

THE MEN WHO MOIL FOR

GOLD



Photo by George Mulala REUTERS

Mining is a treacherous but strangely compelling occupation. Above, a Tanzanian miner grieves for his brother, buried alive after a rainstorm in 1997. Some say Tanzanian miners were also buried alive in 1996, but that the cause of their deaths was far from natural. STEPHEN KERR and KELLY HOLLOWAY have worked to uncover what happened that summer when a Canadian-owned mining company took possession of the largest gold find in East Africa. This is the result of their six-month investigation.

Night was falling on Eastern Africa and Melania Baesi still had not heard from her sons. The two had left that morning to work at an increasingly turbulent gold field where the family had a small pit mine.

A week before, armed police had evicted tens of thousands of peasants from the area. They wanted to clear the way for Kahama Mining, a Canadian-owned company that had been granted mining rights to the site.

Most of the miners fled from the police. But some, like her sons Jonathan and Ernest, returned to work the shafts. It was clear that police threats alone would not scare them away from the Bulyanhulu gold fields.

On August 7, 1996, Kahama's bulldozer sputtered to life and rolled onto the Bulyanhulu gold fields.

It began pushing sand and rubble into the mines. ▶

That evening Melania Baesi was waiting for news of her sons. At 10 p.m., her friend Mafuru Butondo burst into Baesi's home. He could hardly get out the words.

Jonathan and Ernest were dead, he told her. They had been buried alive, he said, along with his own brother and as many as ten others.

This is the first time Baesi's story has been told outside Africa. It tells of the summer when a Vancouver-based company with support from the Canadian government took possession of a billion-dollar gold find in East Africa.

It is not an easy story to tell. People like Butondo say they have faced police intimidation whenever they spoke out.

"As a result, we shut our mouths," he said. "Our loved ones rotted under the rubble that was pushed into the pits by the Caterpillar."

Police took away Baesi's only photographs of her sons.

But human rights lawyer Tundu Lissu has struggled to ensure not all stories from that summer are lost—stories about tens of thousands of peasants evicted from their homes; stories of mothers, fathers, daughters and sons who fear the worst about their loved ones. As many as 52 were allegedly buried alive deep in the shafts of their small mines.

THE COMPANY'S STORY

Both the company that now owns the mine and the Canadian government say the story is a fabrication. They say the miners were illegal squatters, their evictions were peaceful and there were no burials. They pile up an impressive stack of boxes, three-inch binders and videotaped evidence to support their version of events.

The stakes are high. Between ten and fourteen million ounces of gold lie under that disputed ground. Barrick Gold—which acquired Sutton Resources and thus the mine in 1999—is not responsible for whatever happened in 1996. But as the current owners of the site, the company has inherited the story.

Barrick is a powerful, well-connected multinational. George Bush Senior and Brian Mulroney have sat on its board of directors, which also includes some of U of T's largest private donors. Barrick's founder and chairman Peter Munk gave \$6.4 million to build the impressive Munk Centre. Joseph Rotman, who has sat on Barrick's board since inception, gave \$15 million to U of T's School of Management—now also named after him. He also sits on U of T's Governing Council, its top decision-making body, while Marshall Cohen sits on Barrick's board and chairs York University's Board of Governors.

The change in the mine's ownership, and the six years that have passed, have not quelled the dispute. The evidence that has surfaced since—ranging from a fire-storm of memos and reports to disputed photographs and videos which may show the dead bodies of exhumed peasant miners—has

inspired human rights lawyer Tundu Lissu to lead a growing number who say an independent inquiry is the only way to put this matter to rest.

THE GOLD RUSH

Mustafa Taslima was one of the lucky ones. Or at least he should have been. He owned two small gold mines at Bulyanhulu, which provided him with steady income in a country where half the inhabitants still live in desperate poverty. But in the summer of 1996 Taslima's two sons, Ibrahim and Hamdani, were allegedly buried alive in the mines where they worked. They are, at the very least, missing.

Taslima and his fellow small-scale miners were likely overjoyed when they came upon the gold. Tanzania is the fourth-poorest country in the world. Forty per cent of its children under five are malnourished—seven per cent classified as "wasting"—and nearly one in 10 children dies at birth. Average life expectancy is 50 years, a full 27 years below the developed world's average.

If there were people in need of a lucky break, they were here. And in 1976, they got it—when small-scale miners struck gold at Bulyanhulu. Peasants slowly streamed to the area until 1990, when a central bank decision to buy their gold no-questions-asked triggered a gold rush. Just three years later, small-scale miners were selling \$40 million dollars of gold to the central bank each year.

Government policy said the miners should be "encouraged and supported with proper tools and markets for their products." The Small-Scale Miners Association petitioned the government for title to the Bulyanhulu mines in October, 1993.

But the official sanction was not to last. The government was under intense pressure from the International Monetary Fund (IMF). In 1994, the international lending agency withheld hundreds of millions in loans until its demands for market reforms were met. These included dramatically opening the largely peasant-run mining sector to foreign investment and ownership.

It was around this time that a mining company supported by the Canadian government also decided to pursue what lay under the ground in Bulyanhulu.

PROBLEMS WITH THE LOCALS

Vancouver-based Sutton Resources had an inside track with the Tanzanian government. CEO James Sinclair was a friend of the president of Tanzania and several senior ministers, as was his daughter.

In September 1994 the Tanzanian government granted a mining licence to Kahama Mining, which Sutton owned.

The company wasted no time, preparing to explore the property to determine the value of what lay underground.

They encountered problems from the local population at every turn. "Under normal circumstances, illegal entrants or occupants of an exploration site tend to drift away or leave the area upon the arrival of the legal owners, but in our case there appears to be some type

of organized resistance," said Bill Bali, Kahama's resident director, in a spring 1995 memo.

Shortly after this memo was issued, a surveyor for Kahama found out how strong these feelings were. He encountered small-scale miner Buchwadi Mbelwa while driving through Bulyanhulu in a company truck.

"[On] this vehicle should have been written 'Hostile Mining Corporation,' not Kahama Mining Corporation," Mbelwa said. "We are not going to leave this place at all. Nobody is going to leave this place for the white man."

