

## Environmental, human and indigenous rights violations and Canadian extractive industries overseas

*Is the problem serious enough to warrant a human rights ombudsperson?*

**“The extractive sector is unique** because no other has so enormous and intrusive a social and environmental footprint.”<sup>i</sup> In his first interim report to the Commission on Human Rights, John Ruggie, then UN Special Representative on Human Rights and business, recognized this fact about the nature of the industry.

The significant human rights impact of extractives has been noted repeatedly over the intervening years. According to the UN’s 2016 figures,<sup>ii</sup> extractive projects generate by far the largest proportion of claims of business-related human rights violations against human rights defenders. A February 2017 analysis by the Business & Human Rights Resource Centre of its database of over 400 human rights violations by corporations found that 38% of cases were generated by extractive industries. It also found that fully 25% of its cases were connected to companies headquartered in just three countries: China and the US, the two largest economies in the world – and Canada.<sup>iii</sup>

To date, the most systematic report on rights abuses associated with Canadian extractives is *The ‘Canada Brand’*,<sup>iv</sup> published in 2016 by the Justice and Corporate Accountability Project at Osgoode Hall Law School. It found that from 2000 to 2015 in just 13 countries in Latin America, 28 different Canadian mining companies were associated with over a thousand human rights violations, including:

- 44 deaths related to opposition to these projects, 30 of which were targeted,
- 403 injuries, of which 363 were sustained during protests,
- 709 cases of criminalization of human rights and community groups, including arbitrary use of legal complaints, arrests, detentions and charges<sup>v</sup>.

Further, due to the extensive documentation resources required, the study was unable to include reports of death threats, deliberate burning of crops and property destruction, forced displacement, assassination attempts without reported injury, illness from environmental contamination, or psychological trauma.<sup>vi</sup>

*The ‘Canada Brand’* also found that in general, neither the Canadian government nor industry are monitoring or reporting on such incidents. In mandatory reporting, publicly listed companies disclosed only 24.2% of the deaths and 12.3% of the injuries documented in this report. When incidents were reported, larger companies in particular tended to report incidents in general terms with few details.<sup>vii</sup>

The authors conclude that this report reflects just “the tip of the iceberg.”<sup>viii</sup>

Indeed, the violence reported in this study occurred only in 13 countries in Latin America, and covered no Canadian mines in other parts of the world. While no such systematic reviews of similar patterns of violations in Asia and Africa have yet been completed, there are unfortunately many recent and ongoing situations that demonstrate a need for action. Here is a summary of three of them:

On March 25, 2017, numerous houses in the village of Wangima were burnt to the ground by Mobile Units of the Papua New Guinea police, according to reports from Akali Tange Association, a human rights organization in Porgera.<sup>ix</sup> Barrick confirmed the incident took place, though claimed only 18 houses were destroyed and that mine management had no advance knowledge of the raid.<sup>x</sup> Wangima is located inside the mine lease area of Barrick Gold's Porgera Joint Venture (PJV) mine. Violence against local men and women by the mine's private security and police employed to provide security for the mine is well-documented and longstanding.<sup>xi</sup> The police are paid, housed, clothed and fed by PJV under a confidential Memorandum of Agreement (MOA) with Papua New Guinea. Villagers said that during the raid, young men were beaten and girls were raped.<sup>xii</sup>

In April 2017, indigenous women from the Philippines accompanied by a Member of Philippine Congress visited Canada to talk about the damage being done to indigenous Subanen territory by Calgary-based TVI Pacific and its Philippine subsidiary TVIRD. According to Nenita Condez, the company began its operations without the proper consent of the indigenous people. Small-scale miners began to be systematically denied business permits, resulting in massive loss of livelihoods. Armed security for the mine coincided with the escalation of widespread human rights violations, including extrajudicial killings, illegal detention, kidnappings, destruction of property, homes and livelihoods, forcible eviction, threats, harassment and intimidation.<sup>xiii</sup> Nenita invited the Canadian government to visit her community to investigate these alleged human rights violations that have been attributed to TVI/TVIRD. She says she has had no response to date.

