



# The Rivers are **Bleeding**

British mining in Latin America



# War on Want fights against the root causes of poverty and human rights violation, as part of the worldwide movement for global justice.

We do this by:

- working in partnership with grassroots social movements, trade unions and workers' organisations to empower people to fight for their rights
- running hard-hitting popular campaigns against the root causes of poverty and human rights violation
- mobilising support and building alliances for political action in support of human rights, especially workers' rights
- raising public awareness of the root causes of poverty, inequality and injustice, and empowering people to take action for change

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# Preface

In the context of the boom and bust cycle of global commodity prices, over the last two decades, almost all the countries of the global South have seen intensified exploration and overexploitation of natural resources. Mega-mining, agribusiness, large-scale fishing, logging and oil and gas extraction have seen significant booms of activity.

In Latin America, mineral resources and fossil fuels have attracted huge foreign investments, resulting in the occupation of larger territories, the generation of copious quantities of waste and pollution, and the use of vast amounts of water and energy. The premise that the extraction of these resources leads to 'development' has shaped economic, social and environmental policy. Companies and states promote globalisation and export-oriented extraction as the only road to growth and in the process, maximise profits by outsourcing social and environmental costs.

Distant from any significant media scrutiny and let loose by the UK government, British mining companies stand accused of polluting the environment and undermining the livelihoods of communities near mines across Latin America. This report provides a snapshot of just 17 of the most destructive and controversial mining projects, where frontline communities do battle against powerful transnational companies.

The companies in question, all of which are listed on the London Stock Exchange, are among the biggest and best known in the mining world: principally Anglo American, BHP and Glencore. The report also covers other less known London-listed companies such as the Anglo-Chilean firm Antofagasta.

At the date of publication of this report, the Observatory for Mining Conflicts in Latin America (OCMAL) registers a total of 253 conflicts related to mining operations in Latin America.<sup>1</sup> The extent and density of conflicts directly correlates with the major foreign investment destinations of mega-mining in the region.<sup>2</sup>

Extractive mining fundamentally transforms the spaces where land-based communities develop and carry out their livelihoods: their homes, their fields, their places of work and culture. These impacts are disproportionately felt by women, who are traditionally responsible for domestic labour and caregiving.<sup>3</sup> Mega-mining projects compound this burden by removing men almost entirely from this work – engulfing them in the economy of the mine without direct employment – while simultaneously giving women no recognition or remuneration. These extractive projects are also associated with a dramatic increase in domestic and sexual violence. The lack of research in this area and attention paid to this is a

sobering reflection of how the lives, labour and liberties of women are devalued in the context of extractive mining.

Mining conflicts are fuelled by environmental degradation, competition over water, the dismantling of local organisations, fraud, corruption, dispossession, repression and the criminalisation of community opposition. The proliferation of catastrophic conflicts associated with the mining industry has been widely analysed by various environmental and social movements, intellectuals and academics.

The overwhelming conclusion is that mining companies are evading responsibility for the devastating social, cultural, economic and environmental legacies these projects leave behind. Furthermore, when communities and human rights defenders working to highlight them are ignored, contradicted and even killed by state forces, it is an ominous reminder that these corporations are not acting alone, but in alliance with those in power.

Despite the alarming data compiled in the following report, we also see that community resistance to industrial mining is growing and strengthening as important advances are made to limit, question and stop this extractive activity where it is most destructive. Communities, their local organisations and those that support them should take full credit for having initiated a critical discussion about the bounds and regulations needed for a highly unsustainable industry; as well as the possibility of alternatives, not only for Latin America but for the entire planet.

War on Want is engaged in the global struggle to challenge corporate power, guarantee justice for communities affected by mining and hold complicit governments to account. We work with Indigenous and Afro-descendant communities, grassroots organisations and international NGOs to defend territories threatened by the expansion of extractive industries and to guarantee their right to decide about their lands and development.

We call on the UK government to commit – in good faith – to the process of establishing binding regulation that guarantees the rights of communities, workers and the environment.

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# I London & extractivism

London is the hub of global mining finance and power. The United Kingdom is one of the most important investment hubs for the global mining industry. Most of the world's biggest mining companies are incorporated in the UK. Of these, many have shares publicly traded on the London Stock Exchange (LSE) Main Market, and approximately 110 companies have shares traded on the LSE's secondary Alternative Investment Market (AIM). The UK also hosts the London Metal Exchange (LME), the world centre for industrial metals trading.

In Latin America, mineral resources and fossil fuels have attracted huge foreign investment. But their extraction has also left a trail of environmental degradation, labour exploitation and human rights violations, as well as triggering competition over water and territory with land grabs, either forcible or negotiated through corruption and fraud. Although the devastating consequences for local communities and ecosystems have been well documented, challenging mega-mining projects remains extremely difficult – and often dangerous – because extractivism occupies a central role in the logics and requirements of globalisation.

The following analysis compiles reports from various sources to demonstrate the impact that British mining companies are having on human rights, workers' rights and the environment in Latin America. It highlights company practices and their consequences, which in turn demonstrate the need for much greater independent scrutiny and action by governments to defend the rights of local communities.

Water is the most recurrent feature. Time and again, reports suggest that mining companies are seizing control of local water supplies, often directly reducing the water available for local use, and sometimes contaminating water supplies through spills or even by dumping toxic waste into rivers.

Social conflicts are widespread in many areas where mining is taking place in Latin America. Indeed, recent research shows that the growth in social and environmental conflicts across countries such as Colombia, Ecuador, Peru and Bolivia is strongly associated with the expansion of mining projects. One academic paper noted that “the Andes now resembles a war zone”.<sup>4</sup> All over the region, communities are fighting to preserve their territories and uphold their rights. A coalition of 50 church organisations and environmental groups across 15 countries in Latin America has called for the need to find alternatives to mega-mining operations.<sup>5</sup>

The response by companies and governments – the state-corporate extractive nexus – is almost exclusively to try

## What is extractivism?

Extractivism is a highly destructive model of economic development based on the intensive extraction of finite natural resources such as metals, minerals, fossil fuels, land and water. It is a model through which the economy, social relations of class, race and gender, state policy and public discourse are organised. Its implementation often relies on the exploitation and displacement of local communities, mainly in the global South, to produce raw materials for production and profit, mostly by corporations in the global North. While extractivism is presented as the only road to ‘economic development’, in practice it serves as a means to plunder the global South, contributing to climate change, inequality and human rights violations.

to convince communities and the public of the benefits of mining, by any means necessary. Communities are often unwillingly turned into partners and made complicit in the destruction of their own ecosystems. But the task of convincing communities is riddled with challenges, especially as the benefits of mining flow into the hands of a few, while the industry's enormous socio-ecological losses are transferred to future generations.

Companies claim to employ thousands of people and to contribute positively through their operations to local and national economies. However, the data indicates that worldwide only about 1% of the economically active population works in mining.<sup>6</sup> Many workers tend to be highly skilled and not from the region or community where the mine is located. Those that are employed tend to be subcontracted under precarious conditions, generating further impacts. Provinces and territories with a longstanding history of mining are among the poorest in the country. This suggests that the benefits of this mining are too often being undermined by the costs.

Although many companies have adopted environmental and human rights policies, and although not every mine has faced accusations of the same gravity, environmental destruction and human rights violations are commonplace and – in some cases – systematic enough to warrant serious concern.

While government authorities have issued minor fines on some of these companies in relation to environmental negligence, impunity is the norm. States have tended to side with multinational companies over and above the rights of their own people, trying to guarantee

the revenue to generate economic growth, or simply because they succumb to the overwhelming power of corporations. The UK mainstream media, meanwhile, remains largely silent on these abuses, while the UK government continues to advocate for mega-mining projects abroad.

## Extractivism and global markets

The mining industry corners markets and destabilises prices, leading to market distortions. Through this, they seek to influence the public policies of governments, who are only interested in the revenue generated by foreign exchange.

Further, the mining sector often attempts to achieve greater social and environmental deregulation under the guise of needing to maintain economic competitiveness and increase production volumes.

At times when the mining industry has faced internal crises due to the low prices of commodities, industry actors have sought to blame the high cost of external inputs such as electricity, manual labour, on excessive bureaucracy or simply on the environmental demands of mining projects.

Following the unprecedented spike and drop in commodity prices (the global commodities super cycle), fluctuations in the prices of metals and minerals, and record-high market prices for resources have given the mining industry undeniable favourable market positions.

There is also a new tendency whereby extractive industries look towards financialisation and speculation over new projects. The securitisation of new projects draws in huge investments seeking profits through debt leveraging. So even when market prices are low, mega projects are started with the aim of accessing speculative capital trapped in hedge funds and other destructive financial instruments.

