



## Brief

# *Inequality of Arms*

**A summary of concerns raised by victims of violence by private and public mine security at Barrick Gold's North Mara Gold Mine in Tanzania regarding the mine's new Operation-level Grievance Mechanism**

September 2018

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### **Context:**

This brief summarizes disturbing issues that arose in interviews conducted by MiningWatch Canada in August 2018 with male Kuria villagers who are victims of excess use of force by mine security<sup>1</sup> and are now participants, at various stages, in the North Mara Gold Mine's (also "the mine") new Operation-level Grievance Mechanism (OGM). This brief also provides initial findings based on MiningWatch's review of some "Case Summaries" and "Remediation Plans" prepared by the mine's Community Impacts & Remediation Investigation Team (CIRIT) in regard to the victims that were interviewed. Also included are insights from a member of the mine's Grievance Committee and responses to some of the issues we raise here from the mine's Section Leader for CIRIT as provided in a meeting with MiningWatch on August 17, 2018.

Since 2014, MiningWatch Canada has reported yearly on our findings<sup>2</sup> based on human rights field assessments conducted among victims of violence at the hands of private and public mine security at the

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<sup>1</sup> "Mine security" in this brief is used both for public (police) and private mine security: both are in use at the mine.

<sup>2</sup> For more on MiningWatch's findings from previous years' human rights assessments see the brief we prepared following last year's field trip, which also references previous years' findings: *Anger Boils Over at North Mara Mine – Barrick/Acacia Leave*

North Mara Gold Mine.<sup>3</sup> Last year, Barrick Gold’s majority-owned subsidiary (64%), Acacia Mining,<sup>4</sup> started to implement a new company-led, non-judicial, Operation-level Grievance Mechanism (OGM) for victims of human rights abuses caused, or contributed to, by the operations of the North Mara Gold Mine (the mine) in Tanzania.

MiningWatch Canada has reviewed previously Acacia’s Standard Operating Procedure for the new mechanism and provided a detailed critique, expressing our concerns, particularly in regard to lack of independence of the mechanism and its procedures from the mine and the fact that the extraordinarily large power imbalance between largely illiterate and impoverished villagers and the mine’s legal and investigative team, which implements the mechanism, is not addressed and disadvantages the victims in the process.

Some of the early participants in the new OGM were originally clients in a law suit that was filed in 2013, in the United Kingdom, by UK-based Leigh Day against African Barrick Gold plc (now Acacia Mining plc) and its subsidiary, North Mara Gold Mine Limited. The law suit’s clients were villagers who had suffered injuries and family members of villagers who had died in incidents involving public and private mine security. A number of these cases were settled out of court early in 2015.

In 2012, when the Leigh Day law suit was being prepared, the mine created what it called a “Community Grievance Process.”<sup>5</sup> Many victims of human rights abuses who were already clients of Leigh Day<sup>6</sup> were approached by the mine, without the benefit of the presence of their UK-lawyers, and persuaded to drop their legal claims in return for remedy packages provided by the mine.<sup>7</sup> These victims were required to sign legal waivers in order to receive remedy packages from the mine. In our past interviews with these victims they have consistently expressed frustration with the process they endured and the discrepancy between the verbal promises made by mine personnel who persuaded them to drop out of the Leigh Day law suit and the actual remedy they received. The Leigh day lawsuit was settled out of court in 2015.

In MiningWatch’s interviews in August 2018 it became apparent that one of the mine’s employees who was central in engaging victims, including Leigh Day clients, in the previous grievance process between 2012-2015, is now the Remediation Officer for the new OGM. She was named repeatedly in our interviews with previous “Community Grievance Process” participants as she reached out to them again in 2017 and 2018 to persuade them to file an “appeal letter” to the new OGM.

## **The Operation-level Grievance Mechanism process as set out in Acacia’s Standard Operating Procedure:**

MiningWatch has provided a detailed critique of Acacia’s Standard Operating Procedure (SOP) for the OGM now in use at the North Mara Gold Mine. The following central elements of the process as outlined in the SOP are relevant in this brief (See Appendix A for a flow chart depicting how the grievance process is supposed to work).

