



Kelvin Dushnisky
President
Barrick Gold Corp.
Chairman of the Board of Acacia Mining plc.

Brad Gordon
Chief Executive Officer
Acacia Mining plc.

Via e-mail

August 27, 2017

Dear Mr. Dushnisky and Mr. Gordon,

Re: New report of violent death and ongoing concerns regarding access to remedy for victims at the North Mara Gold Mine; follow up on MiningWatch's recent field report¹

Newly reported shooting death in August 2017

On August 4, MiningWatch Canada (MiningWatch) received reports of another killing of a male villager, reportedly by gunshot by the mine's private security, at the Gokona Pit. We raise this with you, as this newly reported victim of alleged violence by mine security furthers our concern that loss of life through violence by mine security is ongoing at the North Mara mine in Tanzania. In the context of this most recent death we return to core issues regarding access to remedy through the mine's operational-level grievance mechanism, which we have been discussing in detail with Acacia in writing² over the past four years, as well as in meetings.³

¹ See: *Anger Boils Over at North Mara Mine – Barrick/Acacia Leave Human Rights Abuses Unaddressed. Field Assessment Brief*. Catherine Coumans. July 2017.

https://miningwatch.ca/sites/default/files/2017_field_report_final_-_anger_boils_over_at_north_mara_mine.pdf

² For recent examples see: *In Need of Repair: Acacia Mining's Grievance Mechanism at North Mara Gold Mine, Tanzania*. May 2016. MiningWatch Canada and RAID UK.

https://miningwatch.ca/sites/default/files/memorandum_to_acacia_revised.pdf ; *Letter from MiningWatch and RAID to Acacia*. December 23, 2016 and *Response from Acacia*. January 17, 2017

<https://miningwatch.ca/blog/2017/8/29/correspondence-acacia-mining-re-use-force-mine-security-north-mara-gold-mine-tanzania>. For field reports by MiningWatch and RAID dating back to 2014 see: Mining Watch Canada and RAID, *Violence Ongoing at Barrick Mine in Tanzania: MiningWatch Canada and RAID (UK) Complete Human Rights Assessment*, (Aug. 5, 2014), <http://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzaniaminingwatch-canada-and-raid-uk-complete-human> ; Mining Watch Canada and RAID, *Broken Bones and Broken Promises: Barrick Gold Fails to Address Ongoing Violence at Tanzania Mine*, (Nov. 17, 2015), <http://miningwatch.ca/news/2015/11/17/broken-bones-and-broken-promises-barrick-gold-fails-address-ongoing-violence> ; Mining Watch Canada and RAID, *Tanzanian Government Investigation Receives Hundreds of Reports of Violence and Deaths at North Mara Gold Mine*, (Sept. 22, 2016), <http://miningwatch.ca/news/2016/9/22/tanzanian->

Access to Remedy

The family of the man who died on August 4, filed a complaint with the mine's grievance office on August 6, 2017.⁴ However, among other concerns, lack of independence and lack of transparency of the mine's grievance mechanism means the family cannot be assured that its claim will be dealt with in an equitable and rights-compatible manner.

MiningWatch and RAID-UK first provided detailed critiques of grievance mechanism processes, as we found them in practice during our field assessments⁵ at the North Mara mine in 2014, 2015 and 2016. We noted the failure of these processes to meet the UN Guiding Principles on Business and Human Rights' Effectiveness Criteria⁶ concerning: transparency, legitimacy, predictability, accessibility, equitability, and rights-compatibility.

Acacia subsequently indicated to us that the company had responded to some of our criticisms in its development of a more detailed operational-level grievance mechanism procedure, which Acacia posted on its web site,⁷ with an effectiveness date of June 2016. In a meeting on December 19, 2016, and in a subsequent letter of December 23, 2016,⁸ we detailed numerous concerns regarding the posted remedy framework. We noted, for example, the mechanism's ongoing lack of independence from the company, its lack of clarity regarding the "roles involved in handling a grievance and who carries these out" and the mechanism's ongoing lack of transparency, for example, in regard to the mine's internal investigation procedures, its conduct of interviews and medical assessments, as well as "the current problem of legal privilege being asserted over all such materials, which are relevant to the claimant's case." Furthermore, a very high percentage of cases are turned down⁹ but we found that complainants did not receive substantive reasons for the failure of their cases. The few who were granted some remedy only received it after signing legal waivers. For a more comprehensive overview of our substantive concerns see our memo of May 2016¹⁰ and our letter of December 23, 2016.¹¹

[government-investigation-receiveshundreds-reports-violence-and-deaths](#) ; Mining Watch Canada and RAID, *Background Brief: Adding Insult to Injury at the North Mara Gold Mine, Tanzania*. September 2016.

https://miningwatch.ca/sites/default/files/adding_insult_to_injury_north_mara_0.pdf

³ Meetings were held in March 22, 2016, December 19, 2016 and May 19, 2017.

⁴ A copy of the "Complaint Acknowledgement Form" is with MiningWatch Canada.

⁵ See links to field assessments of 2014, 2015, and 2016 in note 2. See also: *In Need of Repair: Acacia Mining's Grievance Mechanism at North Mara Gold Mine, Tanzania*. May 2016. MiningWatch Canada and RAID UK.

https://miningwatch.ca/sites/default/files/memorandum_to_acacia_revised.pdf ;

⁶ Principle 31. *United Nations Guiding Principles on Business and Human Rights; Implementing the United Nations "Protect, Respect and Remedy" Framework*.