## Corporate elites

The companies that feature in this report are firmly part of the international corporate elite. Many of their board members sit on the executive committees of numerous other multinational companies, exemplifying an international corporate revolving door. Many are also firmly part of the British establishment. For example:

- **Sir John Parker, Anglo American's chair** until October 2017, is a former senior Non-Executive Director of the Bank of England<sup>7</sup> who was recently

asked by the government to lead a review of ethnic diversity on UK boards<sup>8</sup> and a review of naval shipbuilding.<sup>9</sup> Anglo American's other board members include the chairman of GlaxoSmithKline (Sir Philip Hampton)<sup>10</sup> and a Non-Executive Director of Standard Chartered and Tesco (Byron Grote).<sup>11</sup>

- **Baroness Shriti Vadera**, a Director of **BHP Billiton Limited** and BHP Billiton PLC and the Senior Independent Director of BHP Billiton PLC, was formerly a Minister in the Department for International Development and Cabinet Office Minister.<sup>12</sup>
- **Anthony Hayward** is the Non-Executive Chairman of **Glencore** and former CEO of BP, while one of Glencore's Independent Non-Executive Directors, **Leonhard Fischer**, is a former CEO of Kleinwort Benson, and another, **John Mack**, is a former CEO of Morgan Stanley.<sup>13</sup>

Many of these people are paid vast amounts of money and have amassed great wealth through mining. Glencore's CEO is the multi-billionaire Ivan Glasenberg who personally owns 8.5% of the shares in the company.<sup>14</sup> Anglo American's CEO, Mark Cutifani, was paid £3.7 million in 2015 and £3.4 million in 2016.<sup>15</sup> In 2017, BHP Billiton's CEO, Andrew Mackenzie, was paid nearly £5.3 million.<sup>16</sup>

## Copper and coal

Ten of the cases analysed in this report concern the mining of **copper**, key to several countries in the region, notably Chile, which produces around 40% of the world's copper and which hosts the world's largest copper mine, Escondida.<sup>17</sup> Yet copper production is contributing to some of the worst environmental impacts of mining in Latin America.

**Coal** is also an important commodity and one of the most controversial and problematic mining operations is that of the Cerrejón mine in the extreme north of Colombia, run by Anglo American, BHP Billiton and Glencore in equal shares. A major portion of the coal mined at Cerrejón is likely to supply the UK: in 2015, for example, the UK imported 20 million tonnes of coal for power stations, 37% of which came from Colombia.<sup>18</sup>

## Shareholders in the multinationals

Behind these companies are often huge financial interests seeking to earn great profits. The largest shareholder in Anglo American as of September 2018<sup>19</sup> – Volcan Investments Ltd – is a holding company wholly owned by the Agarwal family which controls Vedanta Resources,<sup>20</sup> the controversial UK-incorporated mining company accused of human rights abuses and tax avoidance in India and Zambia.<sup>21</sup> It has been reported that Agarwal's investment in Anglo American is worth up to \$2 billion.<sup>22</sup> Volcan is incorporated in the tax haven and secrecy jurisdiction of the Bahamas.<sup>23</sup>

Anglo American's third largest investor<sup>24</sup> is Silchester International Investors, a London-based hedge fund whose manager, Stephen Butt, recently paid himself £16 million after his firm saw a jump in profits in 2016.<sup>25</sup>

BHP Billiton PLC's largest shareholder<sup>26</sup> is BlackRock Investment Management (UK), a giant global investment company now advised by former British Chancellor George Osborne.<sup>27</sup> Legal & General Investment Management Ltd is also a major shareholder in BHP, along with giant investment firm Aberdeen Asset Management and Norges Bank Investment Management, the body that manages the supposedly ethical Norwegian state oil fund.<sup>28</sup>

Glencore's major shareholder is Qatar Holding LLC, Qatar's sovereign wealth fund.<sup>29</sup> Both BlackRock Investment Management and Norges Bank Investment Management are also sizable shareholders.

## 2 Anglo American: Toxic spills and deadly threats

Anglo American, incorporated in the UK and headquartered in London, is one of the world's largest mining companies, employing 87,000 people and with revenues of \$4.1 billion in 2017.<sup>30</sup> Anglo American operates eight mines in four South American countries.

This report highlights six mines where Anglo American faces opposition or concerns from local communities regarding its operations (five are analysed in this section; the Cerrejón mine, a joint operation, is analysed in a later section).

### Chile and Peru: Environmental pollution

Several of Anglo American's mines in Chile and Peru have been found to have polluted the environment and are being challenged by local communities.

Anglo American has a 50.1% share in the **El Soldado copper mine** located 130 km northwest of the Chilean capital, Santiago. Chile's state-owned Codelco and Japanese companies Mitsubishi and Mitsui also hold stakes in the operation. The mine produced 36,000 tonnes of copper in 2015.<sup>31</sup>

In November 2011, a local environmental NGO issued a formal complaint to the World Bank's Compliance Adviser/Ombudsman (CAO) (since the Bank's International Finance Corporation had an equity investment in the project) raising concerns about the mine's anticipated impacts on local populations and the environment. The complainants raised concerns regarding impacts on water quality and quantity in an arid area characterised by rising competition over water sources and questioned the proposed handling of toxic waste and the impact this could have on communities' health. The CAO found the complaint eligible in 2012 and a

CAO team conducted an assessment to explore options for resolution with the relevant parties. Following the assessment, a collaborative resolution to the complaint was found to be impossible and the CAO released a final assessment report concluding that a review of certain aspects of this project was warranted.<sup>32</sup>

The company has already faced environmental sanctions for its operations at El Soldado. In 2014, Chile's environmental regulator, Superintendencia del Medio Ambiente (SMA), imposed a \$4.5 million fine on Anglo American Sur, Anglo American's subsidiary, for violating 16 environmental rules at the mine. The breaches came to light during a mine inspection in 2013 and were related to the management of reforestation, wildlife and rainwater, as well as to water pollution with sulphates and sodium, among others. SMA noted that the company had failed to fully preserve and relocate vegetation, had ineffective wetland conservation plans and water management in place, lacked environmental monitoring, and had tailings<sup>33</sup> located in an area for which the company didn't have a permit. While many breaches were considered minor, the authority stated that five were deemed severe.<sup>34</sup>

The charges indicated that the water in several of the region's wells contained more sulphur than is permitted by law and that Anglo American had not taken necessary water management steps. Sulphur makes the water smell and taste bad and can cause diarrhoea in vulnerable populations, such as infants.<sup>35</sup> In 2016, the Chilean Supreme Court upheld a judgment that required Anglo American Sur to repair the environmental damage. The court ordered a series of mitigation measures including formulating and implementing a plan for reforestation and recovery.<sup>36</sup>

Name of operation	Type of operation	Country
Cerrejón	Coal mine (33% share)	Colombia
Quellaveco	Copper mine (81.9% share)	Peru
Collahuasi	Copper mine (has 44% share, with Glencore)	Chile
El Soldado	Copper mine (50.1% share)	Chile
Chagres	Copper smelter (50.1% share)	Chile
Los Bronces	Copper mine (50.1% share)	Chile
Niquelandia	Nickel processing plant	Brazil
Codemin	Nickel mine	Brazil
Barro Alto	Nickel mine	Brazil
Minas Rio	Iron ore mine (100%)	Brazil

Source: 'About us', <http://www.angloamerican.com/about-us/where-we-operate#/projects-operations-offices-headquarters/iron-coal-copper-nickel-platinum-diamonds>; 'Our business', <http://www.angloamerican.com/products/copper>



Interviewed in 2014 by Deutsche Welle, Germany's international broadcaster, Jorge Ramirez, a community leader who lives near the mine, said: "The mine destroys nature and native forests. It pollutes the water; it also takes away our water because a lot of water is needed for mining processes." Ramirez added that the company is also responsible for a tailings pit, a lake of ground-up rock, water, and chemicals left over from the mining process, which Ramirez describes as a "time bomb" for the local communities.<sup>37</sup>

Similar environmental problems have been a feature of Anglo American's **Los Bronces copper mine**, one of the world's largest, located 3,500 m high up in the Andes, 65 km north-east of Santiago.<sup>38</sup> Anglo American manages and owns 50.1% and Codelco, Mitsui and Mitsubishi are, as with the El Soldado mine, the other shareholders.