On the same day, Kahama was trying to remove the locals' water pumps to force out the miners, who needed the pumps to keep their mines dry. The situation exploded at a meeting between the company and the miners.

"If the company wants the miners to move out peacefully, it will be better if the miners are given a reasonable time," said one local official.

Mbelwa put his point more bluntly. "This corporation is giving pump owners a week to leave... Who the hell do they think they are? Do they think they are the government?"

Mbelwa then threw a punch at one of Kahama's workers.

TO THE COURTS

Kahama started to negotiate with the Miners' Committee, chosen by the miners in a Tanzanian government-supervised election and affiliated with regional and national small-scale miners' organizations.

In one meeting, a village elder expressed his frustration: "How come KMCL [Kahama] has asked us to vacate? We will not leave, even if the police are called to disperse us. We will kill and be killed, so that the government realizes that this is our right."

Kahama was worried. "If we can assume that this village chairman represents people's views, then we can say that this is somewhat a feeling of a good percentage of [the village of] Kakola," a company employee reported in a memo on March 26.

The troubles at Bulyanhulu immediately attracted the attention of the highest levels of power in Tanzania. Regional politicians, bureaucrats, even the president and prime minister of Tanzania talked about the eviction of the miners with the Canadian High Commission and top officials from Kahama and Sutton Resources.

By mid-June, the Miners' Committee was ready to deal. They would accept \$5.6 million US in compensation for the mines. They pleaded that they did not want to become "refugees in our own country." Kahama declared that compensation was the government's problem. Four days later, they sued the Miners' Committee.

Late that summer, both sides travelled to Tabora to make their presentations to the High Court.

They then waited for a ruling from presiding High Court Justice Mchome.

* * *

They weren't the only ones waiting. Sutton's chairman, millionaire James Sinclair, was also growing concerned about the string of setbacks. As the husband of Sutton's largest single investor—with 18 per



THE MINE'S OWNERS

While not responsible for whatever happened at the mine in 1996, Barrick Gold inherited the Bulyanhulu story when they acquired the mine in 1999.

Kent Thomson, legal counsel for Barrick Gold, has travelled to Tanzania to investigate the alleged burials at Bulyanhulu. After accumulating substantial documentation and 14 hours of videotaped interviews with officials, shaft inspectors and others involved in the evictions, he is convinced that the alleged deaths never took place.

Barrick Gold is not impressed with the accusations surrounding the events at a site they now own. They firmly hold that they are false accusations, contrived by miners at the site and organizations and individuals with a political agenda.

The company is sensitive about how it is perceived. Vince Borg, Barrick's VP Communications, said they exemplify a

good corporate citizen. Barrick says they have employed 1,000 people with an annual direct payroll of \$15 million US, spent \$7 million US on job training, and \$6.4 million US on the construction of 600 homes and the building of a clinic and dispensary serving 20,000 people in Shinyanga.

They also gain billions from their projects. Barrick's potential life of mine gross revenue at Bulyanhulu could be as high as \$3 billion, given the current price of gold.

Barrick stands by their research, which does not find one person who says there were burials or that the eviction process was chaotic. "My instructions were to go out and speak to people, ask them questions, find the truth to the extent that I possibly could, ferret out the contemporaneous documents, review the videotapes and look at the videotapes with the

people who understood what was happening there, and to draw my own conclusions," said Kent Thomson. "And that's what I did."

Interviews on the videotape were done by Thomson, and took place in Kahama Mining offices at Dar es Salaam and Bulyanhulu. Mining Watch Canada thinks the evidence collected by Barrick is insubstantial.

"What's striking about the video interviews is that first off, Kahama brought all the people there for the interviews, they're done in a Kahama office, the translator is a Kahama manager, and so it's not done in a way that I think would stand up in any court," said representative Joan Kuyek.

Barrick firmly believes their massive collection of evidence is valid, and that it shows no burials took place. The Canadian government agrees.

TUNDU LISSU

Tundu Lissu, a human rights lawyer with the Lawyers' Environmental Action Team (LEAT), grew up in Tanzania. His devotion to the plight of peasants and working people in his country led him into what has become a three-year struggle to find out what happened to the 52 miners allegedly buried at Bulyanhulu.

He continues to assert that the burials took place.

Lissu now works with the Washington-based World Resource Institute. His relentless accumulation of evidence has been lauded, disputed, celebrated, authenticated and refuted. He has been subject to Tanzanian police raids, libel threats and more, but he remains undaunted.

He brought the story of the miners to Canada when he came to Toronto for a press conference with the Council of Canadians and Mining Watch Canada, who have called for an independent commission of inquiry into the affair. With LEAT, he has been the driving force in

bringing the problems of small-scale or peasant miners to the attention of the West.

Lissu also seems to function, along with LEAT, as the unofficial leadership of the opposition in Tanzania. Some believe his work with the Bulyanhulu story can be dismissed as political opportunism. Barrick Gold, which now owns the rights to Bulyanhulu, says his witness statements are not valid. "To assess whether the information coming from a person is truthful or not we have to see them, and if we can't, we're simply not prepared to give any weight whatsoever to a signed statement, particularly a statement that is not a sworn statement," said their lawyer, Kent Thomson.

Lissu stands by his research and has continued to work doggedly on the case. He has collected numerous statements from witnesses who say they saw the alleged burials, or who simply have loved ones who have not been heard from since the evictions took place. He is frustrated



because he believes cultural biases have meant his work, and the testimony of African peasants, is being held to a different standard than evidence gathered by those in the Western world. The witness statements are every bit as valid as other pieces of evidence, he says, and show quite clearly why an independent inquiry needs to take place.

"When this case was filed, I thought it was a simple case of the defendants [peasant miners] being sued for contravening the Mining Act and tampering with the plaintiff's rights under the act. But when the Written Statement of Defence was filed, I discovered that this suit was more than that."

—Tanzania High Court Justice Mchome, when presented with a lawsuit seeking to evict peasant miners from Bulyanhulu.

TIMELINE

1976–1994: Peasant miners slowly stream into Bulyanhulu to mine the gold found there.

September, 1994: Kahama Mining Corporation Limited (KMCL), wholly owned by Vancouver-based Sutton Resources, is granted mining rights to Bulyanhulu.