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*Human Rights Abuses Unaddressed*. Field Assessment Brief. Catherine Coumans, MiningWatch Canada. July 2017. P.9. [https://miningwatch.ca/sites/default/files/2017\\_field\\_report\\_final\\_-\\_anger\\_boils\\_over\\_at\\_north\\_mara\\_mine.pdf](https://miningwatch.ca/sites/default/files/2017_field_report_final_-_anger_boils_over_at_north_mara_mine.pdf)

<sup>3</sup> Between 2014-2016 MiningWatch’s field assessments were conducted together with RAID-UK.

<sup>4</sup> North Mara Gold Mine ltd. is wholly-owned by Acacia Mining plc.

<sup>5</sup> <http://www.acaciainining.com/sustainability/grievance-process/gp-english.aspx>. Note that this 2012 “grievance process” was not supported by much in the way of transparent written procedural guidance.

<sup>6</sup> *Barrick Faces Court in London*. 5 November 2014. Catherine Coumans, MiningWatch Canada and Shanta Martin, Leigh Day. <https://miningwatch.ca/news/2014/11/5/barrick-faces-court-london>

<sup>7</sup> *Out-of-Court Settlement Good for Some Tanzanian Villagers – But Many Others Hindered from Participation by Barrick’s Grievance Mechanism*. MiningWatch Canada and RAID. 9 Feb 2015. <https://miningwatch.ca/news/2015/2/9/out-court-settlement-good-some-tanzanian-villagers-many-others-hindered-participation>

1) Grievants initiate claims verbally or through a “Grievance Intake Form” filed with the grievance office (SOP p.13). *Note that victims who have expressed dissatisfaction with the remedy they received in a previous iteration of the “community grievance process” (2012-2015), including those who had to sign legal waivers in return for remedy, have been persuaded by the Remediation Officer to initiate consideration of their claims by writing an “appeal letter.”*

2) The next step is a process of determining whether the grievant has suffered a human rights impact. This process is led by the mine’s “Community Impacts and Remedies Investigation Team” (Investigation Team). Note that the Investigation Team also “shall represent the Mine through the Grievance Process, including through both the Dialogue & Engagement and the Independent Review stages” (SOP p. 7). This stage is meant to include “facilitated dialogue” (SOP p.5) between the Investigation Team and the grievant.

If there is no agreement regarding whether the grievant and their dependents have suffered a human rights impact then the case goes to a three person Grievance Committee (all three participants are appointed by the mine).<sup>8</sup> *Note that from interviews with grievants conducted by MiningWatch, the hearings have also commonly included three members of the mine’s Investigation Team representing the mine’s positions.*

3) Once it has been agreed by the mine, or decided by the Grievance Committee, that there has been an impact the next step is to decide on “impact appropriate and proportionate remedies” (SOP p. 5). This process, according to the SOP, follows the same two steps. First “facilitated dialogue” between the mine and the grievant, followed by another session in front of the Grievance Committee if there is no agreement on remedy between the mine and the grievant.

Further:

- The SOP notes that one of the responsibilities of the Grievance Team is “explaining to Grievants how the Grievance Process works” (p.6)
- The SOP notes that grievants “shall be offered vouchers for four hours of legal advice and assistance, redeemable upon submission of tax invoices from qualified legal representatives of their own choosing.” (p.13)
- The SOP refers to documents that may be entered into the process by either party and mentions the need for ample time for the other side to review those documents. For example, in regard to the Grievance Committee hearings the SOP notes: “With respect to any new documentary or oral evidence submitted during the Hearing, the Grievance Committee shall grant the parties a prudential time period for submitting their observations.” (p.20)

### **Concerns that arose about the new Operation-level Grievance Mechanism in MiningWatch’s interviews with victims of mining-related human rights abuses include:**

1. Lack of capacity of grievants – Illiteracy, low levels of education and severe poverty seriously constrain the ability of victims to participate in the mine’s grievance process in a way that is protective of their interests and rights. For example, only one of the grievants interviewed by MiningWatch was able to write his own “appeal letter.”<sup>9</sup> Others who had submitted an “appeal letter,” or form, to the new OGM asked for help with their submission from family members,<sup>10</sup>