In July 2016, a Tanzanian government inquiry released a report finding that Tanzanian police guarding Barrick Gold's North Mara mine have killed 65 local villagers and injured 270 over several years. This was the first official estimate of the scale of the decade-long violence reported at the mine. Barrick's African subsidiary, Acacia Mining, has an MOU with Tanzania to provide police security for the mine.<sup>xiv</sup> A 2014 letter from the Tanzanian government to Barrick noted that villagers who enter the site in search of waste rocks from which they can extract small bits of gold, accuse police of barring some villagers while accepting bribes from others to let them enter. The government asked the company to relieve the situation by, for example, removing the police guards and relinquishing some areas for small-scale mining.<sup>xv</sup> Acacia continues to use police to guard the mine site.<sup>xvi</sup>

## End notes

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- <sup>i</sup> John Ruggie, *Interim Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises* (U.N. Doc. E/CN.4/2006/97: 2006). <http://hrlibrary.umn.edu/business/RuggieReport2006.html>
- <sup>ii</sup> Michel Forst, *Report of the Special Rapporteur on the situation of human rights defenders*, 3 August 2016, p. 9. Available at: [undocs.org/A/71/281](http://undocs.org/A/71/281)
- <sup>iii</sup> Business & Human Rights Resource Centre, *Business and Human Rights Defenders, Key Database Findings*, February 2017. <https://www.business-humanrights.org/en/key-findings-from-the-database-of-attacks-on-human-rights-defenders-feb-2017>
- <sup>iv</sup> Shin Imai, Leah Gardner, and Sarah Weinberger, *The 'Canada Brand': Violence and Canadian Mining Companies in Latin America* (Osgoode Legal Studies Research Paper No. 17/2017). [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2886584](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2886584)
- <sup>v</sup> Imai, Gardner, Weinberger, *The 'Canada Brand'*, p. 4.
- <sup>vi</sup> Imai, Gardner, Weinberger, *The 'Canada Brand'*, p. 5.
- <sup>vii</sup> Imai, Gardner, Weinberger, *The 'Canada Brand'*, p. 4.
- <sup>viii</sup> Imai, Gardner, Weinberger, *The 'Canada Brand'*, p. 5.
- <sup>ix</sup> Jo O'Brien, *Claims of human rights abuses near a PNG goldmine*, Radio New Zealand, 5:04 am on 7 April 2017. <http://www.radionz.co.nz/international/programmes/datelinepacific/audio/201839477/claims-of-human-rights-abuses-near-a-png-goldmine>
- <sup>x</sup> Business & Human Rights Resource Centre, *Papua New Guinea: Barrick Gold accused of supporting police raid on nearby village; company denies involvement*, March 2017. <https://www.business-humanrights.org/en/papua-new-guinea-barrick-gold-accused-of-supporting-police-raid-on-nearby-village-ngos-say-150-houses-burned-8-people-raped-company-denies-involvement>
- <sup>xi</sup> Richard Poplak, *Canadian Mining's Dark Heart*, Walrus Magazine, November 2016. [http://submissions.magazine-awards.com/display\\_pdf/show\\_file/19882](http://submissions.magazine-awards.com/display_pdf/show_file/19882)
- <sup>xii</sup> Jo O'Brien, *Claims of human rights abuses near a PNG goldmine*, Radio New Zealand, 5:04 am on 7 April 2017. <http://www.radionz.co.nz/international/programmes/datelinepacific/audio/201839477/claims-of-human-rights-abuses-near-a-png-goldmine>
- <sup>xiii</sup> Esther Epp-Tiessen, *Our land, our rights, our peace*, MCC Ottawa Office Notebook, 19 April 2017. <https://mccottawaoffice.wordpress.com/2017/04/19/our-land-our-rights-our-peace/>
- <sup>xiv</sup> Geoffrey York, *Police killed 65, injured 270 at Barrick mine in Tanzania, inquiry hears*, Globe and Mail, 22 Sept 2016. <http://www.theglobeandmail.com/report-on-business/international-business/african-and-mideast-business/police-killed-65-injured-270-at-tanzanian-mine-inquiry-hears/article32013998/>
- <sup>xv</sup> Business & Human Rights Resource Centre, *NGOs claim Tanzania govt. investigation has uncovered human rights abuses at Acacia's subsidiary; company denies allegations*, September 2016. <https://www.business-humanrights.org/en/ngos-claim-tanzania-govt-investigation-has-uncovered-human-rights-abuses-at-acacia-minings-subsiary-company-refutes-allegations#c142465>
- <sup>xvi</sup> Geoffrey York, *Police killed 65, injured 270 at Barrick mine in Tanzania, inquiry hears*, Globe and Mail, 22 Sept 2016. <http://www.theglobeandmail.com/report-on-business/international-business/african-and-mideast-business/police-killed-65-injured-270-at-tanzanian-mine-inquiry-hears/article32013998/>