March 19–25, 1995: KMCL resident director Bill Bali writes to Jim Hylands that the miners are conducting "organized resistance" to KMCL at Bulyanhulu.

June 16, 1995: Small-scale Miners' Committee demands approximately 5.6 million US Dollars (USD) in compensation for vacating Bulyanhulu.

September 20, 1995: After hearing a plea from Kahama to evict the miners, the High Court at Tabora rules that the case of Bulyanhulu involves "basic constitutional rights and duties."

March 8, 1996: Former Sutton chairman James Sinclair asks Sutton shareholders to remove the board of directors. He claims they are in over their head and need a partner with more experience in Africa.

April 11, 1996: The proxy vote to remove the board fails, with 46 per cent siding with Sinclair and voting to remove the board.

May 22, 1996: After months of meetings with Canadian and Tanzanian government officials, Kahama Mining Corporation Ltd. withdraws appeal of High Court Judge Mchome's September, 1995 ruling.

May 31, 1996: Sutton Resources issues 23 million USD in stock to finance Bulyanhulu mine.

July 30, 1996: Sutton Resources' Annual General Meeting.

July 31, 1996: The Minister of Mines announces in Parliament and on Radio Tanzania that miners have one month to leave Bulyanhulu. General Tumaniel Kiwelu arrives with armed police at Bulyanhulu and states, according to Canadian High Commission, "...all equipment and miners were to depart within 24 hours, and none were to remain within a week."

August 2, 1996: Justice Mchome of the High Court at Tabora issues *ex parte* injunction to KMCL, Tanzanian police and artisanal miners ordering a halt to evictions. Broadcast on Radio Tanzania.

August 7, 1996: The KMCL bulldozer is used to start filling the mine shafts of peasant miners.

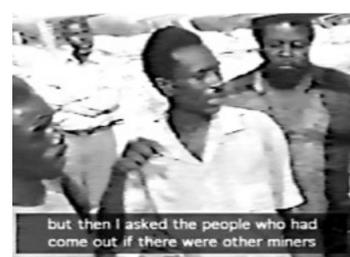
Late August, 1996: Police are called to Bulyanhulu to investigate allegations that miners were buried alive there. They refuse to dig up pits, saying the exercise would be too costly.

November 22, 1996: United Democratic Party commission of inquiry into deaths at Bulyanhulu.

Late January 1996: Tanzanian President Mkapa indicates at a public rally in Mbeya that "...those who are spreading rumours [about alleged deaths at Bulyanhulu] should be dealt with according to law."

Spring, 1999: With insurance from the World Bank and the Canadian government's Export Development Corporation, Toronto-based company Barrick Gold acquires the mines at Bulyanhulu.

April, 2002: Mark Bomani, Tanzanian judge, former attorney general and close advisor to Nelson Mandela, calls for an independent inquiry. The call is joined by an international team of researchers, lawyers and NGOs who recently attempted to talk to local residents but were barred by police from visiting Bulyanhulu.



Images from a videotape of a police investigation into the alleged killings obtained by human rights lawyer Tundu Lissu. The company that now owns the mine is confident that no peasant miners were buried alive, while others, like Lissu, say a proper investigation has never been carried out.

cent of the shares owned by his wife—Sinclair had a big interest in the outcome of the case.

But it was about more than just money. From the start of his career, Sinclair has had a deep interest in the gold industry and in Africa. He has written several books on the gold market and mining; he was friends with the president of Tanzania. He also ran Service Assistance International, a charity operating in Tanzania, which is now run by his daughter, Marlene. Sinclair, a devotee of Indian guru Sri Sathya Sai Baba, places high value on personal virtue and

“When this case was filed, I thought it a simple case of the defendants [the small-scale miners] being sued for contravening the Mining Act and tampering with the plaintiff’s [Kahama’s] rights under the Act,” he stated in the ruling. “But when the Written Statement of Defence and Counter Claim was filed, I discovered that this suit was more than that.”

Major issues were at stake. “I found no provision made for compensation and/or resettlement of the indigenous people,” he ruled. In his view, the issue was one of “constitu-

THE INVESTOR REBELLION

The potential profits were getting bigger, and also getting further away. With no prospect of evicting the miners, the stock continuing its slide southward, James Sinclair threw down the gauntlet.

On December 11, as Sutton’s stock fell to one of its lowest levels, Barbara Sinclair called a meeting of the board to demand their resignation and the appointment of a new board hand-picked by Sinclair. Instead, the board voted down her proposal and immediately stripped Mr. Sinclair of his chairmanship. Sinclair was not to be thwarted. He founded the Sutton Action Group to unseat the board.

“Under the stewardship of current management, there has been a precipitous decline in Sutton’s share price from US \$40.75 at March 29, 1994 to approximately US \$12.00 today,” he noted on March 8, 1996.

With the dissident investors, Sinclair attacked the entire approach of Sutton’s management. An information circular, filed with the BC Securities Commission, was sent to all investors, accusing the board of being out of their depth at Bulyanhulu. He cited the well-documented “political problems” at the site and alleged “Sutton’s managers have built no relationship on the ground with local personnel at the site of Bulyanhulu, a critical step in the development of any business in Africa.”

The core of his argument was that his experience and partnership with a company who knew the area better would save Sutton—its stock was valued primarily for the unmined gold beneath Bulyanhulu.

But Sinclair’s rivals on Sutton’s board didn’t want a partner. They wanted to issue several million dollars in new stock to finance construction. On April 11, 1996,

the battle came to a head.

Forty-six per cent of shareholders voted with Mr. Sinclair to remove Sutton’s board. Under British Columbia’s securities legislation, 75 per cent of shareholder approval is required to unseat a company’s board of directors.

Sinclair vowed to fight on at the company’s annual general meeting on July 30. The revolt put pressure on Sutton’s management. With Sinclair planning another challenge, and with nearly half of the shareholders opposed to their leadership, management had to prove they were in control of the situation.

Sutton’s president was supplied with two pages of detailed questions about Bulyanhulu and whether the internal conflict at Sutton Resources affected how the company proceeded with the evictions. He declined to comment.