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<sup>8</sup> See: *Review of Barrick Gold/Acacia Mining’s Draft “Community Grievance Process - Standard Operating Procedure” for the North Mara Gold Mine in Tanzania*. Catherine Coumans, MiningWatch Canada. April 2018. Pp. 4-5. [https://miningwatch.ca/sites/default/files/review\\_of\\_new\\_north\\_mara\\_grievance\\_mechanism\\_april\\_2018\\_final\\_0.pdf](https://miningwatch.ca/sites/default/files/review_of_new_north_mara_grievance_mechanism_april_2018_final_0.pdf)

<sup>9</sup> Interview #5-2018

<sup>10</sup> Interviews #2-2018; #3-2018; #6-2018; #14-2018

friends,<sup>11</sup> other literate or semi-literate members of the community,<sup>12</sup> or OGM mine personnel.<sup>13</sup> None of the participants in the process had independent professional help in doing so. All grievants expressed lack of understanding of their rights in the process.

2. Lack of understanding of the full process and their rights therein by grievants – None of the victims interviewed by MiningWatch who had participated in the OGM were able to confirm that they had had the full grievance process explained to them or that they understood what their rights were in the process; for example the right to sponsored legal support (see below), or to having ample time to review documents introduced into the Grievance Committee hearing by the mine (see below), or to bring their own documents, or witnesses, to the Grievance Committee hearing (see below). Two victims interviewed by MiningWatch did not go before the Grievance Committee, but did sign remedy agreements in 2018 with the mine.<sup>14</sup> These grievants expressed serious concerns with the process they endured in arriving at those agreements, as well as the level of remedy they received. Both said they were not aware of the option of going before Grievance Committee.
3. False expectations raised – The mine appears to have been keen to stimulate participation in the new OGM, starting early in 2017, while the OGM was still in a “pilot” phase. Some victims, particularly those who had been involved in the mine’s previous grievance process (between 2012-2015) explained that they were contacted by mine personnel to enter the new OGM. They noted in particular that the mine’s Remediation Officer (who had also engaged with them in the earlier process) reached out to them<sup>15</sup> and some said she made verbal promises that the victims would be satisfied this time with the proposed remedy. Those grievants interviewed by MiningWatch who had received a remedy cheque all expressed deep disappointment in the way the determination was made (see section on “Grievance Committee hearings” below) and the amount they received in relation to the harm they and their dependents had endured, their disability, and perceived needs (see section on “remedy” below).<sup>16</sup>
4. Mine does not return grievants’ submissions or provide them copies of documents they have signed – Some grievants noted that they brought documents to the mine’s grievance office, for example their claim letters, which were accepted but not copied and returned to them.<sup>17</sup> One grievant said he explicitly asked OGM personnel to copy and return his documents to him.<sup>18</sup> Grievants also said that they were asked by mine personnel to sign documents, but they did not receive copies of the documents they had signed.<sup>19</sup> They were often unclear, due to illiteracy, about the content of those signed documents, even if that may have been explained to them at the time by mine personnel. One grievant noted that he asked for a copy of the documents he signed when he received his remedy cheque in the Grievance Office in April of 2018, but he was not given them.<sup>20</sup> Note that these cheques are generally handed out in the Grievance Office where there is a copying machine. This grievant said he has since repeatedly asked for copies of the documents he signed in April, including as recently as August, but he had not yet received those documents.

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<sup>11</sup> Interview #8-2018; #9-2018; #11-2018;

<sup>12</sup> Interview #10-2018

<sup>13</sup> Interview #1 -2018

<sup>14</sup> Interview #4-2018; #12-2018

<sup>15</sup> Interview #3-2018; #5-2018; #8-2018; #11- 2018; #14-2018

<sup>16</sup> Interview #3-2018; #4-2018; #5-2018; #8-2018; #9-2018; #10-2018; #12-2018

<sup>17</sup> Interview #11-2018; #14-2018

<sup>18</sup> Interview #1-2018

<sup>19</sup> Interview #3-2018; #4-2019; #5-2018; #8-2018; #9-2018; #10-2018; #12-2018

