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For immediate release

Corporate abuse victims sign away rights under UK company complaint process

Tanzanian villagers using an internal company grievance process to raise complaints about UK mining firm African Barrick Gold (ABG) have been required to sign a confidential legal waiver, committing them to secrecy and barring them from taking part in any further actions against the company.

The waiver document has emerged during a court case brought against ABG in the UK by a group of people living around the North Mara Mine in Tanzania, who claim that the company and its Tanzanian subsidiary are liable for deaths and injuries allegedly caused by the use of excessive force by mine security and police.

The document, dated 16 December 2012 sets out that in order to receive "Condolence Disbursements", complainants must agree to work for the company for two years. In a "covenant not to sue", they are required not to assist others in potential claims against ABG or its affiliates. The waiver is so broad that it could be interpreted as precluding victims from acting as witnesses in civil litigation or even criminal proceedings.

This is not the only situation in which ABG has used a legal waiver as part of its internal grievance mechanisms. In 2011, private security personnel employed at Barrick Gold's Porgera mine in Papua New Guinea were implicated in alleged gang rapes and other violent abuses, according to Human Rights Watch. A legal waiver was used by the company in the case of rape victims at Porgera but was subsequently amended following pressure from Porgeran and Canadian NGOs.

ABG claims to be implementing the UN Guiding Principles on Business and Human Rights (UNGPs). However, the company's grievance mechanisms at Porgera and North Mara fail to meet the effectiveness criteria laid down in the UNGPs, requiring such mechanisms to be legitimate, transparent and rights-compatible. The use of legal waivers set a dangerous precedent which threatens to create an additional barrier to remedy for victims of corporate abuse and runs directly contrary to the commentary on GP29, which explicitly states that operational-level grievance mechanisms should not preclude access to judicial or other non-judicial mechanisms.

ABG is a UK-registered company listed on the London Stock Exchange, majority-owned by Canadian firm Barrick Gold Corporation. In a debate on 26 November 2013, members of the House of Lords called on the UK government to put pressure on ABG to respect human rights in Tanzania and to review the company's dealings as part of the FCO's annual human rights report.

The UK government launched a national Business and Human Rights Action Plan in September 2013, detailing planned actions designed to implement its commitment to the UNGPs. In line with this commitment, the UK government should now take the following steps in the context of the North Mara case:

- Raise questions with ABG regarding:
 - its human rights due diligence processes and the outcomes of those processes, in light of the ongoing human rights violations at the mine;

 - the manner in which the company negotiates confidentiality agreements with complainants, specifically the availability of adequate, independent legal representation available to victims, the requirements placed on signatories which effectively prevent them and others accessing judicial redress, and the conditional nature of the payments to victims.
- Communicate to UK companies that their grievance procedures should be compatible with the UNGPs, emphasising that grievance procedures should not preclude access to judicial or other non-judicial mechanisms.
- In consultation with civil society organisations, urgently review UK compliance with the UNGP provisions on access to remedy and identify actions needed to address any gaps or deficiencies. Such access is of particular importance in instances like North Mara, where the police of the 'host' state are allegedly implicated in human rights abuse linked to a UK company.

ENDS

For more information call Marilyn Croser, +44 207 354 7068