THE CANADIAN GOVERNMENT STEPS IN

While James Sinclair lobbied Sutton’s shareholders, the Canadian government threw its weight behind Sutton’s management to convince the Tanzanian government to remove the miners.

Boxes of heavily censored correspondence of the Canadian High Commissioner, obtained by Probe International under Access to Information legislation, tell of the intense lobbying efforts to remove the miners. They show a government that wanted a peaceful solution to the problem, but was desperate to ensure investor confidence in the mines.

“Sutton [censored words] is ready to go to stock market [censored words] but cannot / not do so in absence of Tanz govt action to remove 7,000/10,000/ illegal miners...” said a report to the Department of Foreign Affairs

“Sutton [censored words] is ready to go to the stock market [censored words] but cannot / not do so in absence of Tanz govt action to remove 7,000 - 10,000 illegal miners...”

—Canadian High Commissioner in a heavily censored document obtained through Access to Information, communicating with the department of Foreign Affairs.

morality. He is the model of a capitalist idealist.

Sinclair saw Sutton’s stock price steadily decline. His opinion—as later revealed in documents filed with the BC Securities Commission—was that Sutton was in over its head and needed to partner with a company with African experience.

The Canadian government’s High Commissioner to Tanzania had confidence in the Tanzanian courts. In a September memo to Sutton president Michael Kenyon, she counselled him to trust the courts, noting that Tanzania “does have an independent judiciary.”

On September 29, Justice Mchome proved her correct.

tional basic rights and duties,” and needed to be referred to a special three-judge panel under the Basic Rights and Duties Enforcement Act of 1994.

In what is perhaps the most consequential part of this story, that panel did not meet in 1995. Nor did it meet in 1996, when the evictions occurred. In fact, to this day it has neither been constituted nor ruled on the matter.

But at the time, the ruling did halt plans to remove the miners. There was also an election going on. It was now a constitutional matter—and the stakes were rising. By October 1995, drilling at Bulyanhulu produced a new, higher reserve estimate of 2.49 million ounces of gold underground, worth more than \$750 million.

“The current board of directors and incumbent management of Sutton have exhibited a sustained inability or unwillingness to take actions necessary to enhance shareholder value. They have no experience building or managing an underground mine in Africa, and have attempted to manage Sutton’s assets from afar.”

—Former Sutton chairman James Sinclair, in a circular filed with the BC Securities Commission, in which he attempts to convince shareholders to remove Sutton’s board of directors.

Commission published a special supplement in the Tanzanian press in early July, and the High Commissioner appeared in a half-hour TV interview.

“In short, with this full court press, the decision makers will be fully aware of how important this mining sector, Cdn participation, and rule of law is to their economy,” the Canadian High Commissioner wrote in a June 28 memo to Ottawa.

Reporters on this story were unable to obtain clarification from the then-High Commissioner as to why the government seemed prepared to see the evictions progress without the constitutional panel having convened. Attempts to contact the former High Commissioner were not successful.

EVICTED

By July 31, 1996, the eviction process was set to begin. A day after Sutton’s shareholders filed into a Vancouver conference room for the company’s annual general meeting, tens of thousands of Africans were about to be evicted from their homes.

At 1 p.m. on July 31, the voice of the Minister of Water, Energy and Minerals can be heard around the country. His Radio Tanzania speech decrees the small-scale miners have one month to evacuate the Bulyanhulu area.

A few hours later, Major General Tumaniel Kiwelu, Shinyanga

Regional Commissioner, arrives at Kakola village, where many of the small-scale miners live. He is joined by armed police, many in riot gear.

He tells the miners they have 24 hours to leave the area, reportedly saying that he only wants to see “birds, lizards, insects and snakes” in the area by morning. Now two different sets of instructions have been given to the miners.

By daybreak, tens of thousands of peasants are fleeing a land they have been fighting to hold for years. But some stay to square off with Kahama and the police.

Mallim Kadau, the Miners’ Committee chairman, quickly gathers several others and speeds back to Tabora, back to the High Court. They hope this time the ruling of the court will be respected by Tanzanian officials.

On August 2, Justice Mchome grants their request for an *ex parte* injunction—a temporary emergency ruling granted in the absence of one of the parties. Mchome rules that no evictions may occur until the parties can meet before him in court. “Democracy (sic) Good Governance, the Rule of Law, and Respect for Human Rights require the executive wing not to interfere in matters that are still pending in court,” he stated in the ruling. “Natural justice requires that even a poor peasant at least be consulted before a decision affecting his life is made.”

Amnesty International holds that



Mallim Kadau, chair of the Miners’ Committee, successfully fought for an *ex parte* injunction against the evictions. “He’s one of the most courageous people I have ever met,” says human rights lawyer Tundu Lissu. “He’s gone through hell.”



Video image of a shaft where miners were allegedly buried. There were as many as 500 shaft mines (also called “pits”) in Bulyanhulu. Many were 50-100 feet deep, and some had tunnel systems connecting them to other mines. The police refused to remove dirt from filled pits, saying it was too expensive. They recommended “those who still believe that their friends, relatives, and family have been buried...exhume the pits themselves at their own cost.”



tanzaniafacts

Situated in Eastern Africa, Tanzania is a land of incredible beauty and desperate poverty. It is home to 120 different ethnic groups, and Mount Kilimanjaro, one of the world’s highest peaks. It is also home to an average life expectancy that is a full 27 years below the Western average.



POPULATION AND LANGUAGE

While Swahili and English are the official languages, the people of Tanzania speak various dialects according to their location and background.

While most of the population of Tanzania lives in the countryside, 3 million live in Dar Es Salaam, which is also home to most government offices, although the official capital is Dodoma.

SOCIAL AND POLITICAL CONDITIONS

Tanzania is the fourth-poorest country on earth. Access to medicine is limited and more than 40 per cent of the population is classified as malnourished.

Fifty-one per cent of the population lives on less than \$1 US per day. Accessing fresh water often requires a half-hour trek. Most schools lack basics like books, desks, teachers and classrooms.

Despite the adoption of a constitutional parliamentary system in 1961, Tanzania operated on a one-party state as of 1977. From

that time until 1992, all parties except Chama Cha Mapinduzi (CCM) were outlawed. Currently, numerous political parties exist, but none challenge the power and influence of the CCM.

