



**THE CASE FOR CHANGE:
WHY HUMAN RIGHTS
DEFENDERS NEED A UK LAW ON
MANDATORY DUE DILIGENCE**



pbi

United Kingdom

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November 2024

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PBI UK supports, protects and empowers environmental and human rights defenders around the world, contributing to their ability to safely and effectively promote rights and protect the environment. We do this by campaigning for policy changes to ensure that governments and businesses respect human rights and take proactive action to prevent and respond to threats against human rights defenders. We mobilise resources and action from UK civil society, Parliament and the Government to enhance defenders' impacts and help keep them safe; and we resource and support the PBI front line teams around the world which are providing holistic protective accompaniment to defenders whose lives are at risk.

'Holistic protective accompaniment' is a unique model pioneered by PBI to ensure that environmental and human rights defenders are safe enough and have the tools and networks necessary to make lasting change. It consists of diverse teams of international volunteers in conflict zones and complicated contexts around the world, wearing the distinctive PBI vest, who are trained to protect threatened defenders. They back this presence with outreach and lobbying, with PBI one of the only organisations to advocate at all levels - from the soldier at a local checkpoint to UN leaders. These activities help create the security, policy and political environments in which activists can carry out their work. PBI UK supports our field projects by fundraising, by recruiting and training personnel, and by building support networks to respond in emergencies.

PBI UK is a member of the Corporate Justice Coalition and the campaign for a Business, Human Rights and Environment Act to make it mandatory for companies and investors to conduct due diligence in their operations and supply chains. The Corporate Justice Coalition is made up of over sixty organisations working on human rights, global poverty, trade, tax, workers' rights and the environment. The coalition works to end corporate abuses of human rights and the environment, and to change the rules so that we can build a fairer, greener world.

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INTRODUCTION

From oil contamination in the Amazon to massacres of Indigenous communities in Indonesia, around the world human rights and the environment are suffering at the hands of business operations linked to UK companies.

Those standing up to corporate abuse often pay the ultimate price. Between 2015 and 2023, the Business & Human Rights Resource Centre documented 209 attacks on human rights defenders connected to UK companies, with 30 activists murdered.¹ According to Global Witness, a land and environmental defender is killed every two days for calling out corporate wrongdoing. Peace Brigades International (PBI) provides protection to almost 3,500 human rights defenders globally; the largest proportion of whom are denouncing business abuse.

This report details six case studies from Colombia, Honduras, Indonesia and Mexico. Each documents human rights and environmental violations connected to business operations with UK links. In each of the cases, those who spoke out were attacked. In each case, accountability for these crimes is sorely absent.

Both the statistics above and the cases below underscore the dire consequences of currently inadequate regulatory frameworks. **The case for change – and for the UK to introduce a Business, Human Rights and Environment Act, making it mandatory for businesses to conduct human rights and environmental due diligence – is clear.**

PBI provides protective accompaniment to the Guapinol community resistance in Honduras.



PBI Honduras

Due diligence legislation would allow the UK to meet its international human rights obligations, with the UN Working Group on business and human rights stating that such initiatives 'are critical for speeding and scaling up business respect for human rights'. It would help the Government achieve its climate commitments by reducing corporate emissions and destruction. A law would also be good for business – establishing a level playing field for UK companies by clarifying expectations and aligning with practices in the EU and beyond.

But beyond the legal and commercial arguments for a law, this report lays out the sheer human cost of not acting. Whether Indigenous leaders, trade unionists or environmental activists, human rights defenders are the agents for change in their communities who provide life-changing

support for thousands of individuals. They are potential allies in many of the UK's foreign policy goals, and yet they are being smeared, imprisoned and killed as a consequence for doing the right thing.

The clamour for legislation comes from all sides, as the final pages of this report clearly show. Over 150 companies and investors, as well as a wide range of Parliamentarians from across the political spectrum, have joined the 39 civil society organisations calling for the Act. Hundreds of thousands have signed a public petition. Mandatory due diligence laws already exist in France, Germany and Norway, and the EU approved a Directive on Corporate Sustainability Due Diligence in May 2024. **As yet, the UK's parliament is out of step with both its peers and the public.**

The case studies in this report imagine how things would have been different had a Business, Human Rights and Environment Act existed when business operations first began in the communities affected by their actions, and how its application might have prevented significant harm to rights, the environment, and those who defend them.

To be effective, a new UK law must ensure that businesses have a duty to prevent human rights and environmental harm in their investments, operations and supply chains, with civil and criminal penalties where a failure to do so is proven. It must be applicable to all businesses, no matter their size, nature or sector – including banks and the finance sector. And it must include provisions to guarantee informed, meaningful and safe stakeholder engagement throughout the due diligence process, including by safeguarding human rights defenders. A Private Members Bill was tabled by Baroness Young of Hornsey in 2023, which covered many of these bases.

To ensure the sustainability of UK business and position the UK as a leader in corporate accountability, the Government should act now and commit to a Business, Human Rights and Environment Act.

MANDATORY HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE EXPLAINER

WHAT IS

HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE?

Human rights and environmental due diligence is a process through which businesses identify, prevent, mitigate, and remedy the negative impacts of their activities or those of their subsidiaries, subcontractors, and suppliers - on human rights and the environment. It aligns with the United Nations Guiding Principles on Business and Human Rights, which set the global standard for preventing and addressing the risk of adverse impacts on human rights in corporate operations. The Guiding Principles emphasise that human rights due diligence should:

- **Identify potential human rights impacts in business operations.**
- **Prevent and mitigate potential adverse impacts before they manifest into harm.**
- **Take steps to provide remedy when businesses identify that they have already caused or contributed to adverse impacts.**

WHO ARE

HUMAN RIGHTS DEFENDERS?

Human rights defenders are people who take peaceful action – voluntarily or professionally, individually or collectively – to promote and protect human rights. They are often catalysts for human rights change in their communities, countries, and globally. The group of people who the term ‘human rights defenders’ applies to includes environmental defenders.

Many human rights defenders don’t use this term to refer to themselves. They are often ordinary people taking extraordinary actions, sometimes at great personal risk. Some are Indigenous leaders or rural communities protecting ancestral lands and the environment from destructive or illegal business projects like mining or dams. Others are victims and lawyers seeking justice and reparations, journalists exposing violations, and NGOs proposing reforms.

Human rights defenders play a crucial role in the context of business and human rights, particularly in protecting land, environmental, and Indigenous rights, as well as workers’ rights. They stand up against exploitative practices, advocating for the rights of communities affected by corporate activities. They are regularly threatened, attacked, smeared and imprisoned just for taking a stand, which is why PBI works to keep them safe and heard.

WHAT SHOULD A UK HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE LAW COVER?

Multiple NGOs and trade unions, brand name companies and investors worth trillions believe the government should make it mandatory for businesses to carry out environmental and human rights due diligence along their supply chains. Four out of five Britons agree, and they are joined by a growing number of parliamentarians.²

PBI UK is part of the Corporate Justice Coalition (CJC), which is calling for a **Business, Human Rights and Environment Act**.¹ Under this proposal, UK businesses would have a duty to prevent adverse human rights and environmental impacts in their operations and supply chains, and would be held accountable if they failed to do so.

The Act should be modelled on the ground-breaking 'failure to prevent' liability provisions of section 7 of the UK's 2010 Bribery Act. This model would make a business liable where it had failed to prevent harm unless it had taken all reasonably practicable steps to prevent the harm from happening. Crucially, this model reverses the burden of proof in legal cases – lifting the burden off the victims and human rights defenders who currently risk their lives trying to prove corporate wrongdoing. Under the proposed law, once harm has occurred, the responsibility shifts to the company to prove that it took all reasonable steps to ensure that it prevented this harm from happening.

To ensure the most effective legislation possible, the UK government should consult civil society organisations, affected communities and human rights defenders – both in the UK and around the world – regarding the provisions of any new regulation and its future application. PBI UK and the CJC are calling on the Government to begin this process now.

A UK law on mandatory human rights and environmental due diligence has the potential to drastically improve realities for communities, workers and human rights defenders both in the UK and around the world. To reach this potential there are certain components that the law must contain.

A UK Business, Human Rights and Environment Act should include the following 12 principal elements:²

1. Provisions ensuring that commercial and other organisations have a duty to prevent adverse human rights and environmental impacts of their domestic and international operations, products and services including in their supply and value chains.
2. Provisions ensuring that commercial and other organisations must develop and implement reasonable and appropriate due diligence procedures to identify, prevent and mitigate adverse human rights and environmental impacts.
3. Provisions ensuring that commercial and other organisations must publish a forward-looking plan describing the procedures to be adopted in the forthcoming financial year, and an assessment of the effectiveness of actions taken in the previous financial year.
4. Provisions ensuring that commercial and other organisations, and their senior managers shall be subject to a civil penalty if they fail to develop, implement and publish a due diligence plan within a reasonable time, or publish a misleading or inadequate plan.
5. Provisions ensuring that commercial and other organisations shall be liable for harm, loss and damage arising from their failure to prevent adverse human rights and environmental impacts of their domestic and international operations, products and services including in their supply and value chains.

