

Kabwe: Anglo American's lead poisoning legacy (Zambia)

Sector: Mining

Issues: Right to health, right to life

The companies: **Anglo-American** is a London-based mining company. Its South African subsidiary, **Anglo American South Africa**, operated a lead mine in Kabwe, Northern Zambia, from 1924 to 1974, when it transferred the operations to the state-owned body ZCCM.¹ The company is facing a class action lawsuit in the South African High Court as over 100,000 children and women of childbearing age in Kabwe claim to have suffered lead poisoning as a result of pollution allegedly caused by the company.²

Affected rights holders: For decades, the Kabwe mine was operated without adequate environmental safeguards, leading to lead contamination of the soil. Children in Kabwe are especially at risk as they are more likely to ingest and inhale lead dust when playing in the soil, they are still developing and can ingest four to five times as much lead as adults.³ Medical studies conducted over the past 45 years have shown extreme levels of lead in young children which has affected generations with lead encephalopathy and fatal lead poisoning.⁴

Details:

In March 2022, an estimated 140,000 Zambian children and women of childbearing age filed a class action against Anglo America South Africa Limited before the South African High Court.⁵ The class action is seeking compensation for children who are especially vulnerable to the effects of lead poisoning, and women who have or may become pregnant in the future.⁶ They are also seeking blood lead screening for children and pregnant women in Kabwe and clean up and remediation of the area in which contaminated soil remains a risk.⁷

Anglo American denies responsibility, arguing instead that ZCCM, the state-owned body to which the mine was transferred in 1974, is responsible for the pollution. This is despite documents showing that Anglo American was aware of the lead poisoning and the deaths of eight Kabwe children from suspected lead poisoning prior to the transfer.⁸

In March 2022, Zambia's President established a technical committee to address extreme levels of lead pollution in Kabwe and to propose a plan to address the harms the lead poisoning is causing.⁹ The UN Special Rapporteur on the Environment and the UN Special Rapporteur on Toxics have described Kabwe as being treated as a "sacrifice zone" and as one of "the most polluted places on Earth" suffering a "severe environmental health crisis".¹⁰

The High Court permitted a number of UN Special Rapporteurs and Working Groups to intervene in the hearing on behalf of the victims – the agencies had noted that the class action was the claimants' only route to access justice.¹¹ They also pointed to Anglo American's public endorsement of the UN Guiding Principles on Business and argued that this public endorsement must be a consideration in the court's decision to allow the case to proceed.¹²

How could a UK Business, Human Rights and Environment Act have made a difference?

In our assessment, a UK Business, Human Rights and Environment Act, would have placed a responsibility on Anglo American to prevent the widespread impacts of its operations on the local communities and ensure that any harm done were addressed. Such measures would likely include a clean-up of the environment and providing the requisite screening and healthcare to the impacted communities.

The law would make clear the duty that exists between parent companies and their subsidiaries, avoiding protracted litigation on preliminary issues of parent-subsidiary liability and allowing claims to proceed more quickly into their merits.

The affected communities of Kabwe would likely have had access to internal documents which would have helped understand what due diligence measures, if any, the company had taken and was taking to avoid the harm. Once the harm suffered by the communities were established in the courts, the burden of proof would have been reversed and it would have been Anglo American's responsibility to then disprove its negligence. Had the court determined that the impacts caused by the company resulted from its negligence, it may have decided to order clean-up, as well as remedy and the provision of screening services for the affected community.

Endnotes

- 1 ACTSA (19 January 2023), "[Anglo American may face class action suit over decades of Zambia lead poisoning](#)".
- 2 Children of Kabwe, "[Court Filings](#)". Accessed 10 February 2023.
- 3 Human Rights Watch (23 August 2019), "[We have to be worried: The impact of lead poisoning on children's rights in Kabwe](#)".
- 4 "[Children of Kabwe](#)". Accessed 18 January 2023.
- 5 Mbuyisa Moleele and Leigh Day (15 March 2022), "[Kabwe lead poisoning class action against Anglo American South Africa: Lawyers File Detailed Evidence in Court](#)".
- 6 Mbuyisa Moleele and Leigh Day (15 March 2022).
- 7 Mbuyisa Moleele and Leigh Day (15 March 2022).
- 8 In 1971, following the deaths of eight Kabwe children from suspected lead poisoning, an investigation into lead-related risks facing the communities surrounding the mine was conducted. Children of Kabwe, "[Key medical research](#)". Accessed 10 February 2023; Leigh Day (25 November 2022), "[Court rules United Nations agencies can intervene in Kabwe lead poisoning class action](#)"; RAID (23 February 2021), "[Investors Should Press Anglo American to Tackle Toxic Lead Legacy in Zambia](#)".
- 9 Human Rights Watch (22 June 2022), "[Zambia: Hope for Kabwe Lead Poisoning Victims](#)".
- 10 Centre for Applied Legal Studies (9 May 2022), "[Filing sheet](#)", pp. 3-4.
- 11 Leigh Day (25 November 2022).
- 12 Leigh Day (25 November 2022).