



Rights and Accountability in Development

23 December 2016

Mr Peter Geleta
Acacia Mining Plc
5th Floor
No. 1 Cavendish Place
London
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Dear Peter Geleta,

Open Letter re: North Mara Mine

Thank you for the recent meeting at Matrix Chambers on 19 December 2016. We are writing to summarise the points we made to you at that meeting, which you are willing to consider in relation to the soon-to-be-issued grievance mechanism for the North Mara Mine. We also summarise the further disclosure which we continue to seek from you and which you indicated you would further consider.

In summary form, our principal points of concern in relation to any new grievance mechanism were as follows:

1. **Procedure:** We raised concern about a lack of transparency regarding the mine's internal investigation procedures to be followed, such as conduct of interviews, medical assessments, storage and access to CCTV footage, and the current problem of legal privilege being asserted over all such materials, which are relevant to the claimant's case. At present, there is a conflict between protecting the company's interests when conducting internal investigations and the requirement for transparency, accountability and disclosure when upholding the rights of alleged victims of human rights violations.
2. **Personnel:** We raised concerns about lack of clarity regarding different roles involved in handling a grievance and who carries these out: investigation, assessment, information handling, and liaison with claimants. As well as whether the officers carrying out these roles are suitably qualified and trained.
3. **Referrals to state authorities:** We questioned how, cases of alleged criminal misconduct by mine security or police guarding the mine are referred to state authorities and whether this is done in a manner that best ensures that cases will be taken up by those authorities (i.e. to a department of the police operationally distinct from the alleged perpetrators and at a level of seniority that will ensure that such a complaint is taken seriously). The company does not publicise such referrals if they are made, nor does it summarise the nature of the allegation and assigning a unique identifier to each case. The company does not indicate whether it follows-up on each case, and does not provide a public update on how the authorities have responded.

4. Reasons: We raised concern that complainants (successful or otherwise) are not provided with a reasoned, written decision i.e. one grappling with the substance of the complaint and the evidence as collected by the company.
5. Independent oversight: We noted that the mechanism is not independent from the company and does not have a transparent and independent ‘appeal’ procedure or a genuinely independent and well qualified oversight body which is functionally separate from the mechanism and from the company, to periodically and regularly review individual investigations, decisions and forms of redress and the functioning of the mechanism generally and to make recommendations in relation thereto.
6. Oversight and reporting of underlying incidents: We noted that there are no figures of the numbers of relevant incidents, the types of incident deaths, rapes, maiming, whether remedy was provided, whether there have been any prosecutions of police or mine security involved in these incidents, with any lessons that might be learned.
7. Reform of legal advice arrangements: We raised concern about the lack of clear information about how and when claimants may access legal advice and no information about the practicalities of how the scheme is administered and the quality of advice available. Now that vouchers for legal advice are provided at the outset of a complaint, rather than at the settlement stage, then the previous 4 hour allowance needs to be correspondingly increased to account for the additional work involved in assisting a victim in formulating their complaint, providing evidence and guiding a victim through the mechanism.
8. Legal waivers: we raised concerns about these, particularly as settlements have been arrived at in unfair, untransparent, and unpredictable processes, which have been continuously revised in recent years, without independent legal counsel of the complainants choice and in circumstances of gross power imbalance.
9. Review of past decisions: we raised the need to review previous decisions (whether rejections, settlements or inconclusive complaints) where the investigation, grievance process or outcome was unfair or where there has been a change of circumstances that was not anticipated at the time of settlement/rejection.

In relation to outstanding documentation, we are grateful for the copy of the 2016 Memorandum of Understanding with the Tanzanian Police which you provided at the meeting. We are also grateful that you will provide a draft of the North Mara grievance mechanism in due course as agreed. We reiterate our requests for the following documents and information, which you agreed to further consider:

- a. The Mine Investigations Policy: although we appreciate that under this policy much of the material produced is intended to be subject to legal privilege, it does not follow that the policy itself should be considered as such. It is a procedural and policy level document only, and is highly relevant to the decisions taken to date in response to grievances given its inter-relationship with the mechanism and the way in which the company investigates potential human rights violations with which it is associated.
- b. The information requested at questions 1 and 2 (as sub-divided) of our memo dated 30 September 2016, i.e., relating to fatalities and injuries and disciplinary sanctions at the mine.
- c. Clarification of how long the “second order mechanism” appeal system has been in operation within the grievance mechanism and how many such appeals have been made.

- d. In the March 2016 meeting with Acacia, reference was made to existing process and policy documents behind the grievance mechanism – around logging claims, handling claims, reporting – which Acacia was consolidating under its revised grievance mechanism for North Mara. These documents are important in understanding how previous claims have been dealt with.
- e. Again at the March 2016 meeting, Acacia agreed that it could share non-confidential parts of the arrangement with Assaye Risk (a UK private security firm, in charge of investigating human rights claims).

As part of our further engagement in relation to the grievance mechanism, MiningWatch and RAID are engaging in good faith negotiations regarding outstanding individual complaints as a pilot for the revised mechanism. We look forward to receiving your response and engaging with you further in relation to the grievance mechanism as soon as possible.

Yours sincerely,

(original signed by)

Patricia Feeney
Executive Director (RAID)

Catherine Coumans,
Co-Manager, MiningWatch Canada