<sup>20</sup> Interview #8-2018

*In a meeting with the Section Leader for the Investigation Team on August 17, 2018 MiningWatch requested that the mine return copies of all documents received from past, current and future grievants to them, as well as provide them with copies of all documents signed by them and held by the mine. The Section Leader indicated that a “correspondence book” had been put in place that very week (week of August 13<sup>th</sup>) and that grievants would be provided copies of documents the mine prepares for them to sign and that letters and documents brought by grievants to the OGM would be copied and returned to them.*

5. Neglecting to inform grievants of their right to four hours of legal support paid by the mine, or dissuading grievants from seeking or bringing legal support – The mine’s SOP grants grievants the right to a voucher for four hours of legal support. Several grievants interviewed by MiningWatch said they were not aware they could have sponsored legal support.<sup>21</sup> Only two of the grievants interviewed, both of whom engaged with the process in April 2018, said they were aware of the vouchers and had received them.<sup>22</sup> Three grievants said they were dissuaded by the mine’s OGM personnel from seeking or bringing legal support.<sup>23</sup> One grievant said: “I asked them is there a need for me to bring my lawyer? They said the one you are supposed to bring is a relative or a parent. Since my parents were in the village I went with my younger brother.” Most grievants interviewed by MiningWatch were told they only needed to bring a parent, other relative or a friend to their hearings before the Grievance Committee.

As grievants need legal or human rights expert support and they need it much sooner in the process than at the time of the Grievance Committee hearing, it is therefore a major concern that the legal voucher is only good for four hours of a lawyer’s time.

*MiningWatch discussed this issue with a member of the Grievance Committee who indicated that he felt quite certain that no legal vouchers were provided in 2017, although there were three sets of hearings by the Grievance Committee throughout that year.*

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. The Section Leader acknowledged the mine could not provide evidence that past grievants had been provided with legal vouchers. In a later communication, August-19-18, he noted that as of late June the mine has started to keep a “register” for this purpose. As of late June he said eight vouchers had been provided with two more to be provided shortly.*

6. No “facilitated dialogue” as set out in the SOP – A central principle of OGMs, as envisioned by the UN Guiding Principles for Business and Human Rights (2011), is dialogue and engagement between companies and those whose rights they may impact as a way to resolve issues.

The SOP contains guidance on how these dialogue and engagement sessions should be structured (SOP pages 18-19). None of the grievants interviewed by MiningWatch described a process as laid out in the SOP. The process laid out in the SOP (p.5) envisions “facilitated dialogue” at two stages, once in regard to whether there had been an impact and once again in regard to what should be the remedy. Grievants are supposed to have access to an independent lawyer for these “facilitated dialogue” meetings, if they so desire, but none indicated to MiningWatch that they were aware of this right and none had legal vouchers ahead of any meetings they had with OGM personnel prior to meetings with the Grievance Committee (and most did not have legal vouchers even at that stage, see next section).

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<sup>21</sup> Interview #3-2018; #5-2018; #6-2018; #8-2018; #9-2018; #10-2018; #14-2018

<sup>22</sup> Interview #1-2018; #11-2018

<sup>23</sup> Interview # 3-2018; #5-2018; #14-2018

There is supposed to be a “Grievance Resolution Report” (p.19) at the end of these “facilitated dialogues.” None of the grievants interviewed by MiningWatch could describe or produce such a document. Documents currently produced by OGM personnel include a “Grievance Appeal Hearing - Case Summary” (Case Summary) document and a “Community Grievance Process Human Rights Remediation Plan” (Remediation Plan) document. No grievants interviewed by MiningWatch who went on to a hearing by the Grievance Committee had received these documents during the “facilitated dialogue” phase of the process, and many did not receive them at all, or until the very last minute before meeting with the Grievance Committee (see next section).

Only one grievant interviewed by MiningWatch said he felt there had been some dialogue when mine personnel asked him what he wanted.<sup>24</sup> Most recalled a visit to their homes by “people from the mine” (they rarely could recall who had visited them, another concern addressed below) who asked them questions about their economic situation and looked around and sometimes took pictures of their home and surroundings. Most remembered being asked by the Remediation Officer what they wanted as compensation. Most grievants described one home visit, rather than the two “facilitated dialogue” sessions envisioned by the SOP.