ECONOMIC CONDITIONS

Tanzania is heavily dependent on foreign aid. In 1986, the International Monetary Fund (IMF) negotiated a Structural Adjustment Fund, in 1990, followed by the Economic and Social Action Program (ESAP). Since then, Tanzania has been subjected to privatization, the elimination of many import restrictions and the “liberalization” of the banking sector and foreign exchange markets.

Due to apparent slow implementation of policy reforms, including lack of progress in liberalizing the gold sector and inadequate mobilization of domestic resources, IMF credit was withheld in January 1994. The funding only returned in 1996.

Today, Tanzania’s total external debt is \$6.4 billion US. It spends 40 per cent of its GDP on interest payments on external debt.

TANZANIA AND GOLD

Africa hosts approximately 40 per cent of the world’s gold reserves. There are more than 100 gold exploration corporations presently operating in Tanzania. Since 1994 the government has granted more than 1,000 prospecting licenses to foreign exploration companies.

The area around Lake Victoria is home to numerous gold fields, including Bulyanhulu and several other fields owned by Canadian companies. In May of 2002, several miners were buried alive in a gold-field near Bulyanhulu, operated by a South African gold company.

As early as 1976, peasant or “artisanal” miners were digging rudimentary shafts and pits in Bulyanhulu to mine gold.

There are at least 10 million ounces of gold on the Bulyanhulu claim. According to Barrick’s recent statements to the media, the cost of extracting that gold is \$130 US per ounce. With current prices of \$300 per ounce, that means the profit on the mine could be more than \$1 billion.

the ruling is a legitimate "temporary relief." In a memo Amnesty sent to the government of Tanzania in 1998 on the subject of the evictions, AI declared "the whole point of an *ex parte* injunction is to restrain an action likely to happen before the court has a chance to judge on the merits of the case after listening to both sides."

A Kahama memorandum to top Sutton board members dated August 12, 1996 documents the eviction process from Kahama

mining shafts (also called pits). The High Commission and Barrick later maintained the process was entirely peaceful. Reports in the Tanzanian press, however, describe mass confusion, looting, robbery and bloodshed as people rushed to collect their few possessions and flee the police.

A Kahama memorandum to top Sutton board members dated August 12, 1996 documents the eviction process from Kahama

"We've got photographs, we've got videotape, we've got any number of contemporaneous documents dated on the very day this happening...what they indicate beyond a shadow of a doubt is that the way people left this site was in a peaceful, systematic fashion."

—Barrick Gold's legal counsel Kent Thomson.

ebations, dancing and singing break out, with colourful flags and banners hoisted into the air. Once again, the Tanzanian courts have sided with the miners. But once again, the ruling will be defied.

Major General Kiwelu is served with the injunction. When asked why he isn't obeying it, a witness later says he responded, "I am not an employee of the court, and so do not have to follow the court's orders."

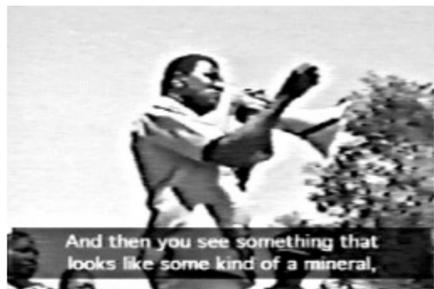
Why the court was ignored, and at whose instructions, remain central questions in this case.

THE KAHAMA MEMORANDUM

In the face of the court's ruling, the evictions continue. The Kahama bulldozer is sent in on August 7 to prevent miners from returning by filling the



Bodies of two men allegedly burnt alive by villagers after attempting to loot in a village around the same time as the evictions.



Major General Kiwelu arrived to enforce the evictions, and gave the miners 24 hours to leave. "If you see what looks like some kind of mineral, you may not put it in your pocket," he said. From then on, only a mines officer could give them permission to sell a mineral. "Digging and being found with the stone is against the law."

Mining's point of view.

"We hired one miner as an 'Inspector' to check each active shaft to make sure that there were no miners left in them."

Kulwa John was paid the equivalent of \$4 US in Tanzanian shillings to inspect five shafts on August 7, according to a receipt in Barrick's files. This was the day of many of the alleged burials.

How many pits were filled in on each day is not apparent from the Kahama memo.

"There were a number of active pits which the miners were slow to get out of," says the Kahama memo. "[The miners] also started telling us there were men in other shafts when there were not."

The memo indicates two more inspectors were hired on August 8 and they "started checking each pit ahead of the D6 [Bulldozer]." It also notes, "Neither the police or Paul Mwajombe, the Madini [Ministry of Mines] rep, were going to go down."

In addition to filling the shafts, the bulldozer was "to start reducing [the market] Dabora #3 to kindling." By August 9 they had "demolished Dabora #3 so the miners had no place to hide."

The memo describes how General Kiwelu "wanted us to go faster" and work into the night, but Kahama management refused for safety reasons and instead attempted to rent another bulldozer to speed the process. On August 10, Kiwelu "advised the RPC that he had another week to finish the job."

The whole of Bulyanhulu contained approximately 500 shafts or pits.

By August 12 they moved on to the area around Dabora #2 (a market), noting, "We are concentrating on filling only active pits on [one of the mining areas named] Reef 2, and destroying local shacks in Dabora #2 while waiting for the pits to be declared clear."

"The Chairman for the CCM party, Bugarama Ward, came to us on Friday to object to our burying people."

"We took him to Reef No. 1 where he had the opportunity to talk to the Regional Police Commissioner, the Madini Rep and our inspectors and to observe for himself." The Chairman reported to the CCM party that no burials took place.

* * *

The Tanzanian media reported confusion and incidents of violence during the mass evictions.

"The Regional Commissioner's [Kiwelu's] harsh statements triggered fear, panic and despair among the miners," Shinyanga Region Miners' Association spokesperson Zephania Luzama told Tanzania's *Guardian* newspaper. "It was interfering with the independence and integrity of the judiciary, and the notice was so short that the packing was unlikely to be smoothly accomplished."

On August 7, Canada's diplomats transmitted the news of the evictions to Ottawa. "The news on Bulyanhulu is all good. The 10-20,000 illegal miners are gone from the property."