¹ More information about the campaign for a Business, Human Rights and Environment Act, including what such a law would entail and who is backing the call for a law, can be found at the website Good Business Matters, available at: <https://www.goodbusinessmatters.org/> (Accessed: 15 August 2024). Additional resources regarding the proposed Act can be obtained from the website of the Corporate Justice Coalition, accessible at <https://corporatejusticecoalition.org/> (Accessed: 4 September 2024).

² The first eight elements listed are taken from "A 'Business, Human Rights and Environment Act': Principal Elements of a UK Corporate Duty to Prevent Adverse Human Rights and Environmental Impacts - a 'Failure to Prevent' law", a briefing paper endorsed by 39 member organisations of the CJC, <https://corporatejusticecoalition.org/wp-content/uploads/2021/10/CJC-BHREA-Principles-2023-1.pdf>. The four additional elements are informed by PBI UK's engagement with grassroots human rights defenders in Africa, Asia and Latin America.



The environmental and social impacts of the Cerrejón coal mine in Colombia have been well documented in court rulings and by UN experts.

6. Provisions ensuring that it could be a defence from liability for damage or loss, unless otherwise specified, for commercial and other organisations to prove that they acted with due care to prevent human rights and environmental impacts.
7. Provisions ensuring that commercial and other organisations, and their senior managers shall be subject to a criminal penalty if they fail to prevent serious human rights or environmental impacts.
8. Provisions ensuring that commercial and other organisations to be included in this legislation include all businesses, no matter their size, nature or sector. It also includes public sector bodies, including those using public procurement and other public bodies providing financial and other support to businesses, such as export credit agencies, development agencies and development finance institutions.
9. Provisions to guarantee informed, meaningful and safe stakeholder engagement throughout the due diligence process – specifically ongoing consultation with human rights defenders, as well as mandating best practice free, prior and informed consent (FPIC) processes with Indigenous communities as part of the due diligence process.³
10. Robust safeguards for human rights defenders whereby businesses are compelled to specifically identify risks to human rights defenders as part of an effective due diligence process applied to their operations, investments, value chains and contractors.
11. Effective and safe grievance mechanisms for victims, communities and human rights defenders to hold businesses to account and access remedy in the context of human rights violations and attacks on human rights defenders.
12. Applicability to banks and the wider finance sector whose funding can cause or contribute to human rights violations.

³ A lack of meaningful and safe engagement and FPIC processes is one of the main drivers of violence against human rights defenders. A 2021 civil society briefing paper noted that the Business and Human Rights Resource Centre, in its human rights defenders (HRDs) database and 2020 briefing, In the Line of Fire, had “found at least one in three attacks recorded against HRDs were linked to a lack of meaningful participation, access to information and consultation, or the failure to secure free, prior and informed consent (FPIC) of indigenous communities”. It concluded that mandatory human rights and environmental due diligence “has the potential to address this lack of meaningful and safe engagement and FPIC processes by mandating them as part of due diligence, thus addressing one of the main drivers of violence against HRDs”. Business and Human Rights Resource Centre and five other NGOs, Hearing the human: ensuring due diligence legislation effectively amplifies the voices of those affected by irresponsible business. Available at: https://media.business-humanrights.org/media/documents/2021_Hearing_the_Human_Briefing_v6.pdf (Accessed: 4 September 2024).

RESPONDING TO SOME OF THE COMMON MISCONCEPTIONS ABOUT LEGISLATING FOR HUMAN RIGHTS AND ENVIRONMENTAL DUE DILIGENCE

Will the law lead to increased costs and administrative burden?

While implementing due diligence may involve initial costs, it ultimately leads to long-term savings by preventing costly legal disputes, reputational damage, and disruption of business operations. Moreover, responsible business practices are increasingly demanded by consumers and investors. The UN Guiding Principles, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and other international frameworks provide detailed guidance on conducting human rights and environmental due diligence.

Will the law put UK companies at a competitive disadvantage?

A level playing field is established when all businesses are required to meet the same standards. Businesses that lead in responsible practices often gain a competitive edge by attracting ethical investors and customers who value sustainability and human rights. What is more, failure to keep step with the EU on this issue puts UK business operating in the EU's single market at a competitive disadvantage and creates a confusing patchwork of requirements, as not all UK companies are covered by the 2024 EU directive mandating due diligence.⁴

Will the law increase the potential for legal liability?

Conducting due diligence could actually reduce the risk of liability as businesses will have identified and addressed potential issues before they escalate.

⁴ More information about the EU Corporate Sustainability Due Diligence Directive (CSDDD) including the aims of the Directive and the rules can be found on the EU Commission website, available at https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en (Accessed: 30 August 2024)

ENVIRONMENTAL CATASTROPHE AND THREATENED INDIGENOUS LEADERS IN COLOMBIA: UK-LISTED COMPANIES AND THE CERREJÓN COAL MINE

One of the world's largest coal mines, Carbones del Cerrejón (Cerrejón), has been found to have violated environmental and human rights repeatedly, including through air pollution, water contamination, and a failure to respect the land and cultural rights of Indigenous Wayúu and Afro-Colombian communities. Human rights defenders have been threatened and attacked after raising awareness of these abuses and campaigning against the mine. From the year 2000 to 2022, Cerrejón was owned by mining companies on the UK stock exchange: Anglo American, BHP and Glencore.

The case: allegations of rights violations and reprisals against defenders

Attacks against human rights defenders

The Business and Human Rights Resource Centre has documented 24 cases of attacks against human rights defenders in relation to the Cerrejón mine since 2017 including intimidation, attempted murder and death threats.³ In 2018, the London Mining Network reported that members of the Wayúu Women's Force movement (Fuerza de Mujeres Wayúu – Sütsüin Jiyeyuu Wayuu), who are among the more prominent critics of Cerrejón, received a series



In the face of expanding mining operations, forced displacements, threats, attacks and environmental impacts, Indigenous and Afro-Descendent communities have taken a stand.

of death threats from the notorious paramilitary organisation Águilas Negras.⁴ Cerrejón subsequently condemned the acts of intimidation.⁵ Jakeline Romero was an emblematic figure in the Indigenous resistance to the mine. When she spoke out against Cerrejón, she and her family were reportedly targeted with threats. In one example in 2014 her daughter received an anonymous call. “Tell your family to take care of themselves and of you. Because we are going to kill you,” she was told.⁶

Forced evictions and health afflictions

The Cerrejón mine covers 690 km² in an arid plain in the department of La Guajira, the ancestral home of the Wayúu people.⁷ In the face of expanding mining operations, forced displacements, environmental impacts, health problems and destruction of their rivers, Indigenous and Afro-Descendent communities and local human rights defenders have taken a stand.

Expanding mining operations have seen 35 Wayúu Indigenous and Afro-descendant communities displaced from their ancestral lands, sometimes by brutal police evictions.⁸ One of these evictions occurred in the Roche community in 2016, when residents were violently displaced to make way for the mine. Photos and videos taken during the operation show police dragging women along the ground and loading them onto trucks, while community members reported that police used tear gas, metal projectiles, and bulldozers. Cerrejón later stated that it “laments what occurred on that day”.⁹

The scale of health problems caused by hazardous pollution from the mine ranges from eye damage to heart disease and premature births. According to a dossier submitted by Global Legal Action Network (GLAN), an NGO, to the Organisation for Economic Co-operation and Development (OECD), there are 336,000 people who have developed respiratory complications directly attributable to the mine, with over 400 emergency hospital visits annually.¹⁰

In this arid region that suffers sustained periods of drought, 17 streams have been redirected or faced pollution emanating from mining operations.¹¹ In 2016 – when the coal mine was owned by Anglo American, BHP, and Glencore – Cerrejón diverted the Bruno Stream, a sacred place for Indigenous communities, in an attempt to expand their mining operations.¹²

Constitutional Court rulings, UN warnings and complaints to the OECD

Several Constitutional Court rulings have been issued against Cerrejón for violating the human rights of the Wayúu and Afro-Colombian populations.¹³ In 2015, the Court determined that the right to water in La Guajira had been breached due to the region’s lack of access to potable water, exacerbated by the irreversible environmental impact of the mine.¹⁴ A 2016 ruling found that the expansion of Puerto Bolivar, Cerrejón’s port operation, had polluted the air with coal dust emissions, harming the health and livelihoods of nearby communities, leading the Court to mandate immediate mitigation and compensation measures.¹⁵ In 2017, the Court emphasised the need to protect the ecosystem’s water supply during the diversion of the Bruno stream, stressing the importance of environmental safeguards. The Court found that Cerrejón’s intervention in the Bruno Stream violated the rights to participation, prior consultation and

the rights to water, security, health, food sovereignty and equality. It also found that the intervention had caused serious environmental and social consequences that endangered the lives of the communities living in the area.¹⁶ Finally, in 2019, the Court concluded that Cerrejón had violated international standards of due diligence as outlined by the UNGPs, particularly in its dealings with the Wayúu Indigenous population.¹⁷

In 2020, Cerrejón’s operations were criticised by UN human rights experts,¹⁸ with the UN Special Rapporteur on human rights and the environment saying that the case was “one of the most disturbing situations” he had encountered due to the

We are paying with our lives. We are paying with our culture. We are paying with the threat of being extinguished... Simply because we defend this small piece of land that used to give us enough to eat.