In 2015, Chile's environment regulator, SMA, hit Anglo American with a \$6.2 million fine, ordering the company to shut down one of its waste dumps at Los Bronces, as it said it had caused "irreparable" damages to a nearby agricultural valley. SMA said the fine was calculated based on five infractions detected at the mine's facilities in 2013 and 2014, including acid drainage from a dump site and failure to monitor water quality. The regulator ordered the closure of the deposit until "a definitive solution that permits the adequate drainage of acids generated by the project is implemented".<sup>39</sup>

In February 2016, a rupture of the pipeline at the mine's tailings reservoir was suspected to have contaminated a local river. In response, the municipality of Colina near the mine ordered the precautionary evacuation of about 300 people living near the river. Nearly 150 local people demonstrated against the company following the spill and a workers' union presented an injunction, which sought to suspend activities at the mine, before the Santiago Appeals Court.<sup>40</sup>

The company has also come into conflict with workers in its mines. In September 2016, over 1,700 Los Bronces workers staged a one-week strike over wages which followed a strike in 2014 involving some 4,000 contract workers. Their protest concerned what they said were layoff threats, the mine's refusal to negotiate a series of demands and what the president of the miners' union (*Federación de Trabajadores Sindicalizados de Los Bronces y Otros*) described as "systematic anti-union practices at Anglo American".

In recent decades Chile's mining industry has slowly

outsourced most of its jobs, with as many as two out of three workers now working on short term contracts. These contracts typically pay salaries as low as one third of those with full time staff jobs. Contract workers are reportedly also often assigned more dangerous jobs with higher risks of injury.<sup>41</sup>

Another of Anglo American's copper mines in Chile has caused several spills of tailings into the environment. The **Collahuasi mine** – owned 44% each by Anglo American and Glencore, with the remainder held by Mitsui – is the second largest copper mine in the world and is located at 4,400 m above sea level in the highlands of the Tarapacá Region in the north of Chile.<sup>42</sup> In August 2016, a local government environmental officer found that there were five unreported spills at the mine, risking contamination of local water.<sup>43</sup>

In 2010, workers at Collahuasi went on strike over pay for 32 days, the longest ever strike at a private mine in Chile.<sup>44</sup>

Like many other large-scale mining projects in Peru, Anglo American's **Quellaveco copper project**, located in the southern Moquegua Region, was delayed due to community opposition over concerns about its impact on the environment, most notably on water supply, before the government gave the go-ahead for the project in 2018.<sup>45</sup>

## Minas Rio, Brazil: Opposition and fear

Anglo American is seeking to expand its Minas Rio iron ore mine in the Brazilian state of Minas Gerais, a project which is part of the Açú port complex development. The company was projected to invest \$308 million in 2017 as part of an expansion aimed at boosting Minas Rio's output to around 26.5 million tonnes of iron ore by 2019.<sup>46</sup> At the time of writing, the expansion licence has not yet been approved.

The mine has long faced local opposition. In 2013, social movements, environmentalists and independent researchers denounced the project, depicting it as a threat to the lifestyle of numerous indigenous communities and the remaining rainforest of Mata Atlântica, considered a biodiversity hotspot. Anglo American's project incorporates a 529 km water-propelled pipeline, crossing 32 municipalities, to transport iron ore to the seaport at Barra do Açú, in the state of Rio de Janeiro. Protests have centred on the evictions of families from their land and alleged irregularities and mismanagement in the environmental licencing process such as the lack of technical studies

about socio-environmental and socio-economic conditions of the affected communities.<sup>47</sup>

The Churches and Mining Network in Brazil claims that Anglo American is depleting local drinking water resources, has inadequate consultation processes and that the project entails the possibility of a breach in the tailings dam. Local people say that the mine, which uses vast quantities of water, is already draining the local water table and destroying the recharge areas and aquifers, because it is in the iron ore layer that water accumulates.<sup>48</sup>

At least six communities are living on pumped water and some are without water for days at a time due to springs having dried up. Anglo American is likely to continue to face contests over its expansion plans and its tailings dam until a full and transparent assessment of the additional risks posed to people and the environment can be made and shared publically.<sup>49</sup>

Many local people live in fear of the mine's tailings dam. With a capacity of 370 million cubic metres, it is seven times larger than the Samarco dam that broke in 2015, killing 20 people (see section 3). Three communities below the Minas Rio dam are in the area defined as a 'self-rescue zone' because there would not be enough time for the authorities to intervene in case of an accident.

People's understandable fear has been fuelled by a rupture of a containment basin at Minas Rio as well as by the rupture of the Samarco dam. Patricia Generoso, whose family lost property in the construction of the tailings dam and who lives 300 m from it in the community of Conceição do Mato Dentro, has said that the company does not seem to acknowledge the danger faced by the communities.<sup>50</sup>

In response to criticisms, Anglo American states that all activities undertaken by Minas Rio have been properly licenced and are regularly monitored by the respective environmental agencies.<sup>51</sup> The company has said that it adopts efficient water management procedures everywhere, focusing on sustainable use of water; and that Minas Rio's consumption would not affect anyone else's consumption in the area. The mine will continue tracking water from the river and promoting joint decision-making with various other users. Anglo American also says it has obtained all the necessary water use licences for the tailings dam and mine dewatering.<sup>52</sup>

With regards to the tailings dam, Anglo American has said that its technical design and construction is very different from that of the Samarco dam and that its safety has been reviewed by numerous technical experts. The company has said that in building a dam there is a process

of informing local communities, and that Anglo American has gone beyond the legal requirements. As such, it has purchased land and paid people on settled agreements,<sup>53</sup> however, communities have nevertheless pointed to the asymmetrical relationship between themselves and the company, which employ a number of tactics – from repression to coercion – in order to get what they want.

*“Public meetings to deal with Anglo American activities have been marked by the presence of heavily armed police and other forms of pressure. Peaceful community demonstrations are suppressed by a disproportionate police force and community leaders are sued by the company. The company often hires retired high-ranking police officers for corporate security, maintaining a permanent influence on the local security system. The Federal Public Prosecutor's Office has expressed concern about militarization and the State Public Ministry has recommended moderating the use of the police force in peaceful demonstrations. What does this say about Anglo American's understanding of the right to participate?”*

Rodrigo Peret of the Churches and Mining Network<sup>54</sup>

# 3 BHP Billiton: The world's biggest mining giant

BHP Billiton, a giant multinational mining firm, is an Anglo-Australian company: BHP Billiton Limited is headquartered in Melbourne,<sup>55</sup> while BHP Billiton PLC is headquartered and incorporated in London.<sup>56</sup> In the year ending June 2018, BHP made \$8.9 billion profit and paid out \$6.3 billion to its shareholders.<sup>57</sup> BHP operates five mines in South America.

## The Samarco dam collapse: The worst environmental disaster in Brazil's history

The Samarco iron ore mine, jointly operated by BHP Billiton and Brazilian company Vale, is located in the state of Minas Gerais in Brazil. Brazil's worst ever environmental disaster occurred in 2015 when the Fundão tailings dam at the Samarco mine collapsed. The collapse killed 20 people,<sup>59</sup> mainly those working on the dam facility at the time, and left 700 homeless. It also caused a tidal wave of mud which destroyed the village of Bento Rodrigues and spewed 50 million cubic metres of mineral waste into the Rio Doce over 650 km into the Atlantic Ocean.<sup>60</sup> The released waste killed fish and aquatic life along the length of the river and polluted vast swathes of agricultural land. Thousands of fishermen, among others, sued the Samarco iron-ore mine for loss of earnings.<sup>61</sup>

*"The dam break led to the destruction of all forms of life in the region. Mud covered everything, resulting in 20 deaths and unmeasurable environmental destruction. We have seen whole communities destroyed by BHP Billiton and Vale's operations. They have lost everything, without receiving any real compensation. Instead of reparations for the victims, what is becoming evident is the blatant corporate capture of our government by transnational companies."*

Rodrigo de Castro Amédée Péret, Churches and Mining Network in Latin America<sup>62</sup>

Since the disaster, Samarco has focused on repairing and maintaining the existing dams, assessing the environmental and socio-economic impacts from the disaster, and initiating substantial remediation and compensation programmes. BHP says it has a team of around 35 technical experts and senior managers now engaged full-time in the ongoing response effort. In 2016, the company created the Renova Foundation to implement this work.<sup>63</sup> BHP's 2016 Annual Report noted that over 7,000 families whose livelihoods have been impacted by the dam failure are receiving financial assistance from Samarco.<sup>64</sup>

However, the response has been criticised by local groups for ignoring many of those affected and for failing to ensure meaningful participation in the decision-making about the clean-up and compensation.<sup>65</sup> In early 2016, a group of Brazilian civil society organisations repudiated a deal made by Samarco with the authorities, claiming it gave a private foundation the power to address every violation of human, social, economic and cultural rights. They noted:

*"The Foundation, funded by Samarco, Vale and BHP, will establish the value of the indemnity of each one of the harmed, in an isolated manner, and will be able to hire lawyers in case any of the indemnified doesn't agree with the proposed indemnity."*

The deal was made behind closed doors, violating the right of indigenous and traditional communities affected along the Rio Doce basin, who were not involved in shaping it.<sup>66</sup>

Prosecutors brought a \$50 billion case for damages, although this was suspended by a federal court in Minas Gerais.<sup>67</sup> In contrast, the sum offered by the company for compensation and clean-up is grossly inadequate: in early 2016, the company agreed with the authorities to pay BRL 24 billion (\$6.2 billion) over 15 years for damages.<sup>68</sup>

The most serious allegations relate to whether the company should have acted to prevent the collapse

Name of operation	Type of operation	Country
Escondida	Copper mine (57.5% share, Rio Tinto has 30% <sup>58</sup> )	Chile
Pampa Norte	Copper mine	Chile
Antamina	Copper mine (owns 33.75%)	Peru
Samarco	Iron ore mine and three concentrators (owns 50%)	Brazil
Cerrejón	Coal mine (owns 33%)	Colombia

Source: <http://www.bhp.com/our-businesses/minerals-americas>

of the dam. Media reports in 2018, citing hitherto undisclosed documents, show that six months before the dam collapsed, the mine operator accurately predicted the potential impact of such a disaster in a worst-case risk assessment. Additionally, federal prosecutors claim the company failed to take actions that they say could have prevented the disaster. The prosecutors claim the company instead focused on cutting costs and increasing production.<sup>69</sup>

In June 2016, a Brazilian federal police investigation concluded the company ignored clear signs that the dam was at risk of failing, including the appearance of cracks and drainage problems, and that it was not properly monitored. The investigation recommended charging eight people with manslaughter.<sup>70</sup> In October 2016, the Brazilian prosecutor's office charged 26 people for their alleged roles in the disaster, 21 for 'qualified homicide'. The prosecutors' case hinges on what they say is evidence that Samarco and its shareholders were aware of chronic structural problems at Fundão dating back to 2009. Additional charges against the 21 individuals include the crimes of causing a flood, landslide and grave bodily harm. Those charged included BHP Billiton and Vale executives on the Samarco board, including a minority who have now left.<sup>71</sup>

Samarco refutes these charges and has said the Brazilian prosecutors ignored defence statements that it presented over the course of the investigation "which prove that the company had no prior knowledge of the risks to its structure" and that "safety was always a priority in the management strategy of Samarco, reiterating that it never reduced investments in this area". BHP Billiton said it "rejects outright the charges against the company and the affected individuals. We will defend the charges against the company, and fully support each of the affected individuals in their defence of the charges against them."<sup>72</sup> Operations at the Samarco mine have been suspended since the collapse of the dam.

## Antamina: Poisoning people?

The Antamina mine, located in north/central Peru, is located over one of the largest copper deposits in the world, and comprises a pit over 3 km long and 1.8 km wide. Compañía Minera Antamina S.A. is owned principally by BHP Billiton and Glencore – each with a 33.75% stake – with remaining shares held by Teck and Mitsubishi.<sup>73</sup>

Communities near the mine have consistently challenged the company to recognise its local impacts and fulfil promises to promote local social development. In July

2016, over 1,500 people in the districts of San Pedro de Chaná, Pontó and San Marcos, went on a 48-hour strike in protest.<sup>74</sup> In 2011, local people, reported to be "fed up with the abuses and unfulfilled promises" of the company, blocked a local highway to stop the company's trucks from operating.<sup>75</sup>

*"The mine entered our land by opening roads without permission. After we complained, we made agreements. But they have never fulfilled these. Fifteen years have passed, they promised to do social support projects. They have polluted the environment, but we are affected by miles of pipelines and roads. The agreements promised there would be no further contamination, yet trucks daily carry fuel, then spill oil, petrol, causing contamination. They promised that it would improve and that they would take care of the spills. The water has been contaminated, the animals die."*

Jaime Cadillo, cattle rancher<sup>76</sup>

One recent report by Associated Press notes:

*"On the edge of Antamina's nearly half mile-deep pit, blasts hurl skyward a blood-orange dust that laces the village of Juprog's fields with heavy metals, contaminating people, crops and livestock... The cloud paints the sky ochre."*<sup>77</sup>

Antamina denies that such dust clouds are toxic but villagers say the dust makes them sick. "We always wake up with coughs, with headaches, chest pains", Pedro Cotrina, a 51-year-old potato farmer, was quoted as saying. His wife and son are among villagers with unacceptably high levels of lead reported in their blood, as documented in tests conducted from 2006 to 2009. The report adds: "Tests by government health agencies found elevated levels of lead and cadmium in people's blood and urine and heavy metals exceeding international standards on their kitchen floors and shelves, and in the livers of their sheep." Cadmium is a known human carcinogen, while lead is toxic to almost every organ in the human body. Lead levels measured in 2006 exceeded concentrations deemed acceptable by the US Centre for Disease Control (CDC) in 20 of 74 villagers, including nine children. More than half of the 82 adults and children tested had cadmium levels exceeding acceptable CDC limits.<sup>78</sup> It is not known if tests have been conducted more recently. There are also accusations by some former mine workers that they have been contaminated by arsenic and metals poisoning during their work.<sup>79</sup>

In July 2012, over 350 people in the town of Santa Rosa de Cajacay near the mine were affected after

a pipeline carrying copper concentrate laced with volatile compounds burst, spilling 45 tonnes of waste into the environment. People subsequently reported recurring stomach, head and sight problems, with some being hospitalised. The company was fined \$77,000 by the government for the spill, which critics said was an inadequate penalty for the damage caused. Tests conducted by the Peruvian health authorities following the spill showed that, of those tested from the worst-affected Santa Rosa community, a third of children and 3% of adults had elevated levels of copper in their blood. Antamina said that the levels of metals detected in the blood samples are typical of the area and not the result of the spill and that the authorities were using old standards that have since been revised upwards.<sup>80</sup>

Antamina produces annual Sustainability Reports, affirming that it “seeks to protect the environment at all times” and that “sustainable development is the core of corporate management”.<sup>81</sup> Government authorities themselves are at least partly to blame for the lack of local development in the area. Half of the 30% tax levied on Antamina’s profits is distributed in its host state. The district of San Marcos, where the mine is located, is the country’s richest – receiving about \$50 million a year in royalties from the company according to an Associated Press report from 2014. Yet the district is beset by corruption and has no paved highways, no hospital, and no water treatment facilities. Nearly one third of toddlers suffer from chronic malnutrition – double the national average.<sup>82</sup> Antamina says it spent \$314 million from 2007 to 2013 on infrastructure and social development projects in the region – including in pre-natal and dental care, child nutrition and animal husbandry. Asked why San Marcos residents nevertheless live so poorly, a company spokesman, Martin Calderon, suggested such questions be “directed at the authorities, be they national or regional”.<sup>83</sup>

## Escondida in Chile: The biggest copper mine in the world

Minera Escondida in Chile – in which BHP Billiton holds a 57.5% stake, and British company Rio Tinto holds a 30% stake – is the world’s biggest copper mine. In 2016, Escondida produced 5% of the world’s copper.<sup>84</sup> Located in the copper-rich Antofagasta region of northern Chile, in the Atacama Desert, Escondida has operated for over 25 years and provides just over 10,000 jobs.<sup>85</sup>

The mine has a history of disputes between workers and the company. In February–March 2017, workers in a 2,500-member union went on strike for 43 days, seeking to change company policy offering no pay increase,

cutting bonuses and removing top-up payments for those who take voluntary redundancy, as well as changing shift hours.<sup>86</sup> This followed a two-week strike in 2011. In October 2015, an Antofagasta Court ordered Minera Escondida to pay a fine of \$4.45 million for anti-union practices which violated Chile’s Labour Code against workers who participated in a work stoppage the previous year.<sup>87</sup> In December 2011, the Labour Court of Antofagasta also condemned and fined Minera Escondida for anti-union practices against union leaders and workers.<sup>88</sup>

BHP has recently spent a reported \$3.4 billion on a desalination plant to increase water supply at the mine, which uses vast quantities of water.<sup>89</sup> At the same time, Escondida has been accused by some Chilean environmental organisations of illegally extracting water from a local water system, the Salar de Punta Negra. They allege that this is causing damages such as the disappearance of animals and insects that support life in the driest desert in the world.<sup>90</sup> In early 2017, however, Minera Escondida announced the permanent cessation of the extraction of water for operational purposes from the Salar de Punta Negra, as part of plans to reduce water consumption.<sup>91</sup>

# 4 Glencore: Rotten to the core

Glencore PLC, incorporated in Jersey though headquartered in Switzerland, works in over 50 countries and made \$14.8 billion in 2016.<sup>92</sup> Glencore operates over 150 mining, oil and agricultural assets around the world, including 19 mines and other facilities in South America.<sup>93</sup>

## Environmental damage in Argentina, Colombia, Bolivia and Peru

Many of Glencore's mines across South America, in addition to the case of Antamina analysed in the previous section, are suspected of polluting the environment, especially water bodies, and undermining local livelihoods. In some cases, local communities have been protesting for years at the company's mining practices. Four examples in four countries are given below.