A number of sources, including the Tanzanian media, report that the police at the site were taking bribes in gold from the miners, who wished to continue mining. Kahama's August 12 memo on the shaft-filling process says that "the RPC says he trusts his officers, but we have seen very strong evidence that the rank and file have colluded with the miners." The assistant commissioner of mines, S. Mohamed, agreed.

The Tanzanian *Guardian* suggests that the way in which the evictions were carried out led to panic. "A survey made by the *Guardian* at the Bulyanhulu mines showed that the atmosphere fuelled disorder...The eviction 'fever' was accompanied by widespread acts of banditry. Six robbers trying to invade a house in Kakola village were caught by villagers and burned to death." Barrick acknowledges some robbers were burned to death, but disputes that the evictions triggered the violence and looting.

The police were also called to the scene to investigate. A videotape created by Kahama employee O.C. Lopa and obtained by Tundu Lissu documents their investigations.

In one portion of the video, villagers who claim their friends were buried point to mines that have been levelled by bulldozers. They point out decaying body parts around the area, and implore the officers to investigate. The officers look, take notes, and move on. They make no move to dig into the mines to see if there are bodies, though some miners are shown attempting to do so on their own.

The official police report says, "Finally, the exercise of unearthing the shafts is a costly exercise since the pits are over to (sic) metres in depth and it is estimated that 500,000 [Tanzanian shillings] would be required to unearth a filled pit/shaft and which will involve an entire day's work. Also, the operation of unearthing the shafts may prove to be ineffective."

The United Democratic Party travelled to Bulyanhulu shortly after the allegations surfaced. They found many people willing to testify.

UDP leader John Cheyo arrived with the Commission of Inquiry on December 17, 1996. One of the miners told Cheyo, "Using a KMC [Kahama] bulldozer, our government destroyed 4 wards, which had between them 6,400 households; and filled in and flattened some 500 gold mine pits, burying more than 52 miners who were working underground."

THE AFTERMATH

You will not find small-scale miners at the Bulyanhulu gold mine today. But you will find a massive commercial mining operation set to pull in major rewards for Kahama, Barrick and international investors.

Barrick's potential life of mine gross revenue at Bulyanhulu could be as high as \$3 billion, given the current price of gold. With total proven reserves of 10 million ounces, with a cash cost each ounce of \$130 to \$166 US according to Barrick's 2000 report, but higher according to information subsequently supplied by Barrick, the potential profits are indeed rich. Barrick has also made hundreds of millions US worth of capital and infrastructure investments in the area.

Evictions from Bulyanhulu opened the door to ample opportunities for other Canadian mining companies. In a December 10 1996 report to DFAIT, after the eviction of the small-scale miners, the Canadian High Commissioner wrote: "...in most cases there is a will on the part of the Tanzanian government to facilitate solutions [to the problems of foreign mining companies with peasant miners] regardless of legal or resource constraints. The new mining legislation should deal with current problems" (emphasis ours).

Despite Mchome's ruling that even simple peasants need to be compensated, no provision was ever made for the resettlement of the indigenous people. In a June 21, 1995 meeting with the Tanzanian Prime Minister, the Canadian High Commissioner did indicate miners could be relocated using funds from the Canadian International Development Agency (CIDA). But CIDA never had a project or provided funds in Tanzania in the region mentioned, according to CIDA spokesperson Dominique Hetu.

To date, the Tanzanian government has compensated only 56 of the miners.

Even Kahama Mining stated in its own report to the World Bank's Multilateral Investment Guarantee Agency that "...after the cessation of artisanal mining in Bulyanhulu in August 1996, the income of the majority of people declined significantly..."

The IMF, which suspended funding in 1994, returned it in 1996 and has been loaning hundreds of millions US to the country every year since then.

Mining Watch Canada's Joan Kuyek said what is most striking is that tens if not hundreds of thousands of peasants were displaced "to make way for a Canadian mining company to use up the gold resource within 20 years, to hire no more than 600 Tanzanians, and to return to the government of Tanzania a pittance compared to what they were making from small-scale mining."

Barrick clarified that the Bulyanhulu gold mine employs around 1,000 people and has created more than 7,500 "indirect jobs," and that more workers were also employed during mine construction.

For its part, the Canadian government believes the case is closed. Based on their understanding of the situation and their policy, "we do not seek to come up with any further action at this



Respected journalist and civil servant Stephen Mhuli authored the United Democratic Party's inquiry into Bulyanhulu. Below are the names of people who cannot be accounted for.

Kidawa Sosoma
Sita Daudi Misuko
Ntemi Nyanda
Turo Masanja*
Abdu Mussa
Juma Shabani
Juma Saidi
Hamisi Saidi
Mazuli
Clement
Masali
Juman Lushesheta
George Lutobeka
Paul Lubinza
Isanga Simba
Ramadhani Mrisho
Samuel Paul
Leonard George
Kulwa Issa
Samwel John
Paul Mchafu
Ibrahim Taslima
Hamdani Taslima
Jonathan Lwekamwa
Ernest Lwekamwa
Tigufundurwa Butondo
Martin Jambi
Kulwa
Masanja Maganga
Juma Rashidi
Masanja Hamisi
Masudi Saidi
Mahambuya Mazuri
Athumani Hamisi
Raphael Masonga

* At a recent CCM (ruling party) function, officials claim to have produced Turo Masanja; however, the man's identity has yet to be confirmed by any independent sources.

WHAT WAS THE CANADIAN GOVERNMENT'S ROLE?

"Based on my knowledge of the way this department works, we are not the CIA, we are not other governments, we are Canada, and we have our own way of doing things and we've always resolved, and continue to do so, according to the Canadian way."

—André Lemay, Department of Foreign Affairs and International Trade (DFAIT).

Pierre Trudeau pioneered the phrase, and the style of diplomacy it was supposed to represent. To do things the Canadian way meant to promote trade and human rights at the same time; peace through economic growth, economic growth through peace.

But documents on the Bulyanhulu matter have surfaced which have many asking if the Canadian way is policy or just public relations. Can trade and human rights go hand in hand?