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁷ <http://www.acciamining.com/~media/Files/A/Acacia/documents/Acacia%20%20Grievance%20Mechanism%20-%20Jul%202015.pdf> and <http://www.acciamining.com/~media/Files/A/Acacia/documents/acacia-community-grievance-management-201606.pdf>

⁸ *Letter from MiningWatch and RAID to Acacia*. December 23, 2016

<https://miningwatch.ca/blog/2017/8/29/correspondence-acacia-mining-re-use-force-mine-security-north-mara-gold-mine-tanzania>

⁹ Of the 117 cases reviewed by the grievance office in 2016, 109 were rejected. Acacia Mining plc. 2016. *Annual Report and Accounts*. p.58.

¹⁰ *In Need of Repair: Acacia Mining's Grievance Mechanism at North Mara Gold Mine, Tanzania*. May 2016. MiningWatch Canada and RAID UK.

https://miningwatch.ca/sites/default/files/memorandum_to_acacia_revised.pdf

In January 2017, Acacia again noted our concerns and agreed to consider and address these concerns as it continued “to develop the Grievance Mechanism.”¹² Acacia also agreed to our recommendation that Acacia “engage in a broad consultation regarding the Grievance Mechanism, including with communities in North Mara.”¹³ Both MiningWatch and RAID indicated our willingness to participate in broad-based and transparent consultations on a revised grievance mechanism framework.

However, to date we have not seen a revised grievance mechanism framework document and there have been no broad consultations with experts, nor consultations with victims and community members for whom the mechanism is intended.

For these reasons, MiningWatch does not believe the family of the man killed on August 4, 2017 has access to an equitable, transparent and rights compatible grievance mechanism.

Lack of Transparency

A major concern we have with the remedy framework as posted by Acacia,¹⁴ is its lack of transparency, particularly in regard to the policies and procedures that inform security arrangements at the mine and instruct those who carry out the remedy mechanism.

We repeatedly have asked for the following policies and documents:

- An up to date version of the Memorandum of Understanding between the North Mara mine with the Tanzanian Police;
- The Mine Investigations Policy for the Mine Investigations Group: although we have noted 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, 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;
- Current investigations procedures manual of the Human Rights Team;
- Acacia Reporting and Escalation Procedure for Human Rights and Related Legal Violations <http://intranet.abg.local/polproc/SitePages/Policies.aspx> (link not working)
- Clarification regarding the “second order mechanism” appeal system: how long has it been in operation within the grievance mechanism, how many such appeals have been made, who sits on this mechanism, and what policies guide its activities;
- Process and policy documents behind the existing grievance mechanism – around logging claims, handling claims, gathering evidence, storing evidence, reporting

¹¹ Letter from MiningWatch and RAID to Acacia. December 23, 2016.

<https://miningwatch.ca/blog/2017/8/29/correspondence-acacia-mining-re-use-force-mine-security-north-mara-gold-mine-tanzania>

¹² Response from Acacia on January 17, 2017. <https://miningwatch.ca/blog/2017/8/29/correspondence-acacia-mining-re-use-force-mine-security-north-mara-gold-mine-tanzania>

¹³ Idem.

¹⁴ <http://www.acciamining.com/~media/Files/A/Acacia/documents/acacia-community-grievance-management-201606.pdf>

between the Mine Investigations Group and the Human Rights Team etc. These policy documents are important in understanding how claims have been dealt with to date.

We have also noted lack of transparency regarding the gathering of evidence, including medical evidence. The May 2010 version of the Mine Investigations Group Investigations Policy became public as a result of a law suit filed in 2013, by UK-based Leigh Day against African Barrick Gold plc (now Acacia Mining plc) and its subsidiary, North Mara Gold Mine Limited. This policy document stipulates in regard to evidence gathering that “[w]here documents are involved, always obtain the original and not a copy” (p.20). In our discussions with local medical professionals they have indicated that mine investigators regularly obtain original medical records of victims of violence by mine security. These are documents to which the victims themselves often do not have access. Furthermore, evidence that is relevant to the victims and their families, such as CCTV camera images, are only available to the company and not to the victims and their families.

Time for transparent, broad-based, consultation

I have raised again these concerns regarding access to remedy and the operational-level grievance mechanism for victims of mine-related violence at the North Mara mine, in light of the recent killing of August 4, 2017. MiningWatch has serious concerns that the family of this victim of violence cannot expect a fair and transparent process and equitable remedy under the current operational-level grievance mechanism.

MiningWatch calls again on Acacia and Barrick to take further steps to stop the ongoing loss of life and grave injuries sustained by villagers at the hands of private and public mine security at the North Mara mine and to initiate a broad-based and independent review of the remedy mechanism, with participation of international human rights experts and with the victims and community members for whom it is intended. MiningWatch repeats its willingness to participate in a broad-based and transparent review process.

I look forward to your response.

Sincerely,



Catherine Coumans

Electronic copy provided:

John Thornton, Executive Chairman of the Board
Peter Sinclair, Chief Sustainability Officer
Peter Geleta, Acacia, Head of People
Charlie Ritchie, Acacia, Head of Legal & Compliance
Suzanne Spears, Volterra Fietta
Others