**JAKELINE ROMERO EPIAYÚ,
(1979 – 2024)**

Wayúu woman human rights defender, 2016

» Global Witness, “We are going to kill you.” A case study in corporate power left unchecked, 25 January 2021. (Accessed: 03 September 2024)



impacts of the mine on the Wayúu Indigenous peoples and their human rights to water, health, life, and a healthy environment.¹⁹ The Special Rapporteur went on to outline how residents living near the mine suffer from headaches, nasal and respiratory discomfort, dry coughs, burning eyes and blurred vision as a result of coal dust contaminating air and water supplies.²⁰ Scientific studies have shown that chronic air pollution from the coal mine puts those living in the region at increased risk of health problems.²¹

In January 2021, five NGOs²² filed a complaint to the OECD requesting that they investigate BHP, Anglo American and Glencore and Ireland’s state-owned energy provider, the ESB, over serious human rights abuses and environmental pollution at the Cerrejón coal mine.²³ The complaint reported how environmental assessments of the Ranchería River, on which local communities depend, had found unsafe levels of harmful metals, making its water unsuitable for consumption.²⁴

The complainants also alleged that the companies which owned Cerrejón had failed to carry out appropriate due diligence.²⁵ In response to these complaints, Cerrejón stated that the NGOs did not engage with them prior to filing their complaints and that the company is “committed to operating in adherence to Colombian legislation and judicial rulings as well as the appropriate international guidelines governing human and environmental rights”.²⁶ However, according to Principle 18 of the UN Guiding Principles on Business and Human Rights, it is Cerrejón’s responsibility to engage with human rights defenders and NGOs as an independent expert resource for the purpose of conducting due diligence and human rights impact assessments, and it must also refrain from interfering with defenders’ rights to freedom of expression, association and assembly.²⁷

Links to the United Kingdom

From the year 2000 to 2022, when the majority of human rights and environmental harms were alleged, Cerrejón was co-owned by three mining giants with an equal share of 33.3%: Anglo American, BHP, and Glencore.²⁸ These companies are headquartered in the UK, Australia, and Switzerland respectively and all three are listed on the London Stock Exchange.²⁹ In 2022, Anglo American and BHP announced the sale of their shares in Cerrejón to Glencore for US\$588 million. Glencore is now the sole owner of Cerrejón.³⁰

How a UK Business, Human Rights and Environment Act would have applied

In our assessment, under a UK Business, Human Rights and Environment Act, Anglo American, BHP and Glencore would have been obliged to put in place effective human rights and environmental due diligence to identify, address and remedy any actual and potential human rights and environmental impacts in Cerrejón's operations. Due diligence would have had to have been carried out prior to acquisition and on an ongoing basis throughout their ownership of the mine.

Our evaluation is that effective initial due diligence would have included a comprehensive analysis of the human rights under threat, considering the context of Colombia as a country embroiled in the longest running armed conflict in the Western Hemisphere, as well as the context of the specific mining project. Through this assessment, the companies would likely have recognised the country's prevailing trends of conflict and violence, and lack of respect for the rights of Indigenous and Afro-Descendent populations, especially in high-risk sectors like coal mining. They would likely have identified the inherent risk to environmental rights, including significant potential for pollution. Had a rigorous initial assessment been conducted, it would have identified the area as one with a high risk of human rights violations.³¹

Crucially, our opinion is that Anglo American, BHP and Glencore would have likely been required to engage in a free, prior, and informed consent (FPIC) process with the Wayúu and Afro-Colombian communities in line with ILO Convention No. 169³² and the UN Declaration on the Rights of Indigenous Peoples,³³ with the company having to respect communities' rights to give or withhold their consent for the mine. If consent were granted by the Wayúu and Afro-Colombian communities, then a number of other processes and mechanisms may have been put in place by the companies to prevent the subsequent harms to rights and the environment subsequently documented by the Constitutional Court, the UN and others. These may have included an effective grievance mechanism, appropriate means through which to monitor any beneficial sharing agreements made, plus the implementation of actions to address and remedy pre-existing, actual and potential human rights harms.³⁴

Effective human rights and environmental due diligence would have included continuous tracking of the actions needed to reduce environmental impact. For example, the ongoing due diligence process may have shown that the mining companies needed to closely monitor water and air pollution, clean up damage already caused, and cease operations if prevention and mitigation measures were found to be insufficient.

As outlined by the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, it is impossible for businesses to be neutral actors without any impact in conflict situations.³⁵ The heightened due diligence necessary in a conflict situation would have required the companies to take additional steps, which according to guidance from the UN Working Group should include: identifying the root causes of tensions; mapping the main actors in the conflict and their motives, capacities and opportunities to inflict violence; identifying and anticipating the ways in which the businesses' own operations impact the existing social tensions; and developing an effective strategy to respond to these risks and ensure that stakeholder engagement is safe.³⁶

A responsible exit strategy would also have had to be developed. Human rights and environmental due diligence would also have had to be conducted with the sale of Anglo American and BHP's shares to Glencore, ensuring that any negative human rights impacts of that sale had been considered and mitigated, including options for remediation.

A UK Business, Human Rights and Environment Act would provide for civil liability in UK courts – in this case providing

the communities affected by Cerrejón's operations with recourse outside of Colombia. Our evaluation is that under this provision, if Anglo American, BHP and Glencore were deemed not to have taken reasonable steps to prevent harm in the operation of the Cerrejón mine, then they might be liable for damages and remedial orders, such as the reparation of environmental harms and guarantees of non-repetition. The burden of proof that all reasonable steps were taken to prevent harms would fall upon the companies in question, and not the human rights defenders risking reprisals for taking a stand.

ABColumbia



The UN Special Rapporteur on human rights and the environment said that the case was "one of the most disturbing situations" he had encountered.

QUESTIONABLE CONSULTATION PROCESSES AND CRIMINALISATION OF PROJECT OPPONENTS IN MEXICO: UK FINANCING OF THE EÓLICA DEL SUR WIND FARM

Mexico's biggest wind farm, Eólica del Sur, exemplifies why even supposedly 'green' business projects require effective regulation, and why any law on due diligence needs to cover the financial sector. Indigenous communities affected by the wind farm allege their right to free, prior and informed consent was violated and that the country's inadequate administrative and judicial systems failed to uphold this right. Project opponents and human rights defenders have faced violence and intimidation – raising serious questions about whether conditions were in place to ensure effective participation and consultation. British bank HSBC was one of the original lenders to Mareña Renovables, and remained so once this wind project evolved to become Eólica del Sur.

The case: allegations of rights violations and reprisals against defenders

Alleged flaws in the consultation processes

The Zapotec Indigenous communities of Juchitán, on whose ancestral territories the Eólica del Sur wind farm was built, have denounced irregularities in the consultation process which began in November 2014.³⁷ Academic experts claim that the process was flawed from the off. They point to the fact that the wind farm had already been designed and proposed by the company to the administrative authority, and its Environmental Impact Statement provisionally approved by the Ministry of Environment and Natural Resources (SEMARNAT), despite the fact that the Energy Ministry was still calling for a consultation process to obtain the necessary free, prior and informed consent of the community.³⁸ What is more, Eólica del Sur was effectively a relocation of Mareña Renovables, a previous iteration of the wind park which had failed in the nearby community of San Dionisio del Mar, in part due to the opposition of the Indigenous population who apparently weren't effectively consulted.³⁹

Former UN Special Rapporteur and respected Indigenous rights expert James Anaya was invited by the Mexican government in 2015 to assess the consultation processes which had taken place around Eólica del Sur. Among his observations, he noted that there were two parallel processes at play surrounding Eólica del Sur: negotiations around aspects of the project with political actors, and consultations with the Zapotec community.⁴⁰ According to his assessment, the political process was not integrated into the consultation process in a transparent manner, thus failing to ensure that it was sufficiently democratic and representative to ensure its effectiveness. Furthermore he noted that, by the time the consultation process had started, certain aspects of the project had already been defined, and hence questioned whether the consultation process could actually be characterised as having taken place *prior* to the project.⁴¹ Anaya suggested that the participants of the consultations ought to have the opportunity to reopen certain decisions which had been taken in relation to the project,⁴² observing that the information that they were presented with was overly technical and that the opportunities provided for clarification of participants' concerns were inadequate.⁴³ Finally, the former UN Expert noted that the company, Energía Eólica del Sur, was absent during the consultations,



Indigenous peoples have advocated for human and environmental rights to be upheld in light of their concerns about the wind farm's impact.