The Canadian government was clearly concerned about both. Although heavily censored, declassified correspondence of the Canadian High Commissioner in Tanzania obtained under Access to Information legislation shows Canada's deep involvement in the Bulyanhulu file.

On one hand, numerous memos show the Canadian High Commissioner working to "underline her preference for a peaceful solution." She works to ensure the evictions proceed as smoothly as possible, and later informs DFAIT that "the news on Bulyanhulu is all good." The miners are gone and "the government showed courage and as a result there was no violence."

As she works towards a careful solution at Bulyanhulu, she is also working hard to promote the Canadian company which has mining rights to the area. In one memo to the president of Tanzania, she notes the "Vancouver, Calgary and Toronto stock exchanges have become the leading sources of exploration capi-

INVESTIGATING THE INVESTIGATIONS

Since August 1996, multiple groups aside from Tundu Lissu and Barrick Gold have investigated the evictions of the small-scale miners in Bulyanhulu, but there has still been no independent inquiry.

"We do agree that there continue to be unresolved questions as to whether there may have been some deaths there, and continue to be of the view that an independent inquiry is what is necessary to put those allegations to rest," said Alex Neve of Amnesty International.

Amnesty says the investigation should follow UN principles, which demand that the inquiry has the authority and budget to ensure the matter is investigated thoroughly. "To this end, they shall be entitled to issue summonses to witnesses, including the officials allegedly involved and to demand the production of evidence," the principles unequivocally state.

In the Tanzanian police report produced in August 1996, the police state that upon cross-examination, witnesses to the alleged killings recant their testimony. The report does not mention which officers question which witnesses, and how they did so and under what circumstances.

The report recommends that "those who still believe that their friends, relatives and family have been buried...exhume the pits themselves at their own cost."

The Canadian High Commissioner reported to diplomats in Dar es Salaam that she talked to numerous regional authorities and Kahama officials "at length over several months," and was "convinced that to the best of their

tal in the resource sector... It will be important, therefore, that outstanding problems relating to title and to illegal activities be quickly removed."

"Illegal activities" refers to the day-to-day activities of the local residents, small-scale peasant miners, numbering in the tens of thousands, who had been working at the gold mines since they discovered the gold in 1976.

She continues to promote trade shortly after the miners were evicted, putting a recommendation to "buy Sutton stock now" on the advice of a London investment house to a Tanzanian official (whose name the censor has deleted).

Lemay speculated on why the Canadian High Commission would give a stock tip. "Our key people in our missions are in a position to say, 'Yes, we want as many people to register in the Canadian stock markets as possible,' as any stock market world-wide would want to do...What we're trying to get, is we're trying to get as many clients as possible."

But others think the desire to "get as many clients as possible" is blinding the government to more fundamental issues.

"The allegations of the deaths somewhat are the most sensational part of the story, but they're not the most disturbing, quite frankly," says Joan Kuyek of Mining Watch Canada. "The most disturbing is that these people would be just thrown out of this area with no regard to what was going to happen to them."

And although he believes that "usually both partners gain from trade," Lemay had to pause when asked what Tanzanian miners have gained from a Canadian company's influence in the area.

"If they have, I don't know," he said. "The company says they have."

Barrick says the mine employs 1,000

knowledge, no single person was buried during the three-month long operation to fill in the illegal pits."

Department of Foreign Affairs official André Lemay says the matter is essentially closed for now. When asked again about their position on the matter in a subsequent interview, Lemay referred the reporter to a *National Post* article supporting Barrick's assertion that a thorough investigation at the site had shown there were no problems with the evictions. "A lot of the arguments in that article are arguments we feel reflect our position," said Lemay.

The United Democratic Party (UDP) of Tanzania, a liberal opposition party, created an 18-member independent commission to look into the incident in the fall of 1996.

The UDP report, compiled by respected civil servant and journalist Stephen Mhuli, was not greeted with pleasure by the Canadian government. In a heavily censored copy of a three-page document sent to DFAIT, the High Commissioner expressed her concern about the public relations image the report would create, noting, "On Nov 19, 1996 with the Mining Sector Conference in full swing in Arusha and with representatives of the whole industry present, the *Guardian* [Tanzanian newspaper] on its front page printed an article entitled 'UDP Panel to file petition on Buried Miners.'"

The World Bank and the Canadian Export Development Corporation are two public institutions that provided loans totalling nearly \$400 million to insure the mine against "political risks." Both

people and has created more than 7,500 indirect jobs.

But Kuyek believes this does not compare to the tens of thousands who were employed in small-scale mining, saying that the government also got higher returns through small-scale mining than through foreign ownership.

Whatever the case, one would suspect that, given the Canadian Way, an independent inquiry into alleged deaths would be supported by the Canadian government. But since the evictions, the government has looked upon the prospect of an independent inquiry with disdain. "We are keeping an eye on the public relations aspects," the High Commissioner says in a note to thank Sutton for the thank you note they had sent her. "I am confident the Tanzanian Government will be able to deal with the efforts of the illegal miners to rewrite history."

That confidence would not be misplaced. During the fall of 1996, when the High Commissioner wrote that note, she was also sending complaints to Ottawa about John Cheyo, the leader of the opposition United Democratic Party of Tanzania. Cheyo had taken up the cause of the Bulyanhulu miners and called for an independent investigation in stump speeches during a parliamentary by-election he was contesting. The UDP formed an 18-member commission of inquiry into the August events in the fall of 1996, including three UDP members of the Tanzanian parliament.

But six years later, the controversy continues to simmer. Just last week, Mark Bomani, former Tanzanian attorney general and close associate of Nelson Mandela, added his name to the already long list of those who believe the miners are not trying to rewrite history; that, in fact, history has not yet been written, nor can it be until an independent investigation has occurred.

The UN principles for the prevention and investigation of extra-judicial killings.

The UN principles demand a public commission of inquiry, which hears evidence in public and makes a public report.

According to the UN, when unnatural deaths are alleged to occur at the hands of government officials, there shall be an investigation to "determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses."

No investigation to date has met all of the criteria outlined by the UN principles, and for this reason, many are demanding an independent inquiry that does.



John Mutemankamba, secretary to the small-scale miners committee.



Joseph Magunila, past chairman of Shinyanga regional miners' association. He lost his house and cannot account for his nephew.