Glencore manages and has a 50% stake in **Minera Alumbrera, a copper/gold mine** in Catamarca province of northern Argentina. Over the years the mine has been consistently denounced for environmental contamination and has been the focus of substantial community protests at the mine's failure to protect local water resources and for making promises to promote local social and economic development which have not

been fulfilled.<sup>94</sup> In January 2017, a local court ruled on a longstanding case, lasting 16 years, that Minera Alumbrera had contaminated a local river basin, the Sali-Dulce. The judgment ratified water studies undertaken in 2012 by the National Water Institute which revealed contamination with heavy metals, mainly copper, from the effluents of the mining company.<sup>95</sup> Alumbrera is suspected of using 100 million litres of water a day – water that is fit for human consumption – without paying any fee for this.<sup>96</sup>

In June 2017, a federal court in Argentina ordered the suspension of activities at the mine as part of a pollution complaint.<sup>97</sup> In May 2008, the federal appeals court in Tucumán province placed a senior executive at Minera Alumbrera on trial without detention, charging the company with the crime of dumping dangerous contaminants into waters that empty into a local reservoir. The company rejected the court's decision, saying that it "has been and still is respectful of the law and of justice but feels obligated to express its utter disagreement with this decision".<sup>98</sup>

At various times over many years, communities have attempted to set up coordinated road blocks to impede access of critical supplies to the Alumbrera mine, ultimately aimed at shutting it down.<sup>99</sup> In 2010, social

Name of operation	Type of operation	Country
Cerrejón	Coal mine (owns 33.3%)	Colombia
Calenturitas	Coal mine	Colombia
La Jagua	Coal mine	Colombia
Antamina	Copper/zinc mine (owns 33.75%)	
Iscazacruz	Zinc mine	Peru
Yauliyacu	Zinc mine	Peru
Tintaya	Copper/gold mine and processing plant	Peru
Antapaccay	Copper mine and processing plant	Peru
Coroccohuayco	Copper mine	Peru
Sinchi Wayra	Four zinc mines (Bolivar, Porco, Poopo and Caballo Blanco) and a concentrator	Peru
Collahuasi	Copper mine and processing facilities (owns 44%, with Anglo American 44% and Japanese companies headed by Mitsui 12%)	Chile
Lomas Bayas	Copper mine	Chile
Altonorte	Copper smelter	Chile
Punitaqui	Copper mine and concentrator	Chile
Aguilar	Zinc mine and smelter	Argentina
Alumbrera	Copper/gold mine and processing facility (50% share and manages)	Argentina
El Pachon	Copper mine	Argentina
AR Zinc	Zinc smelter	Argentina

Source: 'South America', <http://www.glencore.com/our-world/global-operations/?location=341>

and environmental assemblies blocked the trucks that were carrying supplies for the mine, prompting fierce police repression which dispersed the blockade, leaving many protestors injured and arrested. The response was a massive mobilisation in the main square of the city of Andalgala, the main urban centre near the mine. Protesters then presented an environmental protection legal action that claimed the right to a healthy environment and requested the suspension of the mining project. Since then, every Saturday, protesters march through the city centre against the mine project and carry out information campaigns at local and national levels.<sup>100</sup> In February 2012, at least 24 people were injured after Argentine police violently cleared demonstrators blocking a national route to protest against the mine; the police used rubber bullets, tear gas, dogs and anti-riot vehicles.<sup>101</sup> Community mobilisation against the mine continues.

Glencore's **Las Calenturitas coal** mine in northern Colombia, operated by its subsidiary Prodeco, is also controversial. One recent NGO report accuses the company of dumping 'toxic waste' into a local river, the Calenturitas.<sup>102</sup> This conclusion is supported by a recent Colombian academic study published in the journal *Información Tecnológica* which conducted water sampling in three rivers in the mining area, including the Calenturitas. The study concluded that "Calenturitas presented higher concentrations of pollutants" associated with both domestic and industrial practices which:

*"...could indicate that the industrial and domestic spills originating in mining activity surrounding these receiving bodies and surrounding human settlements, are significantly affecting the quality of the three rivers, also affecting the biological component present in these aquatic ecosystems."*<sup>103</sup>

The NGO report argues that Glencore's most serious environmental impact in this region of Colombia has been the diversion, decline and contamination of the Calenturitas river, its tributaries and bordering rivers. The report notes that although environmental authorities have authorised some of these diversions and uses, several of their recommendations and restrictions have not been fulfilled by the company, with serious impacts on the fragile ecosystem that depends on water conservation. The report notes that the diversion of the river has affected the water supply of the surrounding populations, which are now receiving contaminated waters:

*"The stability of ecosystems that depend on this water as well as the hydric dynamics of the river and its bordering tributaries, have abruptly changed. Flooding on several plots of land with crops and cattle pasturelands has been attributed to the river's diversion and to a lack of suitable measures to compensate and mitigate these impacts. This has meant*

*shifts in the productive dynamics and economic losses for the farmers of the area."*<sup>104</sup>

Glencore has denied these claims. It says that Colombia's environmental authority has not found any evidence of toxic waste dumping in the Calenturitas river. It also says that it "pays close attention to the sustainable use of all local water resources and takes suitable precautions" and that its water monitoring programme "has determined that all values remain in compliance with applicable Colombian environmental laws and regulations". Water samples are taken every three months and compared to local regulations to verify that the ecosystem remains unaffected by its activities.<sup>105</sup>

Local communities near Glencore's **Sinchi Wayra zinc mine in Bolivia** have similar concerns and fears. In early 2016, community members near the mine called on the government to declare an 'environmental emergency zone' due to the serious impacts in the area.<sup>106</sup> Local farmers have long complained that water levels have fallen and that water has become contaminated due to mining activity, which consumes vast quantities of water; they also complain that some animal species have disappeared and that pasture land has dried up, affecting crop production.<sup>107</sup> Local people have often resorted to protesting the mine's impacts and have demanded the fulfilment of commitments made to the community such as housing improvement, construction of a micro dam, and providing jobs.<sup>108</sup>

*"Since the Sinchi Wayra company has worked and carried out its operations in the Cañadón Antequera they have been cutting the water veins from the depths, my municipality is affected because we do not have water in Totoral, Avicaya, Urmiri, Cucho Avicaya. In practice, we are lacking drinkable water. We have asked for urgent measures to be taken, indeed the Secretary of the Environment, Water and Mother Earth of the government knows this situation, has done many inspections but with no results. Year after year inspections are carried out without giving positive impacts. How long are we going to be putting up with this problem? Until they move us. We no longer have crops, everything is affected by pollution we no longer produce."*

Alejandrina Humerez Sequieros, a Councillor of the Municipality of Pazña near the mine<sup>109</sup>

There are also longstanding concerns about water contamination at Glencore's **Tintaya copper mine** in Espinar Province of Cusco region in southern Peru. This operation, an open pit copper mine and processing facility, has recently been decommissioned and production has moved to Glencore's Antapaccay mine, which is located a few miles away. But its impact lives on.