*The issue of “facilitated dialogues” was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. The Section Leader said that “facilitated dialogue” happens when a complaint is brought in to the grievance office and the grievant is asked what they want. He also said the home visit is a “facilitated dialogue” and is related to an assessment of impacts by the mine’s Investigation Team. MiningWatch conveyed that this description of “facilitated dialogue” appeared to be more investigative than dialogue and did not accord with the process as set out in the SOP.*

7. **Grievance Committee hearings** – Key concerns, elaborated below, are that the mine appointed Grievance Committee passes judgement on both the level of impact and the level of remedy almost entirely on the basis of investigations, evidence, and documents produced by the mine’s grievance mechanism staff. From MiningWatch’s interviews, it was evident that grievants do not have a good understanding of what is in those documents ahead of their hearing, they do not come equipped to address or counter characterizations of their case with which that they do not agree, and they do not have the necessary independent counsel to defend their interests. These key factors have a major impact on the equity of the process and of the remedy grievants will be offered, if any.

**Concerns regarding due process include:**

- Grievants receive documents prepared by the mine for the Grievance Committee hearing very late, if at all. At some point OGM personnel started to produce “Case Summaries” and “Remediation Plans,” in cases where the mine agrees there has been an impact. As noted above, some grievants interviewed by MiningWatch said they had not received any documents ahead of meeting with the Grievance Committee<sup>25</sup> or they had received documents only the day, or even the evening before the meeting.<sup>26</sup>

One grievant said: “They gave me a call around 8 pm. They said take a piki piki [motorcycle transportation] to the Boom gate [mine entrance]. They were there in a white [mine] vehicle. They said come and receive your statement so that you can go home with it and read it, by the

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<sup>24</sup> Interview #14-2018

<sup>25</sup> Interview #3-2018; #10-2018

<sup>26</sup> Interview #5-2018; #8-2018; #9-2018

time you are meeting the committee tomorrow you will be fully aware of what is in the document.”

As grievants frequently cannot read and did not have sufficient time to find someone to read documents they received shortly before going into the hearing, these grievants were not aware of what was in the documents as they entered the hearing. Two grievants mentioned that Grievance Committee members apologized to them for the fact that they had received their documents so close to the time of the hearing.<sup>27</sup>

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. The Section Leader said that an effort was being made for upcoming Grievance Committee hearings (end of August) to ensure that all grievants would have English and Swahili copies of the relevant documents (“Case Summaries” and, in determinations of remedy, “Remediation Plans”) as well as legal vouchers, at least 7 days before the planned Grievance Committee meeting.*

*This issue was also raised by MiningWatch with a member of the Grievance Committee who indicated that in 2017 even Grievance Committee members did not always get relevant documents related to cases coming before them, or they only got relevant documents as they were walking into the hearing.*

- Grievants do not know what is in the mine’s documents that describe their case. Grievants, whose first language is Kuria, said that the Swahili in the documents that described their case is difficult and “technical.” They said that even those who could read had trouble explaining to grievants what was in the documents pertaining to their case. In one case the “Remediation Plan” said that the grievant had declared that “there were **no** indirectly-affected grievants” [emphasis in original]. When MiningWatch asked this grievant whether his injury had had an effect on his children he indicated that his loss of income had had a major impact on his children.<sup>28</sup> When he understood the significance of what was written in his “Remediation Plan” he was very upset. His inability to understand what was written in his remediation plan, and to counter that information, may have had a negative impact on the amount of remedy he was assessed.
- Grievants did not understand the documents read out to them. Grievants described a process during the hearings by which documents prepared by the mine’s OGM personnel were read out to them and at times they were asked whether they agreed with the facts pertaining to their case as read out in the hearing. However, for most of these grievants Swahili is a second language to their native Kuria. Grievants expressed trouble understanding what they described as “difficult” Swahili as documents were read out.<sup>29</sup>
- Grievants are not aware of their right to legal counsel and have no vouchers  
See point 5. above.
- Grievants are not told to bring documents or witnesses to the Grievance Committee hearings –  
Grievants interviewed by MiningWatch said they had not been told to bring witnesses or documents to the Grievance Committee hearing, just a relative or friend. Some did bring some documents,<sup>30</sup> such as medical records, none of those interviewed by MiningWatch had brought a