Julius Kachwele lost his house and his mine and witnessed the filling of the pits. He says he also removed two bodies from one of the filled pits.



Stephen Katani, former miner, current miners' committee member. Lost his house and his mine pits.



Shigalu Masalisengwa lost his farm and grazing lands.



Raphael Utenga lost his house and his pits.

point," said DFAIT spokesperson André Lemay.

"We're not saying that we're not going to change our position. We're just simply saying that if further information is brought to our attention, we will consider that information, see whether or not we must or should in fact modify our approach. If that is the case, then we will take the appropriate action at that point."

Barrick does not apologize for the evictions. When asked where the small-scale miners were supposed to go, Barrick's legal counsel Kent Thomson replied, "Bearing in mind that you've got a highly migrant population, and bearing in mind that this site is surrounded by a number of other sites, including the Bulyanhulu South site, operated by Ashanti Goldfields and not Sutton Resources, who exactly was deprived of their livelihoods?"

"If you've got a highly transient, highly migrant population which is able to walk onto a site which is one kilometre south of Bulyanhulu, and they are able to do so shortly after the government's removal order, why do you say they were deprived of their livelihood?"

Barrick representatives preferred to focus on August 7 and 8, for which the company has documented the process of filling in the shafts and the peaceful departure of the locals.

"We've got photographs, we've got videotape, we've got any number of contemporaneous documents dated on the very day this is happening, not two weeks after the fact, not four years after the fact, and not six years after the fact, as some of these witness statements now are. What they indicate beyond a doubt is that the way people left this site was in a peaceful, systematic fashion. There is just not one shred of contemporaneous evidence of people being beaten up or forced physically off the site."

Barrick states that prior to any shaft-filling, every shaft was inspected while the police and Ministry of Mines supervised the process.

"If someone is found inside, that person is brought to the surface immediately. The person is taken to the police officer, who photographs the person. The person is documented and the person is then told to leave the area. When they verified that the shaft was empty, and only when they verified that the shaft was empty, they would take the bulldozer and fill the shaft in."

In short, Barrick contends that the reports of burials were concocted after the fact by the Miners' Committee, specifically by Mallim Kadau, the committee chairman. Barrick's position is that those like Tundu Lissu who have put these claims forward are motivated by political opportunism. Lissu ran as an opposition candidate in the 1996 parliamentary elections. He had no connection to Bulyanhulu at the time. Furthermore, both Barrick and the Canadian High Commission accuse the Miners' Committee of attempting to extort money both from the small-scale miners and from Kahama.

Certainly there must have been many disputes over such a valuable resource as a gold mine, even within the miners' community. Mine workers appear to have had less representation on the committee, but the committee also used some funds to build a local school and fund a soccer team.

IMPARTIALITY

Since August 1996, numerous investigations have taken place. The World Bank, the Tanzanian police, Barrick Gold, the United Democratic Party of Tanzania, the Lawyers' Environmental Action Team (LEAT) and others have probed the mys-

tery of Bulyanhulu. They have all come up with different results, emphasizing various pieces of evidence to refute or support the claims of burials and chaotic evictions.

The contradiction between the competing claims seems sufficient to warrant an independent investigation. United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions state that an independent commission of inquiry should be established when there are complaints about existing investigations or when there are questions of impartiality.

All of the parties that have conducted investigations have a financial or political interest in the outcome. On this point, the UN rules are clear, stating: "Members of such a commission shall be chosen for their recognised impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry."

It seems clear that the Tanzanian government is not interested in a new investigation into the matter. In January 1997, the newly elected president of Tanzania, Benjamin Mkapa, stated that "those who are spreading the rumours should be dealt with according to the law," reported the Tanzanian newspaper *Majira*. On November 23, 2001 LEAT president Rugemeleza Nshala and the National Chairman of the Tanzanian Labour Party, Augustine Mrema, were taken from their homes and threatened with charges of sedition. Tundu Lissu, who was out of the country at the time, had his house searched by police and a warrant issued for his arrest.

Researchers continue to face intimidation. In late March, 2002, an international team of journalists, lawyers and researchers attempted to visit Bulyanhulu and were barred from doing so by armed police. The group included one of the authors of this story.

Barrick says LEAT and other NGOs have a political agenda on the side of the anti-globalization movement.

But a growing number of organizations are calling for an independent inquiry, including Amnesty International, the Council of Canadians, Mining Watch Canada, the New Democratic Party, Friends of the Earth, the Center for International and Environmental Law, and Rights and Democracy.

John Cheyo, leader of the United Democratic Party of Tanzania, whose party commissioned the only investigation that comes close to matching UN principles, is still calling for an independent commission of inquiry, and stands by the findings of the report submitted on January 19, 1997.

The world cannot account for the whereabouts of the people named as missing in the UDP report and by Tundu Lissu. To their families, their loss is incalculable, and they are only part of the human cost of the Bulyanhulu affair. The nameless tens of thousands who were evicted from Bulyanhulu are currently scattered across the United Republic of Tanzania, all but 56 still without compensation.

The feelings of the UDP and many peasants are summed up in a heartfelt plea in their report:

"We know the Canadian people. The sons and daughters of Canada are peace loving people. They are committed advocates of human rights. Their boys and girls are now engaged in the protection of human rights and the protection of people's lives against destruction out there in Zaire (Congo) and Burundi...I cannot therefore believe that the Canadian people can bless the actions and atrocities committed to the poor Sukuma peasants...all over Shinyanga the orphaned and the widowed are weeping in bereavement, but they receive no comfort because none is forthcoming."



William Musa, a member of the Miners' Committee and witness to the pit fillings. "What I saw with my own eyes is shameful."



Honourable Ezra Machogu, UDP councillor in Kahama town.



Emmanuel Bombeda had his house and mine pit destroyed.



Zephania Luzama, chairman of the Shinyanga Region small-scale miners association. Obtained permission from the Tanzanian president for small scale miners to work at Bulyanhulu in 1993.



Nasim Sanga lost three pits and says there were several miners buried alive in them.



Melania Baesi, who also says several were buried in her pit, including her two sons.

Moil: To toil, to slave. To turn about endlessly.