Bettina Cruz

despite the fact that it had the most information about the characteristics of the project, and that the company would need to be somewhat involved in any agreement that were reached with the participants.⁴⁴

Among the irregularities reported by the affected communities themselves was the fact that on 15 January 2015, in the middle of the consultation process, the Energy Regulatory Commission issued a resolution granting Eólica del Sur permission to generate 396W of electricity.⁴⁵ Furthermore, SEMARNAT authorised two changes of land use to facilitate implementation of the project while the consultation process was ongoing.⁴⁶ Again, these acts raise serious questions regarding whether the consultation could really be judged to be both 'prior' and implemented in good faith.⁴⁷ Project opponents within the community were increasingly withdrawing from the consultation processes, which they also claimed were subject to infiltration and bribes.⁴⁸

But perhaps the biggest question mark over the project consultation and consent processes is whether they could really be free and participative if many of those opposing the project were facing escalating reprisals.

Threats and reprisals against project opponents and human rights defenders

In 2015, a civil society Observation Mission documented the consultation process to verify whether it was being carried out according to human rights standards.⁵ They identified procedural defects in the consultation process, recording at least 20 incidents of reprisals affecting those opposing the wind farm project.⁴⁹ Most of these incidents were directed at Indigenous peoples, in particular members of the Popular Assembly of the Juchiteco People (APPJ) and the Assembly of Indigenous Peoples of the Isthmus of Tehuantepec in Defence of the Land and Territory (APIIDTT). These groups were advocating for human and environmental rights to be upheld in light of concerns they had about the wind farm's impact.

The reprisals documented against project opponents and human rights defenders included surveillance and acts of intimidation such as threatening phone calls and text messages warning individuals to desist from participating in the consultation or face the consequences. The perpetrators of these threats are unknown.⁵⁰ In 2015 the Business and Human Rights Resource Centre invited Eólica del Sur to respond to the reprisals, documented in the report of the observation mission. The company did not reply.⁵¹

The reprisals were particularly grave for one of the figureheads of the opposition movement – Indigenous leader Bettina Cruz, who has faced repeated acts of intimidation, threats and criminalisation since she first opposed the original Mareña Renovables project.⁵²

Bettina was arrested in 2012 on charges related to a peaceful protest by the APIIDTT the previous year. She was held incommunicado for four hours by police officers who allegedly failed to produce a warrant. Bettina was ultimately acquitted of all charges in 2015, but only after three years of legal battles and the obligation to sign in at the Public Prosecutor's Office every month – a period through which PBI provided protective accompaniment to the Indigenous leader due to the seriousness of the threats she was facing.⁵³ Such criminalisation processes are commonly used to debilitate the work of human rights defenders – a trend which ought to be analysed as part of due diligence by businesses.⁵⁴ The threats to Bettina continued even after charges were dropped, and ultimately led the Inter-American Commission on Human Rights (IACHR) to grant her protection measures, citing reports of death threats, physical attacks and surveillance against her, her family and colleagues.⁵⁵ In 2012, Mareña Renovables issued a statement denying involvement in any violence, threats, or diminished public services in response to opposition against the project.⁵⁶

Allegations of flawed judicial recourse at the national level

Despite the allegations of shortcomings in the consultation process and reprisals against project opponents, in July 2015 the Mexican authorities deemed the process concluded and that consent had been obtained.⁵⁷ A series of lawsuits and appeals to the Mexican courts by community groups and NGOs, alleging that the right to free, prior and informed consent had been violated, have ultimately been unsuccessful.⁵⁸ It has been reported that Bettina received a death threat just days before the Supreme Court issued its final ruling against the claims.⁵⁹

Following their mission to Mexico in 2016, the UN Working Group on the issue of human rights and transnational corporations and other business enterprises noted that inadequate consultations with individuals and communities affected by major development projects was a recurrent theme.⁶⁰ The Working Group also highlighted the inaccessibility of a judicial measure called *amparo*, which community groups and NGOs relied upon in cases like this one. They noted that in several cases "*amparo* rulings that had been able to stop an ongoing human rights violation had been made possible only through the intervention of non-governmental organisations volunteering to

⁵ The Observation Mission was made up of respected Mexican NGOs Proyecto de Derechos Económicos, Sociales y Culturales AC (ProDESC), Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER) and Comité de Defensa Integral de Derechos Humanos Gobixha AC (Código DH).



The Central Eólica Sureste I wind farm in the Isthmus of Tehuantepec reflects the scale of similar projects in the region, where renewable energy megaprojects have raised human rights concerns for communities.

assist and provide legal aid to victims.”⁶¹ Furthermore, the Working Group heard of numerous cases where *amparo* rulings in favour of affected parties had not been fully complied with, “seemingly without any legal consequences, weakening the effectiveness of the procedure and undermining the rule of law.”⁶²

A case is pending before the IACHR, in which NGOs and community members are seeking accountability and comprehensive reparations from the Mexican State for violations of the rights to self-determination and communal property of Indigenous Zapotec communities in relation to the Eólica del Sur project, as well as for the lack of access to justice due to what they claim represents “arbitrariness” in the Supreme Court’s decision.⁶³ In a statement issued by Global Advocacy, the NGO claimed that the Supreme Court ruling failed to take into account the need for any consultation to occur “prior” to decision-making, claiming that the company “obtained various permits before carrying out any consultation, and signed hundreds of contracts with individuals on communal lands.”⁶⁴ Furthermore, the statement detailed how the original judge presiding over the case had actually ruled in the communities’ favour, but was suddenly transferred and replaced by another judge who ultimately ruled in favour of Energía Eólica del Sur and lifted the suspension of the project.⁶⁵

Links to the United Kingdom

The British bank HSBC, headquartered in London, is one of the largest banking and financial services organisations in the world. HSBC was one of the original lenders to the Eólica del Sur wind project, as part of a group of financiers which came together in 2012 to back the project’s initial iteration as Mareña Renovables, when it was due to be implemented at an alternative site elsewhere in Oaxaca state.⁶⁶ The group of backers also included the Inter-American Development Bank and Banco Santander. Eólica del Sur was refinanced and HSBC ended its involvement in 2016.⁶⁷

How a UK Business, Human Rights and Environment Act would have applied

According to our assessment, under a UK Business, Human Rights and Environment Act which covers the finance sector (see page 7), HSBC would have been obliged to actively seek means to ensure respect for internationally recognised human rights and environmental standards in its investment portfolio. To demonstrate this, HSBC would have needed to undertake outcome-focused human rights and environmental due diligence.

Initial background research undertaken by HSBC to identify any potential negative impacts of their investment on human rights and the environment, before the construction of the wind farm commenced in 2014, would have highlighted a broad range of context-specific factors to take into account in the decision of whether or how to



Indigenous leader Bettina Cruz has faced repeated acts of intimidation, threats and criminalisation since she first opposed the original Mareña Renovables project.

invest. For instance, in 2012, the US State Department published a report describing relevant precedents on the lack of consultation with Indigenous peoples regarding the exploitation of energy and natural resources on ancestral lands. The report mentioned cases of violent attacks on those who had opposed mining projects in Oaxaca – the same state where Eólica del Sur was to be built – such as the killing of Bertin Vazquez Ruiz and Guadalupe Andres Vazquez Ruiz, who were shot by three men identified as a municipal official, the son of the municipal president, and a local mining company employee.⁶⁸ A number of local and international NGOs had publicly documented flaws in consultation processes and criminalisation of human rights defenders, including Bettina Cruz Velázquez.⁶⁹

Furthermore, a joint submission to the UN Universal Periodic Review (UPR) in 2009 had highlighted that Indigenous peoples in Oaxaca continued to be subjected to policies of exclusion.⁷⁰ Particular attention was drawn to the implementation of a hydroelectric project in the state, and “the aggression of military forces against Indigenous Chontal people in the Sierra Sur” in Oaxaca.⁷¹ The submission notes that the implementation of megaprojects had resulted in the dispossession of Indigenous peoples’ territories, community tensions, and widespread protest regarding natural resource exploitation, as well as serious damage to the environment, the displacement of entire villages, divisions and violence.⁷²

Effective due diligence would have identified these risks, particularly when cross-referencing various sources in the public domain. In 2012, the UN Committee on the Elimination of Racial Discrimination (CERD) expressed its concern that the Mexican government’s existing system for consultations with Indigenous peoples did not incorporate the concept of free, prior and informed consent. It highlighted “growing tensions between outsiders and Indigenous peoples over the extraction of their natural resources”, reports of conflicts on land owned by Indigenous peoples, and “the failure, in practice, to fully respect their right to be consulted before work starts on exploiting the natural resources in their territories”.⁷³

Following her mission to Mexico in 2010, Gabriela Knaul (the then UN Special Rapporteur on the independence of judges and lawyers) had noted that the *amparo* judicial measure “appear[s] to have become an inaccessible, slow, complicated and costly remedy that is out of the public’s reach.”⁷⁴ Her evidence suggested that legal professionals in Mexico did not “routinely invoke international human rights law,”⁷⁵ – a context which would make it difficult for communities to litigate cases related to their rights to consultation. She also highlighted the inability of judges, court officials and legal professionals to act freely or independently due to the threats, intimidation and harassment that they were often subjected to.⁷⁶

Weaknesses in the Mexican judicial system – particularly as it pertained to the rights and rightsholders at stake in a wind farm on Indigenous land – should have been identified by effective due diligence prior to investment. Ongoing due diligence would have shown manifestations of these weaknesses in and around Eólica del Sur.