In 2013, following a legal process brought by citizens living near the mine, a court in Espinar issued a judgement recognising that there were heavy metals in local water bodies exceeding the maximum levels allowed, and that heavy metals were present in the population of Espinar, presenting a serious threat to their health. The judge outlined a need for the authorities to conduct studies to find the causes of the presence of heavy metals and for mining activity in the area to be monitored.<sup>110</sup>

In April 2013 the Ministry of Environment released results of water sampling commissioned by Peru's government in 2012. The report determined that there is pollution in the Espinar Province, some of which appears to be the result of mining and some of which is from 'natural' sources. Over half the sites monitored were contaminated with at least one sample exceeding regulatory standards and heavy metal contamination (mercury, arsenic, cadmium and lead) was discovered at 64 sites where water is used for human consumption. Surface and ground water in some sites close to mining activities were found to have chemical contamination exceeding standards and suggesting potential impacts from mining. A related finding was that people living in the communities directly affected by Tintaya are exposed to arsenic, thallium and lead.<sup>111</sup>

In response to the report, Glencore concluded that the contamination discovered above environmental standards was only in a few samples and that most of those samples were from outside the "mine's area of influence" – asserting that the contamination measured was the result of natural metals contamination and not from mining activities.<sup>112</sup>

## **Tintaya: Human rights violations**

Some 22 local people have brought a legal case in the UK for compensation for human rights violations allegedly perpetrated by the Peruvian National Police (PNP) during a protest involving human rights activists, students, mineworkers and farmers in the vicinity of the Tintaya mine in May 2012. Two protestors were killed and a number were severely injured and detained by the PNP during the protest: footage appears to show the PNP shooting protestors at close range. At the time, the mine was owned by Xstrata Tintaya S.A. (renamed Compañía

Minera Antapaccay S.A.), a subsidiary of Xstrata PLC, which merged with Glencore International PLC in 2013. The claimants, supported by London legal firm Leigh Day, allege that the PNP, whose attendance was requested by the mine, used excessive force, which Xstrata ought to have anticipated from the past poor human rights record of the PNP. One of the claimants, Mr Yohel Colque, was hospitalised for 16 months after being shot in the head and is now unable to walk and is confined to a wheelchair.<sup>113</sup> According to Leigh Day:

*"The PNP used live ammunition and allegedly beat and kicked protesters and made protesters stand for prolonged periods in stress positions in the freezing cold and subjected them to racial abuse. Xstrata paid the PNP and provided officers with food and accommodation. The Claimants allege that Xstrata gave the PNP logistical assistance, including equipment and vehicles, encouraged the PNP to mistreat the protesters, and that Xstrata failed to take sufficient measures to prevent human rights violations."*<sup>114</sup>

The allegations are strenuously denied by Xstrata/Glencore, which maintains that PNP protection was necessary as thousands of protesters, many armed with traditional slingshots, were marching towards the mine. The company also claims that the PNP operated independently of it and that the company cannot be held liable. However, the claimants contend that documents show Xstrata controlled an intelligence-gathering network where information was shared with the PNP and paid PNP intelligence officers to conduct surveillance of community members. The company denies this interpretation.<sup>115</sup>



# 5 Anglo American, BHP and Glencore: The devastating case of the Cerrejón mine in Colombia

Cerrejón, the largest open cast coal mine in Colombia and one of the largest in the world, is owned in three equal shares by Anglo American, BHP and Glencore.<sup>116</sup> The mine is located in La Guajira region on the northern tip of Colombia, a remote and impoverished area populated by around 400,000 Wayúu indigenous people who mainly live below the poverty line and who struggle to survive in harsh surroundings, made more brutal by regular drought.

The Cerrejón mine has throughout the years had severe impacts on these communities which have been well-documented.<sup>117</sup> Nearby rivers and streams have been diverted or polluted by mining operations, threatening local access to clean water. Resettlements of local communities in order to make way for the expansion of the mine have eroded social life and led to the sustained loss of agrarian livelihoods. Consultations between the mining company and local people have in most cases been inadequate, delayed, and not completed.<sup>118</sup>

## Water

Water is at the heart of the conflicts between the communities and the mine.<sup>119</sup> La Guajira, which is among the most arid regions in Colombia, has seen less rain than normal in recent years. The Colombian government has repeatedly drawn links between water scarcity and the El Niño weather phenomenon. Yet this explanation has neglected other causes of the lack of water, particularly stemming from industries. The most important water source in the region, the Rancheria river, has been dammed by the Cercado dam, built by the Colombian government in 2011. Local communities complain that the river now serves the agricultural industry and the Cerrejón mine instead of them.<sup>120</sup>

One recent report notes that the damming of the Rancheria enables Cerrejón to use 17 million litres of water a day while each resident of La Guajira is left with an average of 0.7 litres per day to live on.<sup>121</sup> Cerrejón diverted some streams during earlier expansion of the mining areas in order to access coal reserves in the river basins. According to villagers from the affected communities, some of these streams no longer flow.<sup>122</sup> Over the years, a number of reports have indicated that water in the nearby rivers and streams has been polluted by the mining operations.<sup>123</sup> Many people from different communities say that the water is not suitable for drinking and can only be used for washing.

Lack of water is the biggest threat to the Wayúu and their children. During 2008–16, the deaths of 4,770 Wayúu children were documented as a result of thirst,

malnutrition and preventable disease. This prompted a 2015 decision by the Inter-American Commission of Human Rights to direct the Colombian government to take immediate precautionary measures to ensure the lives and personal safety of the Wayúu people in La Guajira.<sup>124</sup>

## Dust

Villagers have for years been exposed to coal dust from both extraction activities at the mine, and the trains transporting extracted coal through their territories. A recent report by Swedish NGO Forum Syd notes that community members affected by coal dust exposure have experienced exacerbated skin diseases, stomach problems, eye disorders and respiratory problems.<sup>125</sup> Although there is significant evidence suggesting a breadth of deleterious health effects linked to coal dust in the region, despite the mine being in operation for 40 years, there has never been an independent investigation into the health impacts that it is having on local people.<sup>126</sup>

*“I live very close to the Cerrejón coal mine, hardly a kilometre and a half away; we are so, so close. Because of the coal dust created by Cerrejón, Moisés gets this dry cough. He needs clean air in his lungs. That’s why it is hard for him to breathe; he breathes contaminated air twenty-four hours a day.*

*“Even for those of us who don’t suffer any effects, we can still smell the coal. Every day I wonder how he must feel, he’s just a tiny little boy. He is not the only child in my family affected. Last year, a girl of just eight months died because of the coal dust that caked her lungs.*

*“Cerrejón says that it adheres to Colombian laws for pollution levels. This is true, but it doesn’t mean much. Colombian laws allow sulphur oxides at a concentration of 250 micrograms per cubic metre, yet the World Health Organisation recommends that 20 micrograms per cubic metre is the maximum. This level is often broken by Cerrejón.”*

Luz Ángela Uriana Epiayu<sup>127</sup>

## Consultation

Forum Syd also notes that the survival of the Wayúu, their social fabric and their ancestral traditions are threatened by Cerrejón's mining operations: the mine is situated in the middle of their ancestral land and their territory is being divided by the company's rail line. Mining activities have restricted the right to free movement and practices such as fishing, hunting, cattle grazing and collection of medicinal plants. Indigenous community members have lost their sacred sites, and cohesive social life has been destroyed.<sup>128</sup>

Representatives of local communities also say there has often been a lack of consultations in relation to mining activities in the region. In cases where consultations have been held, they have often been insufficient; in many cases, communities were not properly informed before mining activities started or about the company's expansion plans.<sup>129</sup>

*"The extension of mining in both departments has taken place in rural areas which are inhabited by indigenous, black and small-scale farming communities. Processes of free, prior and informed consultation to permit the population's participation in territorial planning have not been carried out. Ignoring collective ethnic rights, the companies have conducted individual negotiations instead, buying land through intimidation, restriction of access to resources and isolation. Altogether, this has resulted in a rupture of social structures and the disappearance of many communities."*

Statement by Colombian civil society organisations  
February 2017<sup>130</sup>

## Resettlement

Beginning in 1985, some communities have been forced to resettle as a result of the mine. In 2001, before the present three multinationals took ownership, the mine displaced the African-descendant community of Tabaco, forcing 700 from their homes as a bulldozer flattened their houses. A year later, the community filed a legal petition demanding resettlement, which was approved by the court which ordered the reconstruction of the town and its infrastructure; however, to this day, the company and the local municipality have failed to follow this order. In all, eight African-descendant and indigenous communities have been forcibly displaced, along with others that have been subject to legal mechanisms that

allow Cerrejón to appropriate ancestral lands for its mining activities.<sup>131</sup>

Resettlement for communities has meant loss of land for agriculture, hunting and gathering and, as a result, massive unemployment and difficulty in sustaining livelihoods. Rural people have been forced into urban areas, deprived of the education and job training that may have allowed them to adequately transition into new settings. Reports suggest that resettlement, by disrupting communities, has increased crime, feelings of insecurity and social divisions. Many villagers claim that the company has failed to keep its promises about employment, water and health facilities in the resettlements.<sup>132</sup>

As Richard Solly of the London Mining Network has pointed out, communities continue to be evicted despite the fact that they have never been consulted over the most basic issue, namely whether or not they consent to the mine.<sup>133</sup> Furthermore, the new settlements that communities have been provided with by Cerrejón are often inferior to their former homesteads: houses are often of poor quality and water often inadequate for consumption or agriculture.<sup>134</sup>