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<sup>27</sup> Interview#8-2018; #9-2018

<sup>28</sup> Interview #14-2018

<sup>29</sup> Interview #3-2018

<sup>30</sup> Interview #14-2018

witness to the Grievance Committee hearing. One grievant said: “They did not ask me to bring any documents. I decided by myself to go with them [documents] to the committee.”

*MiningWatch discussed this issue with a member of the Grievance Committee who said very few grievants brought in documents in 2017, making it hard for the Grievance Committee to get a fuller picture of the issues at hand other than through the account provided by the mine’s Investigation Team and through questions posed to the grievants. This member indicated that lack of documentation brought to the hearing could be harmful to the grievants’ cases as they were commonly required to provide evidence of their account.*

- Grievants only go before the Grievance Committee once – Although the SOP envisions two stages, one in which the impact is established and one in which the remedy is determined, most grievants interviewed by MiningWatch who had received remedy described only one meeting with the Grievance Committee, if any, before receiving their remedy. This is problematic. When MiningWatch discussed with two grievants in some detail the account and descriptions of their impacts, as set out in documents prepared by the mine, these grievants did not agree with how their account and impacts were characterized.<sup>31</sup>

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. The Section Leader said that in some cases the mine did not dispute there had been an impact allowing a separate hearing with the Grievance Committee on impacts to be skipped. MiningWatch discussed this issue with a member of the Grievance Committee who said that in the first two series of meetings held by the Grievance Committee in 2017 there was always only one hearing. He said he thought it was only in the hearings in November 2017 that some grievants may have been offered separate hearings regarding impacts and remedy.*

- Grievants do not know who they have met with from the mine’s team throughout the process and in the Grievance Committee hearing. Grievants are not given cards or some other way for them to retain for their records who from the mine’s OGM team they met with in the grievance process. In the Grievance Committee hearings the Committee members and mine participants are introduced to the grievants, but as most grievants cannot write they cannot remember the names of those who participated in their hearing.

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. He mentioned that grievants will receive the names of the participants in the Grievance Hearing on the Final Chairman’s report of the Hearings.*

- Grievants are not receiving Final Chairman’s Reports on their cases. None of the grievants MiningWatch met with who had completed the process had received a Final Chairman’s report.

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. He mentioned that the mine had gotten behind due to processing large numbers of grievants in 2017 and due to the need to produce reports in both English and Swahili. He indicated that some grievants will soon be receiving their Final Chairman’s report.*

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<sup>31</sup> Interview #2-2018; Interview #14-2018



8. **Remedy** – Remedy assessments made by the mine’s OGM personnel are guided by the mine’s “Community Grievance Process Remedies for Security-Related Human Rights Impacts Reference Guide” and associated Annexes.<sup>32</sup> None of the grievants interviewed by MiningWatch who had accepted a remedy cheque through the new grievance mechanism said they were satisfied with the process they had participated in or the remedy they had received.<sup>33</sup> In particular, grievants felt that the long term impacts of their injuries, losses, or harm on themselves and dependents were either not reflected in their remedy or were undervalued.

The grievants interviewed by MiningWatch who had received remedy mostly involved victims of gunshot injuries with a range of related impairments and included one death and one case of partial paralysis. The highest remedy payment was 36 million TZS (15,746 USD) and the lowest was 1.8 million TZS (787 USD), with an average over these seven cases of 13 million TZS (5,686 USD).<sup>34</sup>