According to our analysis, a Business, Human Rights and Environment Act would have obliged HSBC to carry out effective due diligence prior to investing in Mareña Renovables (now Eólica del Sur), including the identification of specific groups – such as Indigenous peoples – whose rights might be adversely affected. An analysis of publicly available UN sources should have raised serious concerns about the capability of the Mexican state to guarantee the right to free, prior and informed consent of the communities affected by the wind farm. It would have allowed HSBC to scrutinise whether these wind farms could reasonably operate without negatively impacting Indigenous rights, and assess what leverage it might be able to use to affect the company’s behaviour. If the company appeared unwilling to undertake the necessary actions to ensure Indigenous rights, HSBC would have had to determine whether they could invest responsibly or not.

This case exemplifies why an effective Business, Human Rights and Environment Act needs to cover banks and the wider financial sector, reflecting the guidance from the UN Working Group on the issue of human rights and transnational corporations that the Guiding Principles on Business and Human Rights also extend to financial actors, which should uphold human rights standards by adopting policies across the whole of their institutions and activities, conducting human rights due diligence, and playing a role in access to remedy, where suited.⁷⁷ This would reduce the need for protracted protests and litigation by human rights defenders, and the ensuing backlashes they face for doing so.

OIL SPILLS AND ASSASSINATION ATTEMPTS IN THE AMAZON OF COLOMBIA: UK-LISTED AMERISUR'S OIL FIELDS

Amerisur's oil exploitation has reportedly caused pollution and spills in the fragile ecosystem of the Colombian Amazon. Forcibly displaced communities allege collusion between the company and illegal armed groups, while human rights defenders have been subject to assassination attempts and the government has been forced to provide emergency protection for activists. Amerisur is a UK-listed PLC.

The case: allegations of rights violations and reprisals against defenders

A context of conflict

Established in the year 2000, the Amazonian Pearl *Campesino*⁶ Reserve Zone (ZRCPA) is a community-led initiative dedicated to protecting their fragile ecosystem, promoting eco-friendly sustainable development, and contributing to peace in a region which was highly affected by the Colombian armed conflict.⁷⁸ The ZRCPA's 4,700 inhabitants live across 23 villages and 22,000 hectares, relying upon the Cuembi and Putumayo rivers as their main water sources. *Campesino* Reserve Zones are legal entities protected under Colombian law.⁷⁹

The area has been a hotspot for the armed conflict between the State, dissident guerrilla groups and paramilitaries, and is also a strategic territory for drug traffickers. However, when the government granted a licence for the Ecopetrol oil company to exploit the 'Platanillo' oil field in 2007, life for the communities in the Reserve Zone got even more complicated.⁸⁰ UK company Amerisur Resources PLC acquired Ecopetrol's share of the Platanillo contract in 2009.⁸¹

Alleged abuses of environmental and Indigenous rights

Since then, a number of communities and leaders within the ZRCPA reserve have opposed oil exploitation due to an increase in water contamination and the exacerbation of threats and violence by illegal armed actors. This includes threats against the organisation set up to defend the rights of the communities in the Reserve Zone, the Amazonian Pearl Sustainable Comprehensive Development Association (ADISPA). Residents of the Reserve and the NGO Inter-church Justice and Peace Commission (CIJP) have denounced environmental pollution in the area, alleging that at least two oil spills have rendered rivers unsuitable for drinking and bathing, killing many of the fish and other livestock on which the communities rely on for sustenance.⁸² The UN Working Group on the issue of human rights and transnational corporations and other business enterprises have alleged that Amerisur's activities in other reserves and oil blocks in the same region of Putumayo led to "severely negative consequences" for the Indigenous Siona peoples. These include alleged violations of the right to free, prior and informed consent, environmental degradation, and an increase in conflict in the region, particularly in relation to land rights.⁸³ Amerisur denied allegations of environmental damage and contamination of the Siona peoples' waterways.⁸⁴



PBI Colombia

Prominent ADISPA leader and woman human rights defender, Jani Silva, faced serious reprisals after denouncing the oil spills, including intimidation and death threats.

⁶ "Campesino" translates as "peasant" or "small-scale farmer" in English. In Latin America it is used as an inclusive term that covers the rural poor, with strong ties to agriculture either as small-scale producers, or labourers. Campesinos are subjects of special rights under international and Colombian law.

Communities and NGOs have denounced environmental pollution in the area, alleging that at least two oil spills rendered rivers unsuitable for drinking and bathing.



In 2016, the CIJP, representing the ZRCPA, filed a class action lawsuit before the Administrative Court of Cundinamarca against various Colombian environmental authorities due to the environmental damage caused by oil extractive operations.⁶⁵ The aim of the case is to achieve the suspension of all Amerisur operations in the Platanillo Block in Putumayo and put an end to the environmental damage of the soil, forests, rivers and wetlands. PBI provides protective accompaniment in the ZRCPA due to the risks that community leaders have faced. According to information received by PBI on trips to the Reserve, the lawsuit is still ongoing.

You quickly realise that there are some people that don't want someone around who can speak for the community, who can organise. What they are interested in is ensuring that the people don't raise their voices. But I won't remain silent.

JANI SILVA, COLOMBIAN WHRD

PBI Colombia

» A born leader, <https://pbicolombia.org/2020/09/24/a-born-leader/> (Accessed 30 October 2024)

A climate of fear for human rights defenders

Testimonies from families displaced by paramilitary groups allege that Amerisur formed alliances with dissidents of the Revolutionary Armed Forces of Colombia (FARC) to protect their work on-site in the Reserve Zone.⁶⁶ A 2021 open letter from a multi-NGO initiative called Corporate Liability and Sustainable Peace (CLASP) alleged that the illegal armed group Comandos de la Frontera had claimed to have directly negotiated with Amerisur and had threatened communities, saying that opposing extractive projects would not be tolerated.⁶⁷ According to Amazon Watch, these allegations are “entirely consistent with Colombia’s long history of national and international companies –

particularly those operating in rural areas – at best making extortion payments to illegal armed groups, and at worst directly collaborating with them to squash dissent from unions and communities”.⁸⁸ GeoPark, the parent company of Amerisur, has consistently denied any alleged links to illegal groups or environmental harm, emphasising their commitment to human rights and compliance with Colombian law.⁸⁹

Prominent ADISPA leader and woman human rights defender, Jani Silva, has faced serious reprisals for denouncing the oil spills, including intimidation and death threats.⁹⁰ She had to flee to a safehouse following the discovery of a plan to assassinate her by the criminal armed group Comandos de la Frontera⁹¹ and now has to live under a protection scheme with two bodyguards who drive her around in an armoured vehicle.⁹² In 2018, the Inter-American Commission on Human Rights (IACHR) decreed that the Colombian State would need to guarantee the security of Jani Silva and other leaders from the ZRCPA due to the risks they have faced for several years.⁹³ GeoPark has denied any connection to threats against Jani Silva.⁹⁴ In August 2023, the Ombudsman’s Office of Colombia issued an alert documenting the risks facing communities and human rights defenders in the ZRCPA, which had become so extreme that it was becoming impossible to continue defending the environment. The Ombudsman named two illegal armed groups, the Carolina Ramírez Front and the Comandos de la Frontera, as perpetrators of these threats, citing the existence of a list of ZRCPA leaders threatened with assassination. The Ombudsman urged the government to implement individual and collective security schemes for human rights defenders from the ZRCPA.⁹⁵ Despite these actions, the risk level for Jani and human rights defenders from the Perla Amazonica remains critical. In September 2024, Jani Silva received a phone call threatening to kill her. On the same day, three suspicious-looking men were seen around the ADISPA office, an act denounced as surveillance and intimidation.⁹⁶



ABColumbia

In 2023, the National Environmental Licensing Authority (ANLA) granted a licence for the development of the Bienparado hydrocarbon exploration and production project to Amerisur. This new project is being developed within the ZRCPA. Given the unresolved complaints against Amerisur regarding existing operations in the Reserve Zone, and the drastic conditions in which human rights defenders are operating in the region, the potential for further human rights violations, environmental damage and threats to activists around the new concession seems high.

