

Leigh Day



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Barrick faces court in London

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London-based African Barrick Gold is being sued in the United Kingdom by Tanzanian villagers for deaths and injuries allegedly caused by security and police guarding the company's North Mara mine.

Leigh Day partner, Shanta Martin, who is representing the Tanzanian claimants, is in Ottawa, calling on the company and its majority shareholder, Barrick Gold Corporation, to live up to their corporate responsibility and human rights commitments.

"Impoverished people from remote rural villages who sue multinational companies often face incredible obstacles to having their claims heard by an independent arbiter", says Shanta Martin.

Barrick Gold Corporation says it respects human rights wherever it does business and recognises the dignity of the people they interact with every day.

At the North Mara operations of Barrick's majority-owned subsidiary, African Barrick Gold, impoverished villagers tempted onto the mine to scratch out rocks for tiny amounts of gold are regularly being shot at with live ammunition.

"Our clients naturally expect companies that say they are transparent and supportive of human rights to live up to those claims," said Shanta Martin.

Nine local villagers are pursuing claims against African Barrick Gold and its Tanzanian subsidiary in the High Court of England and Wales for deaths and injuries they claim were a result of the excessive use of force by mine security and police, including the frequent use of live ammunition.

Six of the claims relate to deaths by gunshot, while three claims are brought by injured young men, including one man made paraplegic by a gunshot wound through his spine. His health is precarious.

On 19 November 2014, the Claimants in the proceedings against African Barrick Gold will seek orders from the English court requiring the company to hand over its internal documents and take other steps to get the case to trial.

"We know African Barrick Gold have these documents and have reviewed them; they have referred to the documents in correspondence since at least 2012," said Leigh Day partner, Shanta Martin. "We will be asking the court to require the company to hand them over promptly, as we say they should have two years ago".

It is not the first time the Tanzanian villagers have challenged African Barrick Gold's approach to the litigation. In August 2013, the Claimants successfully obtained an injunction to stop African Barrick Gold's subsidiary from suing them in Tanzania, where they had no legal representation. African Barrick

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Gold's subsidiary applied to have a local Tanzanian court declare that they could not be responsible for the conduct of police who provide security at the mine under an agreement with the companies. The English courts blocked the tactic after Leigh Day obtained an injunction to stop African Barrick Gold and its subsidiary from proceeding.

Catherine Coumans of MiningWatch Canada emphasises that access to information is essential for those trying to assert their rights against multinational corporations, as is the opportunity to bring their claims before a competent court.

Catherine Coumans recently returned from a human rights assessment at the North Mara mine during which MiningWatch and UK-based Rights and Accountability in Development (RAID) documented continuing incidents of lethal force used by police securing the mine. Health staff in local medical facilities told MiningWatch and RAID that at least ten victims had allegedly died from gunshot wounds received at the mine in a two month period in 2014. In the past week, Leigh Day informed African Barrick Gold of a further nine legal claims against the company relating to incidents in 2013 and 2014.

MiningWatch and RAID also found that a grievance mechanism put in place by Barrick's North Mara subsidiary was "seriously flawed". Catherine Coumans stated, "It is not transparent, it is administered by mine staff in a seemingly ad hoc fashion, the compensation being offered is neither appropriate nor reflective of the deaths and serious harm that victims have suffered and is not what the victims themselves told us they need to overcome the harm."

Additionally, Barrick's grievance mechanism is making provision of these inadequate remedies conditional on the victims signing away their right to sue Barrick in court for the violence they have endured. In this way the company's mechanism is directly posing a barrier to access to justice. "This flawed mechanism should not be used by the company to prevent people from accessing the courts and having their claims independently assessed, but that is what African Barrick Gold is trying to do", says Coumans.

Leigh Day confirms that many of their clients stated they had been specifically targeted to forgo their legal claims and sign up to the Mine's grievance mechanism.

Background

African Barrick's North Mara gold mine in Tanzania has long experienced violence allegedly involving both mine security and local police who are paid under an agreement to provide security at the Mine.

For more information contact:

Catherine Coumans, MiningWatch Canada, tel: +1 613-569-3439, Email: catherine@miningwatch.ca
Shanta Martin, Leigh Day, Email: smartin@leighday.co.uk tel: +44 20 7650 1200