**Concerns regarding equity in regard to determinations of remedy include:**

- **Previous payments for “sponsored work” deducted from the remedy value** - A repeated concern arose in discussion with grievants who were offered remedy through the new OGM, but had previously participated in the mine’s earlier grievance process, between 2012-2015.<sup>35</sup> Based on the mine’s new remedies reference guide,<sup>36</sup> these grievants were told that the harm they and their dependents had endured had been evaluated by the mine’s OGM personnel and assessed at a particular value in Tanzanian Schillings. However, the mine’s “remediation plan” deducts from this amount the value of “remedy” previously received, often leaving but a small amount of residual compensation. The concern that arose in MiningWatch’s interviews with these grievants was that a large portion of the previous remedy was provided in the form of “sponsored employment.” These grievants pointed out that it is unfair to deduct that earned salary from the remedy that the mine had determined that they should receive as a result of the harm they have endured. They had had to show up to work Monday to Friday, for a year or more, to earn the amount the mine is now deducting.<sup>37</sup> They argued that time spent at work could not be spent in other pursuits and should therefore not be deducted from their current remedy assessment.<sup>38</sup>

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018.*

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<sup>32</sup> Remedies for Security-Related Human Rights Impacts Reference Guide: [http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp\\_remedies\\_security\\_hr\\_impacts\\_reference\\_guide\\_201804.pdf](http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp_remedies_security_hr_impacts_reference_guide_201804.pdf) and associated Annexes:

[http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp\\_remedies\\_security\\_hr\\_impacts\\_reference\\_guide\\_annexes\\_201804.pdf](http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp_remedies_security_hr_impacts_reference_guide_annexes_201804.pdf)

<sup>33</sup> Interview #3-2018; #4-2018; #5-2018; #8-2018; #9-2018; #10-2018; #12-2018

<sup>34</sup> Note that the amounts received by grievants provided here are derived from interviews with the grievants and from documentation they provided when it was available.

<sup>35</sup> Interview #3-2018; #5-2018; #8-2018; #9-2018; #10-2018

<sup>36</sup> Remedies for Security-Related Human Rights Impacts Reference Guide: [http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp\\_remedies\\_security\\_hr\\_impacts\\_reference\\_guide\\_201804.pdf](http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp_remedies_security_hr_impacts_reference_guide_201804.pdf) and associated Annexes:

[http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp\\_remedies\\_security\\_hr\\_impacts\\_reference\\_guide\\_annexes\\_201804.pdf](http://www.acaciamining.com/~media/Files/A/Acacia/documents/grievance/cgp_remedies_security_hr_impacts_reference_guide_annexes_201804.pdf)

<sup>37</sup> Similarly, grievants received part of their remedy between 2012-2015 for participating in mine sponsored meetings aimed at countering trespassing at the mine and so had to regularly sit in on these meetings.

<sup>38</sup> The work grievants commonly did under the mine’s previous remedy process, for example looking after chickens, was quickly learned and then repetitive. It cannot be described as a “training program” as the work went on for a year or more while the “training” for the work could be completed in a matter of days. Furthermore, some of these programs would not be able to lead to longer term work as the workplace was set up for the purpose of the “sponsored work” program and then dismantled by the mine. The chicken raising project, or any other pursuit would require capital to be turned into a new viable business.

- Humanitarian aid deducted from the remedy value - Another concern that two grievants expressed was that humanitarian aid the mine had provided was deducted from the ultimate remedy the grievant received. This humanitarian aid included, in one example, critical surgery related to an injury sustained when a victim was shot by mine security and emergency food rations, and is described as “humanitarian aid” in the “remediation plan,” but was nonetheless deducted from the value of the remedy offered.<sup>39</sup>

*This issue was raised by MiningWatch with the mine’s Section Leader for CIRIT on August 17, 2018. The Section Leader responded that in his opinion humanitarian aid should not be deducted from remedy offered to grievants.*

- Dissatisfaction with the remedy offered – Dissatisfaction with the remedy offered was common among all grievants interviewed by MiningWatch.<sup>40</sup> A number of grievants said they were so dismayed by the final amount they were offered, that they initially refused to accept it. In two cases grievants walked away from the Grievance Committee hearing without accepting the remedy offered. They were later approached by the “community representative” on the Grievance Committee, who is appointed by the mine, and persuaded by him to accept the remedy.<sup>41</sup> The same “community representative” was named by all grievants interviewed by MiningWatch as having attended the hearings of these grievants, which took place in both 2017 and 2018. It is unclear whether a roster of community representatives, or a Community Consultation Body, as envisioned in the SOP (p.9-10), has been established.