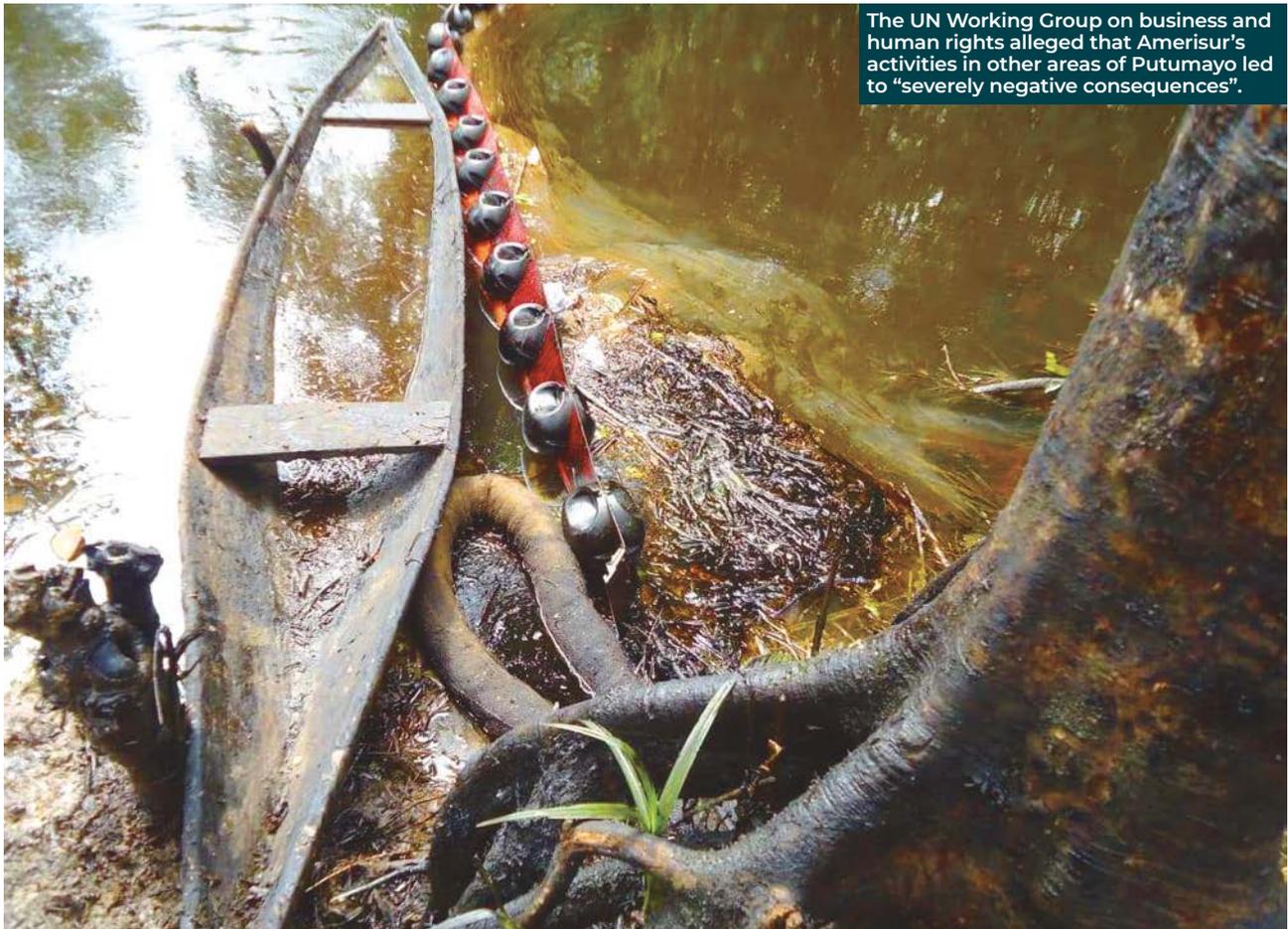
Links to the United Kingdom

Amerisur Resources PLC is a UK-listed oil and gas exploration and production business⁹⁷ which operated oilfields across the biodiverse Putumayo Amazon basin from 2009 to 2020.⁹⁸ Amerisur was acquired by the Bermuda-incorporated company GeoPark in 2020, absorbing the company and maintaining its brand. The acquisition incorporated the oilfields in the Putumayo basin.⁹⁹ By acquiring Amerisur, GeoPark also acquired these ongoing conflicts with local communities.¹⁰⁰

In December 2019, members of the ZRCPA brought a claim before the High Court of England and Wales against Amerisur Resources PLC for environmental pollution. Community claimants alleged that the waterways had become contaminated with oil and residues from Amerisur’s operations and were no longer safe to use.¹⁰¹ Following the complaint, filed on behalf of the ZRCPA by CIJP and Leigh Day, the High Court of England and Wales provisionally froze £3.2 million of Amerisur’s assets in Colombia in 2020, just days before the assets of Amerisur were due to be transferred to GeoPark.¹⁰² The case was settled in October 2023.¹⁰³ The Court also granted the addition of 255 Colombian *campesinos* to the principal claim, bringing it to a total of 270 claimants, raising the amount that Amerisur would have to pay as part of the economic compensation for its operations.¹⁰⁴

How a UK Business, Human Rights and Environment Act would have applied

Amerisur operated against a backdrop of overlapping high-risk elements: a fragile, conflict-affected environment with the presence of armed actors, and a history of human rights violations against *campesino* and traditional



The UN Working Group on business and human rights alleged that Amerisur's activities in other areas of Putumayo led to "severely negative consequences".

Comisión Interreligiosa de Justicia y Paz (CIJP)

communities.¹⁰⁵ The Putumayo region, where Amerisur operated, has long been a hotspot for violence, despite the designation of the area as a priority area for peacebuilding due to the outsized impact of the civil war on the area.

According to our analysis, under a UK Business, Human Rights and Environment Act, Amerisur would have had to have carried out effective due diligence which would have recognised the high likelihood of adverse human rights and environmental impacts.

According to our evaluation, Amerisur would have had to put measures in place to address adverse human rights and environmental harms through actions to either prevent or mitigate these harms, or by ceasing the activities that cause or contribute to such violations. Ongoing due diligence would have led to an evolution and escalation of these actions, particularly in light of the spiralling violence and threats to activism detailed above, and which included 113 murders of social leaders and former FARC combatants in the region between 2016 and 2023.¹⁰⁶

A crucial part of an effective initial and ongoing due diligence process would have been the safe and meaningful consultation of affected groups and human rights defenders. Such consultations would have allowed local groups to freely express their concerns and participate in decision-making processes. This process would have revealed that local organisations, including ADISPA and the ZRCPA, are overwhelmingly opposed to crude oil extraction and transportation in the area due to the heightened insecurity it brings, as well as the potential for environmental harms from oil spills. Amerisur would have been obliged to take these concerns seriously, incorporating them into their decision-making processes and potentially reconsidering their operations.

Had local stakeholders given their approval to Amerisur operations and the company deemed it could reasonably proceed with operations whilst safeguarding rights and the environment, we believe that the company would still have had to put in place and report on measures to safeguard the activities of human rights defenders.

Based on our evaluation, under a UK Business, Human Rights and Environment Act, communities in the ZRCPA would have had access to an effective grievance mechanism to ensure access to remedy for environmental pollution and human rights violations. The burden of proof would then be on Amerisur to prove that it undertook all reasonable steps to prevent human rights and environmental harm. Furthermore, victims and their representatives would have had access to avenues to claim that Amerisur should be criminally liable for having potentially benefited from the actions of criminal armed groups. In this sense, the Act would open avenues to justice for human rights defenders who are currently risking their lives trying to seek accountability in Colombia.

ILLEGAL EXTRACTION AND THE MURDER OF ENVIRONMENTALISTS IN MEXICO: UK-LISTED FRESNILLO'S GOLD MINE

Minera Penmont operated the Soledad-Dipolos open-pit gold mine located in the territory of the El Bajío Ejido⁷ in Mexico, between 2010 and 2013. When mining exploration began on communal lands, local communities began to defend their rights. Agrarian Courts have ruled that Penmont were operating on the land illegally without the community's permission, ordering Penmont to leave the land and compensate the residents. However, land and environmental defenders calling for accountability have faced a series of reprisals including arbitrary detention, criminalisation, and killings. Minera Penmont is a subsidiary of Fresnillo PLC, a UK-incorporated company listed on the London Stock Exchange.

The case: allegations of rights violations and reprisals against defenders

Illegal mining on collectively owned land

Since the 1990s, Fresnillo has been operating an open pit gold mine, la Herradura, in the Sonora desert adjacent to the territory of the El Bajío *Ejido*.¹⁰⁷ In 2007 the company began expansion of the Herradura mine into areas the local landowners of the *Ejido* claimed was their territory.¹⁰⁸ It also began exploration for a new mine, Soledad-Dipolos, within the *Ejido* territory.¹⁰⁹ A subsequent legal battle ensued over land titling and mining rights.¹¹⁰ According to the El Bajío *Ejido*, the mining company did not have permission to extract gold from their lands.¹¹¹ Members of the *Ejido* filed a legal complaint against the mine in 2009 arguing that they should be consulted by the mining company and participate in decisions affecting the territory.¹¹² Despite the legal case, the Soledad-Dipolos mine began operations in 2010.¹¹³ The judge ruled in favour of the *Ejido* and ordered the closure of the mine, though legal

Ciuliano Salvatore / Fundación Bajío Sahuaro



An art installation sits in the Soledad-Dipolos mine symbolising the total quantity of gold extracted illegally, valued at 436 million dollars.

⁷ An Ejido is a Mexican collective land tenancy system with a particular status under Mexican law, giving "ejidatarios", the local landowners, rights over common land.