In early 2016, many families from the communities of Chancleta and Patilla, who were resettled by Cerrejón between 2012 and 2014, had returned to their old village sites near the Cerrejón mine because of insufficient conditions in the new settlements. Yet in February 2016, the last family of villagers who had returned to their old village site in the community of Roche out of frustration at conditions in the new settlement constructed by Cerrejón were brutally evicted by the Colombian police.<sup>135</sup>

A major problem is that, amidst the mining expansion in the area, the Colombian government has not taken the time to put in place proper governance mechanisms and institutional structures to protect human rights and the environment. Without such policies, not just on paper but in practice, the Colombian people will never truly benefit from the resources on their own land.<sup>136</sup>

## The companies' claims

Cerrejón and its multinational owners deny that there are adverse health impacts on communities from air and water pollution. They say that "Cerrejón's Environmental Management Program (implemented since the start of our mining activity) continuously monitors water and air quality, determining the control measures to prevent, mitigate, and compensate any potential environmental impacts of our operations". The companies say they regularly monitor water quality, taking thousands of samples a year from the local river.<sup>137</sup>

Sir John Parker, Chair of Anglo American (until October 2017), has noted that the Cerrejón foundation focuses on improving water supply and quality, benefiting over 19,000 people in 126 communities. In addition, because of the drought, Cerrejón has worked with the local community to deliver over 30 million litres of water to more than 200 communities involving 27,000 residents.<sup>138</sup> The companies state that: "Most of the water used in Cerrejón's operations is low quality, employed for wetting the roads in an environmental mitigation measure to control dust levels. As mentioned this water is unsuitable for human, farming, or livestock consumption."

On the accusations of lack of consultation, the companies say that "Cerrejón is respectful of Colombian law and of social standards related with prior, free, and informed consultation". On resettlements, the companies say that "we undertake them following internationally recognised guidelines that define the use of participatory processes and the provision of compensation packages corresponding to the impacts and allowing them to re-establish their lives in the new villages". They add that "Cerrejón's compensation package [for settled communities] is comprehensive and was agreed with the families to achieve improved standards of living".<sup>139</sup> Sir John Parker has also noted that the mine provides 65% of the GDP of the region, and \$500 million in taxes.<sup>140</sup>

# 6 Antofagasta: Copper, destruction and division

Antofagasta, incorporated in the UK,<sup>141</sup> operates four copper mines in Chile and is owned by the Luksic Group, one of Chile's most powerful business conglomerates. The widow of the Luksic Group's founder, Iris Fontbona, is the richest person in Chile with assets of \$16 billion, and the owners, the Luksic brothers, have links with politicians across the Chilean political establishment.<sup>142</sup>

Antofagasta's most controversial mine is Los Pelambres, located above one of the world's largest copper reserves in the region of Coquimbo in central Chile, some 240 km north of Santiago. As Antofagasta's flagship asset, it produces around 2% of the world's copper and in 2015 yielded 375,800 tonnes.<sup>143</sup> Operated by Minera Los Pelambres, its shareholders are Antofagasta Minerals (60%) and the three Japanese conglomerates: Nippon Mining and Metals Co Ltd, Mitsubishi and Marubeni.<sup>144</sup>

## Tailings dam

The major conflict at the mine concerns the El Mauro tailings dam and the community at the town of Los Caimanes, which has a population of around 1,600. After receiving environmental licences in 2004, Minera Los Pelambres built the tailings dam between 2006 and 2009. Yet many in the local community fear a possible collapse of the dam. At the same time, they now suffer from lack of water and fears that the local water supply has been contaminated since the construction of the dam. Chile is one of the most seismically active countries in the world and has suffered numerous earthquakes of very large magnitude in recent decades. The El Mauro tailings dam is situated in the same tectonic setting that gives rise to all Chilean earthquakes, which have been one of the key triggers of tailings dam failures in Chile, alongside overtopping, seepage and foundation instability.<sup>145</sup> El Mauro holds a capacity of 1.7 billion tonnes of mine waste and is the largest tailings dam in Latin America and the third largest in the world: it is many times larger than the Samarco tailings dam whose collapse produced Brazil's worst ever environmental disaster (see section 3).<sup>146</sup>

Those living in the village of Los Caimanes would be expected to evacuate their homes within ten minutes of a breach; thus the dam is a "colossal ticking time bomb", as noted by a recent report.<sup>147</sup>

## Water

With regards to water, residents at Los Caimanes have for many years expressed concerns over the pollution of the local water supply, ever since the installation of the El Mauro dam. In 2012, tests conducted by Chile's Environmental Crime Team, which were sent to the Police Forensic Laboratory, showed contamination of local water consisting of cadmium, manganese, iron and mercury. Also in 2012, an independent investigation undertaken by Dr Andrei Tchernitchin of the University of Chile found that the local water supply was contaminated due to leaks from the tailings dam. He found mercury was present in local drinking water at 26% over permitted levels and that manganese levels were almost 100 times over the permitted amount in one area of a local river.<sup>148</sup>

Agriculture in the valley has disappeared and water consumption is restricted due to loss of the original water supply. Residents are now totally dependent on deliveries of water.<sup>149</sup> In October 2016, the Environment Regulatory Commission (*Superintendencia del Medio Ambiente*) issued nine charges against Minera Los Pelambres for failing to comply with environmental regulation relating to water quality, and damage to flora and fauna. The alleged violations include the extraction of water from unauthorised sites, the construction of unapproved wells and the failure to reforest some areas as required by law, which could entail a \$23.8 million fine.<sup>150</sup> Lucio Cuenca, Director of the Latin American Observatory for Environmental Conflict (*Observatorio Latinoamericano de Conflictos Ambientales* or OLCA) which has monitored the mine for years, also accuses the company of illegally drilling seven wells near its tailings dam to extract water.<sup>151</sup>

Name of operation	Type of operation	Country
Los Pelambres	Copper mine (60% share)	Chile
Centinella	Copper mine (70% share)	Chile
Antucoya	Copper mine (70% share)	Chile
Zaldivar	Copper mine (50% share)	Chile

Source: 'What we do', <http://www.antofagasta.co.uk/what-we-do/locations/chile/>

## Protest and legal action

Protest against the tailings dam has been recurrent for over a decade. In October 2010, 11 residents from Los Caimanes embarked on a hunger strike which lasted for 81 days. In December 2014, residents from Los Caimanes blocked an access route to the tailings dam for 75 days.<sup>152</sup>

In July 2013, the Chilean Supreme Court ruled that the tailings dam was a “danger to human life”, deeming Minera Los Pelambres officially culpable for any loss of human life in the event of a collapse of the dam. The company was ordered to submit a plan to reinforce the dam in case of an earthquake but a 2016 report by the London Mining Network found that Los Caimanes residents had not had access to such a plan. In 2014, Los Caimanes residents won a legal case against the company in the court of Los Vilos Province labelling the dam “ruinous work” (*obra ruinosa*), in reference to the risk of the dam’s collapse in the event of an earthquake; however, the following year, Minera Los Pelambres won an appeal against this ruling. That same year, the Chilean Supreme Court ordered the mine to restore the free flow of uncontaminated water to the Pupio basin, where the tailings dam is located, and to do this by demolishing the tailings dam. Nonetheless, in August 2016 the Appeals Court of La Serena overturned this ruling.<sup>153</sup>

In May 2016, Minera Los Pelambres and a group of residents from Los Caimanes signed a settlement agreement to resolve the dispute, with a total value of CLP 24,700 million (around £30 million), although not all residents signed. The agreement promised CLP 28 million (around £35,000) to each family who signed. As the London Mining Network notes, although this is a considerable sum, some researchers and residents in the town believe that Los Caimanes residents who signed have been bought off for an amount that will not sustain entire families for long. They say that this amount will not guarantee them the amount of land, or the standard of living, that they had prior to the construction of the tailings dam. The agreement lays the groundwork for the expansion of the mine and tailings dam, or the possible construction of another tailings dam in the area.<sup>154</sup>

Following the agreement with the community, the company now regards the disputes around El Mauro as resolved.<sup>155</sup> Yet Lucio Cuenca has said the agreements were reached primarily through the exertion of huge pressure on both the communities and the authorities.<sup>156</sup>

The company says it has “an extensive environmental monitoring system, which includes the physical, biotic and marine environment, covering 250 km and approximately

650 specific checks each month that go from mountain range to sea” and that “participatory monitoring has been implemented with the community”.<sup>157</sup> It also states that it conducts monitoring to measure air quality in five localities in the local province of Choapa.<sup>158</sup>

## Other cases

These are not the only mines managed by UK-listed companies in Latin America which face community opposition. There are several more, barely reported in local or international media.

