in our entitlement framework, which is precisely what we executed. The actual United Nations (UN) principles are commendable, but challenging to implement in the context where electricity is not available in the region.
9	Local and provincial authorities must seek direct engagement with resettled communities, and take steps to ensure their new living environment meets the requirements of Congolese law. The company should listen to the concern of the community and put in place measures to respond to them in a meaningful way	p. 8, para. 1	Government authorities are involved in the end-to-end process and are part of the Relocation Working Group that processes all matters regarding compensation and resettlement. The RWG approves the criteria for the allocation of houses, as well as the design of the various dwellings. Besides, a socioeconomic survey was organized in 2020 by an NGO called SADRI. Another survey session is planned to be conducted in June 2023 to measure livelihood restoration for the Muvunda / Kakula Phase I PAP.

E

---------- Forwarded message ---------
De: **Ryan Goodman** <rgoodman@orezone.com>
Date: vie, 17 ene 2025 a las 22:43
Subject: RE: Requesting Comment on Research Findings
To: info@justice-project.org <info@justice-project.org>

Hello Shin,

We refer to your letter dated 10 September 2024 (attached) that, among other items, notes that the JCAP project has been conducting research on Orezone Gold's mining operations in Burkina Faso. In your letter you reference the Phase I Resettlement Action Plan. Further, you note in a table under "Allegations of Environmental Degradation" column "2015", "However, no comments or recent updates have been made regarding these efforts". You also refer to alleged statements from 2019.

Orezone is a public company that is listed on the TSX. Our continuous disclosure documents are readily available and can be found on SEDAR+ as well as our website. Our public disclosure documents provide detailed updates on the resettlement action plans that we have completed and resettlement action plans that are in progress.

These updates include the Phase I Resettlement Action Plan. For instance, with respect to Phase I, please refer to our MD&A (and other disclosure documents) for the periods ended:

- December 31, 2018
- March 31, 2019
- June 30, 2019
- September 30, 2019
- December 31, 2019
- March 31, 2020
- June 30, 2020
- September 30, 2020
- December 31, 2020
- March 31, 2021

Included in the Company's 2023 Canadian National Instrument 43-101 Technical Report, a Qualified Person independent from the Company reported: "The resettlement of communities is progressive and pursuant to the 2019 FS was divided into Phases I, II and III as a function of the mine plan. The resettlement of people is a complex activity but due to a focused effort from Orezone, Phase I was successfully completed in early 2021 and community feedback on the new resettlement has been overwhelmingly positive." The NI 43-101 report can be found on SEDAR+ and our website.

Finally, I refer you to our 2023 Sustainability Report: https://orezone.com/en/responsibility/sustainability/. In the 2019 article that you site multiple times, it notes OCADES. As you'll see from the Sustainability Report, Orezone has successful partnered with OCADES on multiple occasions for the benefit of local communities.

I implore you to review our publicly available disclosure documents as part of your research that you have been conducting on Orezone Gold's mining operations in Burkina Faso.

Kind regards,
Ryan Goodman
SVP & General Counsel

F

info . <info@justice-project.org>

RE: Requesting Comment on Research Findings

1 mensaje

Tom Halton <Tom.Halton@sherritt.com> 30 de septiembre de 2024, 9:45
Para: "info ." <info@justice-project.org>

Shin Imai,

Sherritt is committed to producing and supplying minerals that meet industry best practices for sustainability, human rights, and transparency.

Sherritt has a 16-year history of sustainability reporting. Sherritt's annual sustainability reports detail the company's performance on and approach to Environmental, Social and Governance matters and demonstrate the company's commitment to sustainability.

In 2020, Sherritt divested its remaining 12% interest in the Ambatovy JV and no longer holds any ownership or operating interests in assets located in Madagascar. No longer having an interest in the Ambatovy JV, Sherritt has no new information or updates pertaining to the alleged environmental impacts related to the Ambatovy site from the period between 2007 and 2016 as cited by JCAP. Sherritt does not have the ability to conduct an investigation or to look into any of the environmental allegations further and as such, any request for comment on these matters should be directed to the current operator.

However, Sherritt can report that it seeks to provide a net benefit to the countries and communities where it operates. Sherritt's Sustainability Framework, policies, and management systems are based on industry best practices such as the Mining Association of Canada's Towards Sustainable Mining (TSM) protocols. TSM is a globally recognized sustainability program that enables mining companies to identify and mitigate key environmental and social risks. Specifically, Sherritt has policies and due diligence management systems in place that align with TSM protocols that cover water stewardship, tailings management, biodiversity conservation, and community relationships.

Among Sherritt's sustainability goals for all operations are objectives to achieve level A TSM performance, enhance environmental management, and create net community benefits. Sherritt publicly reports on progress against these goals in its annual sustainability report.

Sherritt is in material compliance with all laws and licences in the jurisdictions in which it operates. Sherritt also has an independent grievance mechanism that allows any person in the value chain to submit a reportable concern in an anonymous and confidential manner. No grievances have been received from any jurisdiction in which Sherritt operates.

Kind Regards,

Tom Halton I Director, Investor Relations and Corporate Affairs

Sherritt International Corporation I Bay Adelaide Centre, East Tower, 22 Adelaide Street West, Suite 4220, Toronto ON M5H 4E3
Direct: +1 (416) 935-2457 I **Mobile:** +1 (416) 505-7390 | **Email:** Tom.Halton@sherritt.com



From: info . <info@justice-project.org>
Sent: Friday, September 13, 2024 5:26 PM
To: Investor Relations <investor@sherritt.com>
Subject: Requesting Comment on Research Findings

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Binedell,

The Justice and Corporate Accountability Project (JCAP) has been conducting research on Sherritt International's mining operations in Madagascar. Please find attached a summary of what we found, and corresponding sources.

We want our understanding of the incidents to be as accurate as possible, and so we are requesting a comment from you about these matters. If you have documents, reports, press releases or anything else that can substantiate your comments, it would be much appreciated.

We would appreciate it if you could respond by email to info@justice-project.org by September 30th, 2024.

Thank you for your attention to this matter.
This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that any review, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by replying to this e-mail and delete the message and any attachments from your computer.

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