Community representatives have faced intense repercussions for their work defending their land.



wranglings continued.¹¹⁴ Members of the El Bajío *Ejido* filed another lawsuit in 2013 in the Mexican Agrarian Courts.¹¹⁵ The court's ruling in 2014 confirmed the community's ownership of the land and, as a result, required the company to compensate the community to the value of the gold extracted from their land, pay rent to the community for having occupied their land, and ensure the restoration of the land which had been heavily contaminated by the mining activity.¹¹⁶ The courts also ordered Fresnillo to dismantle the Soledad-Dipolos mining operation, something which they failed to do until evicted by the community and Federal Police in 2014.¹¹⁷ Following these legal victories, members of the El Bajío *Ejido* began to face reprisals and attacks.

Extreme repression and reprisals against human rights defenders

Leaders of the peaceful community resistance faced arbitrary arrest in April 2016 when police officers – allegedly escorted by private security guards of Minera Penmont – arrived at the *Ejido* and arrested land rights defender Bartolo Pacheco and four other members of the *Ejido*.¹¹⁸

Attacks against community representatives continued to escalate and, in February 2018, land rights defender Raúl Ibarra de la Paz was murdered, and his wife Noemí López Gutierrez forcibly disappeared.¹¹⁹ Journalists who went to the El Bajío *Ejido* to cover the story reported being threatened by security staff allegedly linked to Minera Penmont.¹²⁰

In May 2021, José de Jesús Robledo Cruz, human rights defender and former *Ejido* President, was found murdered in the middle of the desert together with his wife, María de Jesús Gómez Vega.¹²¹ José de Jesús had actively opposed the activities of Minera Penmont in the region. Alongside their bodies, a list with the names of 13 other anti-mining *Ejido* members was found. When invited by the Business and Human Rights Resource Centre to respond to the killing of José de Jesús and his wife, Minera Penmont categorically rejected that it is linked in any way with the crimes.¹²² PBI has provided security and advocacy support to members of the *Ejido* due to the ongoing threats they face.

A further Agrarian Court ruling in 2022 backed up the 2011 and 2014 rulings, confirming that the El Bajío *Ejido* own the land and that Minera Penmont must compensate the community and clean up the contamination.¹²³ The Fresnillo Soledad-Dipolos mine operated between 2010 and 2013 when it was forced to suspend operations.¹²⁴ The community are yet to see the company comply with the full terms of the Courts' rulings.

Links to the United Kingdom

Fresnillo has been listed on the London Stock Exchange since 2008 and is also incorporated in the UK.¹²⁵

How a UK Business, Human Rights and Environment Act would have applied

According to our evaluation, under a UK Business, Human Rights and Environment Act, Fresnillo PLC and its subsidiary Minera Penmont would have been required to implement a comprehensive and ongoing process of human rights and environmental due diligence. Fresnillo would have had a responsibility to ensure Minera Penmont had permission to operate on the land and ensure effective waste management. They would also have likely deemed it necessary to take actions to prevent reprisals against human rights defenders.

Had such an Act been in place, Fresnillo would likely have been compelled to engage in meaningful and safe stakeholder engagement – specifically prior and ongoing consultation with local human rights defenders, communities, and their freely chosen legitimate representatives – in this case the assembly of the El Bajío *Ejido*. These consultations would likely have alerted the company to the significant risks of land rights conflicts and environmental degradation in a jurisdiction like Mexico, known for its dangerous conditions for land and environmental defenders. An adequate due diligence process would have included a rigorous risk assessment capable of identifying these risks, and a plan of action to mitigate them.

Fresnillo would have had to ensure that Minera Penmont's operations were not contributing to attacks on human rights defenders and that the company was doing everything possible to ensure defender safety. If the company failed to properly consult with and gain meaningful consent from the affected communities, resulting in their loss of livelihood or other harms, those communities could have pursued a civil claim. The burden of proof would likely have shifted to Fresnillo to demonstrate that it had taken all reasonable steps to prevent such harms.

Furthermore, Fresnillo would have been required to establish effective grievance mechanisms for victims and communities to raise concerns, seek redress, hold the company accountable, and access remedy in the event of human rights violations or environmental damage. Should Fresnillo have failed to develop, implement, or publish an adequate due diligence plan – or if it published a misleading plan – then the company, along with its senior managers, could have been subject to civil penalties. In cases where serious human rights or environmental impacts occurred due to negligence or failure to prevent such impacts, criminal liability could potentially have followed, possibly resulting in both compensation to the victims and mandated environmental rehabilitation. This would likely have incentivised Fresnillo to adapt their practices if they wanted to continue being a UK incorporated company traded on the London Stock Exchange.

Ultimately, a Business, Human Rights and Environment Act would likely have provided a robust framework to prevent serious human rights violations and environmental harm by compelling early and appropriate action, ensuring meaningful consultation, and offering avenues for redress. This is all that the land and environmental defenders from the El Bajío *Ejido* ever wanted. It is what some of them paid the ultimate price for demanding.

The El Bajío ejido and the Bajío Foundation believe that the only way to guarantee that the operations of British companies in other countries are legal, transparent and free of violence is to ensure full and clear public accountability.

ARIADNA ALZURU MOGOLLÓN
Fundación Bajío

DEVASTATED ECOSYSTEMS AND TORTURED HUMAN RIGHTS DEFENDERS IN INDONESIA: THE UK'S RIO TINTO AND THE GRASBERG GOLD AND COPPER MINE

The Grasberg Mine in West Papua, Indonesia, has been subject to allegations of major environmental devastation and severe human rights violations. Indigenous communities accuse the mine of polluting rivers and causing health issues. Human rights defenders and Indigenous communities protesting the mine's operations since the 1970s have faced repression including torture, displacement and threats, amid ongoing militarisation. British-Australian multinational mining company Rio Tinto was involved with the Grasberg mine from 1996-2018.

The case: allegations of rights violations and reprisals against defenders

A catalogue of abuses against Indigenous peoples, their land the environment

The Grasberg Mine project, located in West Papua in Indonesia, began a month after a military coup in 1965. It has one of the largest reserves of gold and copper in the world and is operated by PT Freeport Indonesia (PT-FI), a consolidated subsidiary of the North American company Freeport-McMoRan (Freeport). Freeport have a 48.76% share ownership in PT-FI, with the remaining 51.24% share collectively owned by Indonesia State-owned enterprises.¹²⁶

The mine disposes up to 200,000 tonnes of toxic mining waste into the local rivers daily, via tailings waste dumping, a practice so destructive that it is banned in most countries around the world.¹²⁷ The mining waste pollutes rivers which are essential for the livelihoods of Indigenous communities.¹²⁸ According to investigations by NGOs, the toxic waste has led to heavy metal pollution in the rivers, and has caused skin diseases and other debilitating health issues for the Indigenous peoples in West Papua. The sedimentation from the waste has also affected the local ecology, diminishing fish populations and other aquatic life that the communities rely on.¹²⁹

Indigenous Kamoro and Amungme peoples have protested this environmental destruction and the encroachment of the mine onto their ancestral lands since the 1970s. A litany of human rights abuses have been documented during the decades long struggle of Indigenous Kamoro and Amungme peoples including massacres, displacement, arrest, torture and harassment.¹³⁰ The Amungme and Kamoro affirm that free, prior and informed consent (FPIC) has never been obtained despite the mine operating on their customary land and impacting their lives, livelihoods and health.¹³¹ In fact, the mountain being mined by Freeport is the Nemangkawi mountain, a sacred site for the Amungme people.¹³²

In 1996, two Amungme community leaders – Tom Beanal and Yosepha Alomang – took Freeport to court in the USA for the human rights violations of torture and detention, “cultural genocide” of the Amungme people, and environmental violations including deforestation and pollution.¹³³ In 2001 Yosepha Alomang won the prestigious Goldman Prize for environmental defenders in recognition of her peaceful defence of her people's rights and struggle against the mine for over 20 years.¹³⁴ In her testimony when receiving the prize, Yosepha spoke of how, in 1994, she suffered torture and imprisonment after being accused of allegedly giving food to Papuan independence fighters.¹³⁵ Despite the cases against Freeport being unsuccessful, they managed to bring international attention to the situation facing communities affected by the Grasberg mine.¹³⁶ In public communications, Freeport has stated they acknowledge and respect the Indigenous Peoples with historical and ancestral connections to the areas near its operations.¹³⁷

The Grasberg Mine project, located in West Papua in Indonesia, has one of the largest reserves of gold and copper in the world.