Other grievants were persuaded by the Grievance Committee itself to accept the remedy offered. One was told he could not go to court (many grievants have passed the time set by the statute of limitations in Tanzania) and that the Grievance Committee’s decision was final, there is no appeal, so that if he refused the remedy offered he would get nothing.<sup>42</sup> Another grievant, whose remedy was reduced after deductions from an assessed value based on harm of roughly 22 million TZS (USD 9,621) to 5 million TZS (USD 2,186) informed MiningWatch that he told the Grievance Committee “you have not done me justice.”<sup>43</sup>

One grievant, who did not participate in a Grievance Committee hearing, said that he reluctantly agreed to the remedy offered because he felt intimidated by the “threatening language” of the “remediation plan” that emphasized his wrongful actions in trespassing on mine property making him feel like he had no choice.<sup>44</sup> Another family that did not participate in a Grievance Committee hearing described a negotiation process with the mine’s OGM personnel that went on for months in which the amount promised kept being reduced after the family had agreed to it. The process was so hard on the grieving family of a deceased relative that they eventually asked the mine’s OGM personnel to leave them alone. It is unclear why the mine did not refer this case to a Grievance Committee hearing. A family member interviewed by MiningWatch said he was unaware of the possibility of going before a Grievance Committee. The family finally settled on a much reduced amount than what they thought was equitable.<sup>45</sup>

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<sup>39</sup> Interview #4-2018

<sup>40</sup> Interview #3-2018; #4-2018; #5-2018; #8-2018; #9-2018; #10-2018; #12-2018

<sup>41</sup> Interview #3-2018; #5-2018;

<sup>42</sup> Interview #8-2018;

<sup>43</sup> Interview #10-2018

<sup>44</sup> Interview #4-2018.

<sup>45</sup> Interview #12-2018.

Another grievant, whose remedy was reduced after deductions from an assessed value based on harm of roughly 19 million TZS (8,309 USD) to 1.8 million TZS (787 USD), said he had no choice but to accept the payment as his younger brother was very ill and needed medical care.<sup>46</sup>

In nearly all cases grievants told MiningWatch that what they needed in terms of remedy to overcome the harm they had suffered was a solid house for their family, guaranteed education funds for their children, and an amount of cash that would allow them to establish a small business.<sup>47</sup> Small businesses that are profitable around the mine may involve transportation of people and goods by motorbike, a Piki-Piki, or a small van or mini-bus. Other businesses that are accessible for most grievants are based on selling drinks or food. These small businesses require start-up capital to purchase a vehicle, or, in the case of a business selling drinks or food, inventory and rent for a sales location.

- Questionable impact and remedy assessments – Interviews MiningWatch conducted with grievants in August 2018 raise serious concerns about how impacts are assessed and remedy determined, in addition to those mentioned above. For example, one grievant who was shot in the back by mine security<sup>48</sup> has been left, after years of medical interventions, with permanent partial paralysis in both legs and one arm. He cannot walk or stand without support of a cane and walks with difficulty. His remedy was established on the basis of his reduced ability to work as a farmer. His “remediation plan” takes an approximate monthly income of a farmer estimated at 100,000 TZS over 12 months at 1,200,000 TZS per year for 43 years equalling 51,600,000 TZS (22,562.907 USD). However, the “remediation plan” then determines that his disability is 45% and therefore calculates his lost income at 45% of 51,600,000 or 23,220,00 TZS (10,153.660 USD). The determination that this victim’s disability is 45% is dubious, but more so the conclusion that he can still be a “55% farmer” when in fact it is highly unlikely that this grievant will ever again be able to carry out the rigorous physical activities required in farming in poor communities such as his.

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<sup>46</sup> Interview #9-2018

<sup>47</sup> These desired remedy items were most commonly named by victims in MiningWatch’s interviews. Also mentioned were sometimes cattle to milk and to help with ploughing, or land for agriculture.

<sup>48</sup> The grievant believes it was police who guard the mine who shot him.

**Appendix A:** Flow chart of Acacia’s operation-level grievance mechanism for the North Mara Gold Mine