For example, UK-listed **Condor Gold**, with its registered office in Crawley, West Sussex, operates a number of mining projects in Nicaragua and manages the La India mine in the department of Leon.<sup>159</sup> Some residents in the municipality of Santa Rosa del Peñón, near the mine, are challenging the company for failing to adequately consult them in the company's expansion operations and for allegedly damaging community water wells during its exploration activities.<sup>160</sup> In July 2016, around 500 local residents protested against Condor Gold for allegedly attempting to 'evict' them from their properties and relocate them in neighbouring regions.<sup>161</sup> The company has been accused of bullying community members opposed to the mine as they have sought to prosecute seven community leaders, although in mid-2017 it dropped this threatened legal action under local and international pressure.<sup>162</sup> In February 2018, however, the company submitted an amended Environmental and Social Impact Assessment for a processing plant at its La India gold project, which eliminates the need to resettle about 1,100 people.<sup>163</sup>

Several local communities also oppose mining exploration near the Immaculada gold/silver mine in Ayacucho department in southern Peru which is owned and managed by UK-listed **Hochschild Mining**, a company with its registered office in London.<sup>164</sup> In 2015, for example, some 15 peasant communities demanded the withdrawal of the company since they believed it would contaminate the waters of the Huancute, Patari and other rivers, where it is already producing amounts of dust that are affecting their cattle. Reports also suggest that a Hochschild subsidiary, Minera Ares, built a mineral processing plant in spite of the opposition of the local community.<sup>165</sup>

**Fresnillo**, one of the world's largest mining companies, listed on the London Stock Exchange since 2008 and headquartered in Mexico, operates the La Parreña copper mine in northern Mexico. Fresnillo is owned by the Grupo Peñoles, managed by the billionaire Alberto Baillères, one of the richest men in Mexico. At La Parreña, the company is accused of contaminating a river by dumping toxic waste (copper sulphate) into the Milpillás stream which provides water for 1,900 hectares of agricultural production. Local people reportedly say they frequently observe diverse and intense colours in the water, resulting from mining activities.<sup>166</sup>

# 7 Conclusion: Ending corporate impunity for a future beyond extractivism

This report has documented just a snapshot of the damaging impacts that proliferate in the context of mega-mining projects. These extractive industries pollute not just water bodies, but also the territories, traditions and cultures of local communities. It has reviewed the records of four of the most important British mining companies operating in Argentina, Bolivia, Brazil, Chile, Colombia, and Peru – as well as the socio-environmental conflicts generated by their operations.

Mega-mining companies and their projects irrefutably demonstrate a systematic lack of willingness to fulfil their commitments or their legal and moral obligations with respect to protecting human rights, including:

- the rights of indigenous peoples to free, prior and informed consent
- participation and information
- occupational health and safety
- the formation of trade unions and freedom of association
- health
- the right to an environment free from contamination
- access to water
- the safety of persons living close to operations
- the right to live free of cruelty, torture and inhumane or degrading treatment
- the right to dwell in a definite place
- the human right to life.

These impacts are compounded by the chronic and consistent lack of political will on the part of governments in the region to regulate the unchecked growth of an industry that is harmful to the environment, injurious to communities, and hazardous for the exercise of democracy and self-determination.

The impunity surrounding such violations of human rights and environmental destruction are further enabled by the absence of effective regulatory mechanisms by the companies' countries of origin, including disregard for due diligence to protect affected communities beyond its borders.

States bear a double responsibility for the lives lost and livelihoods ruined: not simply as the hosts and overseers of these projects, but also as guarantors and sponsors of the transnational companies that run and profit from them.

For this reason, it is necessary to delve into strategies that expose and put pressure on governments at different administrative levels. This is an essential requirement to ensure that UK-listed companies active in Latin America do not violate rights or infringe upon life in the territories of affected communities.

It is vital that the UK and Latin American states assume responsibility and guarantee the protection of affected communities, and ensure the necessary conditions for the development of life and the promotion of self-determination. They should also lay the foundations for communities and societies to be able to amply discuss and decide the type of development they want, based on their geographical location, ecological conditions and the relationship with their territories.

Mega-mining and extreme extraction cannot be sustained without the model that underlies it: financial speculation, the unlimited production of non-renewable consumer goods, and the transfer of costs to communities and ecosystems. This model, as well as the lack of participation and democracy in determining local land use, makes it particularly dangerous to affected communities.

The British mainstream media must do more to investigate the mines owned by UK-listed companies in Latin America, and report on the activities and impact. Civil Society Organisations and academics in Europe could do more to highlight and support the plight faced by local communities at UK company-owned mines in Latin America.

The situation described in this report has been historically denounced by a plurality of social movements, civil society organisations, and communities suffering from the expansion of such activity in their territories. Mining directly affects the development of life in the territories and the relationships that are established within them.

However, there are ample and diverse efforts to propose and promote alternatives to extractive regimes in the region. It is necessary to promote ways of understanding the world beyond extractivism and neoliberal policies that sustain it. Diverse sectors of society need to critically reflect on alternatives that confront the continued extension of mining exploitation, and waste-generating consumerism, such as conservation, democracy, participation, and respect for life, sustainable production and 'good living'.

Restoring the basic principles of environmental and social justice, as well as the transition towards societies with sustainable models will stop the damage being perpetrated by mega-mining with impunity.

# 8 Recommendations

## Companies:

- Companies have a responsibility to respect human rights. As such they need to transparently report on any human rights and environmental violations.
- Companies should be transparent about their supply chain as they have a responsibility to respect human rights throughout their operations, including their supply chains.
- Companies should be engaged with community-based human rights impact assessments.
- Companies should respect any process of consultation, with a special emphasis on vulnerable groups (women, children and indigenous peoples, among others).
- Companies should establish effective grievance mechanisms (either at the company or project level) to address human rights violations. Such processes should be monitored by an independent third party.
- Companies should promote gender equality in community engagement policies and practices, in order to avoid negative gender impacts.
- Companies should establish non-state grievance mechanisms. When they identify a human rights violation, they must provide redress for the victim(s) and secure the non-repetition of their actions.

## States have legally binding obligations to protect, respect and fulfil human rights including ensuring that national and local authorities:

- Guarantee the right of local communities to be informed and consulted on the environmental impact of mining operations that will affect them. Consultations should be organised by a third party independent organisation.
- Guarantee the legal principle of Free, Prior and Informed Consent (FPIC) before the beginning of a project on ancestral land or using resources within indigenous population's territory. Including the guarantees of independent consultation, and prevention of the progress of any action until there is certainty that the community has agreed to such a project.
- Guarantee a clear and transparent process for land titling and planning, with proper consultation with local communities.
- In cases of resettlement, guarantee the participation of

the community, establish a remedy process and ensure the implementation of any resettlement action plans.

- Guarantee an open, inclusive and transparent process of Environmental and Social Impact Assessment, with the full participation of affected communities and conducted by competent state institutions or independent and technically competent organisations.
- Guarantee the transparency of mining concessions and territorial planning policy. Including a public, geo-referenced and updated cadastre, and full disclosure of the process of granting mining concessions, laws must require the disclosure of contracts that the state may have with any mining company.
- Local people should never be threatened, violated or criminalised while exercising their right to oppose mining projects. Local authorities should provide extra protection in order to protect those disputing mining projects.

## The UK government and its offices in Latin America must hold UK-listed companies to account for their environment and human rights policies:

- The UK government should develop much more independent scrutiny over mines operated by UK-listed companies in Latin America and action taken by governments to support the rights of local communities living under their impact.
- The UK parliament should conduct an enquiry into UK-listed mining companies in Latin America.

## Remedy and redress:

- The UK government should ensure the adoption of affordable, prompt and effective judicial remedies before independent and impartial tribunals for extractive industry-related human rights abuses, and guarantee the non-recurrence of these.
- The UK government should facilitate access to information in relation to available remedy mechanisms, including judicial and other state-based grievance mechanisms.
- The UK government should develop policies aimed at eliminating the barriers to participation of communities in processes related to UK mining operations, such as their gender, race or ethnicity, geographic location, economic status or any other real or perceived status or identity.



- The UK government should exercise extraterritorial jurisdiction over the actions of businesses headquartered or registered therein, or their subsidiaries, for human rights abuses committed abroad, particularly in relation to extractive-industry operations.
- The UK government should fully and in good faith, engage with the UN process towards establishing a Binding Treaty on Business and Enterprises with respect to human rights.

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FIGHTING GLOBAL POVERTY

War on Want is a charitable membership organisation of people who are committed to social justice. Our vision is a world free from poverty and oppression, based on social justice, equality and human rights for all.

We work in partnership with grassroots social movements, trade unions and workers' organisations to empower people to fight for their rights.

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