Richard Jones CC BY-SA 2.0

Militarisation and the repression of human rights defenders

Human rights defenders who have supported the Indigenous peoples' resistance and denounced the mining operations' impact have also faced reprisals. The former UN Special Rapporteur on human rights defenders, Hina Jilani, visited West Papua in 2007. The official UN report describes the climate of fear prevailing in West Papua, and documented cases of arbitrary detention, torture, and harassment.¹³⁸

One such case of defenders at risk is that of Adolfin Kuum, Director of the community organisation LEPEMAWIL, which addresses human rights and environmental issues caused by the Grasberg mine. Adolfin has reported threats and intimidation against her and LEPEMAWIL members including surveillance and digital attacks.¹³⁹ According to reports, in 2014, LEPEMAWIL offices were broken into, windows smashed, and several items were stolen. Members of the organisation have also denounced being subject to arrests.¹⁴⁰

The historic environmental and human rights impacts outlined in this case are situated against the backdrop of extreme difficulties in monitoring and documenting human rights violations in Papua¹⁴¹ and the armed conflict between factions of the West Papuan Liberation Army and Indonesia's security forces.¹⁴² The military and the mine exist in a relationship of mutual benefits, as uncovered by a New York Times Investigation that showed that – between 1998 and 2004 – Freeport paid nearly \$20 million to the Indonesian military.¹⁴³ One of the most severe impacts of militarisation in the area has been the ongoing internal displacement of communities near the mine. Since the 1970s, when reports documented the relocation of Amungme settlements due to military and mining activities, displacement has been a persistent issue.¹⁴⁴ This trend has intensified during periods of heightened armed conflict and military operations. In March 2020, observers reported that 2,114 Indigenous Amungme people were forced to flee to the town of Tembagapura.¹⁴⁵

In 2015, a coalition of civil society organisations including the International Coalition for Papua published a special report including documentation of violations of Indigenous peoples' rights, environmental degradation and civil and political rights violations in the region affected by the mine.¹⁴⁶ Freeport rejected any accusations and condemned threats, intimidation, or violence against human rights defenders.¹⁴⁷ The company maintained that their financial support for Indonesian security forces is to protect its workforce and property.¹⁴⁸

Links to the United Kingdom

The mining giant Rio Tinto, which is headquartered in the UK and listed on the London Stock Exchange, had a production sharing contract for the Grasberg mine between 1996 and 2018.¹⁴⁹ After more than 20 years of involvement with the Grasberg mine, Rio Tinto sold their interest in the project for \$3.5 billion.¹⁵⁰

In February 2024, Global Legal Action Network (GLAN) and London Mining Network (LMN) filed a lawsuit at the UK High Court against the London Metal Exchange (a world centre for the trading of industrial metals), arguing that, by enabling the global sale of “dirty metals”, the London Metal Exchange is in breach of UK anti-money laundering and proceeds of crime legislation.¹⁵¹ GLAN and LMN argue that the metals traded from the Grasberg mine are ‘criminal property’ and are produced in conditions that would violate UK laws if the production of these metals were to take place in the UK.¹⁵² The failure of the London Metal Exchange to exclude such metals from its trading platform allegedly violates the Financial Services and Markets Act (2002) and the Proceeds of Crime Act (2002), which should result in a halt of trade in these metals.¹⁵³

How a UK Business, Human Rights and Environment Act would apply in cases like this

Our evaluation is that under a Business, Human Rights and Environment Act in the UK, Rio Tinto would have been obliged to put in place effective human rights and environmental due diligence to identify, address and remedy actual and potential human rights and environmental impacts in the operations of the Grasberg mine notably with regard to Indigenous peoples’ rights and environmental standards.

The company would have had to ensure respect for the right to free, prior and informed consent of the Amungme and Kamoro peoples, and cease mining until consent was obtained in line with international standards.

According to our assessment, under such legislation and if allegations were proven, Rio Tinto could be held liable for harm arising from human rights abuses and a failure to ensure effective mining waste management emanating from the Grasberg mine.

Under a UK Business, Human Rights and Environment Act, any UK buyer of copper or gold would have to undertake a reasonable due diligence process to address any risks of human rights violations by its suppliers. UK companies would have to screen prospective suppliers, including Freeport, and refrain from making any purchases before being fully satisfied that zero tolerance policies for attacks on human rights defenders were in place. They would have to monitoring human rights violations closely and use their leverage to ensure that private guards and public forces employed or contracted by Freeport to provide security at the Grasberg mine acted in full compliance with international human rights standards. Essentially, an Act would contribute to a change to the way business has been done in rural Indonesia, to put rights and the environment first: It will come decades too late for the local defenders who have already faced such extensive repression, but it may save the next generation from going through the same again.



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The mining waste pollutes rivers which are essential for the livelihoods of Indigenous communities.

JAILING AND KILLING OF WATER DEFENDERS IN HONDURAS: THE OPAQUE EXPORT CHAINS OF IRON FROM THE LOS PINARES MINE

Communities have opposed the Los Pinares mine for more than a decade, concerned at the environmental impact of open pit iron oxide extraction in the heart of a national park. The reprisals faced by these human rights defenders have been brutal: as well as threats, smears and the imprisonment of eight activists for more than two years in a high security prison, four project opponents paid the ultimate price when they were murdered in 2023 and 2024. These cases remain unsolved. Opaque supply chains make it hard to know whether iron or steel associated with Los Pinares is reaching the UK market, underlining the importance of carrying out effective due diligence when sourcing materials.

The case: allegations of rights violations and reprisals against defenders

A controversial mining concession sparks protests

In 2014, Inversiones Los Pinares (Los Pinares) was granted a mining concession inside the Carlos Escaleras National Park, in the Aguán Valley, a region with a record of widespread conflicts over land and serious human rights abuses.¹⁵⁴ Los Pinares – previously known as EMCO Mining Company and now part of the EMCO group – is owned by Lenir Pérez, an associate of disgraced former president Juan Orlando Hernández.¹⁵⁵ Representatives of the local communities and international experts say that the massive open pit mine was sanctioned without community consultation inside a protected area in a process mired by irregularities.¹⁵⁶

Local communities from the nearby village of Guapinol began denouncing pollution of the water in 2016, setting up a peaceful protest camp after the mine's operations reportedly began polluting the Carlos Escaleras National Park and the local Guapinol River, which is intricately linked to the community's lives and livelihoods.¹⁵⁷ Both private security guards from the mine and Honduran police officers are reported to have violently attacked the protest camp in attempts to forcibly evict it.¹⁵⁸

Water defenders criminalised

In 2019, arrest warrants were issued against 32 members of the community resistance, falsely accusing them of robbery, kidnap, aggravated arson and unlawful association, in what appears to be an attempt to intimidate those opposing the mine.¹⁵⁹ An accusation by the Los Pinares mining company had sparked the charges.⁸

Eight environmental defenders were imprisoned in one of Honduras' highest security prisons in squalid conditions for over two years, despite prosecutors failing to



⁸ In response to the peaceful blockade, the company filed charges against 18 people for usurpation and damages. The accusation of "usurpation" served as the basis for a violent eviction from the camp 88 days after its installation. The Tegucigalpa Court of Appeals later ruled that no usurpation had been committed. Fiscalía Regional del Bajo Aguán. *Requerimiento fiscal presentado por el Ministerio Público por los delitos de usurpación y daños al Juzgado de Letras, Seccional de Tocoa, Colón, 2018.*

PBI provides support and protective accompaniment to the community resistance movement, including through international observation.



provide any evidence of them having committed a crime.¹⁶⁰ In 2021, the United Nations Working Group on Arbitrary Detention concluded that the detention of the eight environmental defenders was arbitrary and contravened universal rights.¹⁶¹ Analysis by Amnesty International determined that the case file showed multiple flaws in the investigation and declared the defenders prisoners of conscience.¹⁶² Defenders who remained in the community reported threats and harassment.¹⁶³ PBI provided support and protective accompaniment to the community resistance movement, including through international observation during visits to the prison and in key court hearings. Grassroots and national level organisations joined with international NGOs to lead a global campaign calling for the defenders' release.

All eight 'Guapinol defenders' were released in February 2022, six of whom were released on bail under a conditional release order and two of whom were fully acquitted, when the Supreme Court of Justice ruled that violations of due process of law and of regulations regarding pre-trial detention had occurred.¹⁶⁴ Eight men had lost over two years of their lives, and social movements and NGOs had to divert numerous resources to their release, but the struggle against Los Pinares continued.

Numerous members of the Municipal Committee for the Defence of Common and Public Goods of the community of Tocoa (CMDBCPT) – a social organisation set up to advocate on behalf of local communities negatively impacted by extractive industries have, on top of criminalisation, reportedly faced surveillance and smears in response to their opposition to the mining operations.¹⁶⁵ Investigative journalists at Contracorriente documented that 2023 also saw a revival of a longstanding smear campaign on social media against opponents to the Los Pinares mine.¹⁶⁶

Risks escalate for human rights defenders

The Business and Human Rights Resource Centre has documented 71 attacks against human rights defenders related to Los Pinares between 2015 and December 2023.¹⁶⁷ In January 2023, two prominent leaders and founders of the community resistance – Aly Domínguez and Jairo Bonilla – were brutally murdered in broad daylight.¹⁶⁸ Aly was among 32 community leaders originally criminalised.¹⁶⁹ As of January 2024, the case of their murders remained unresolved.¹⁷⁰ In June 2023, another human rights defender, Oscar Oqueli Domínguez Ramos, was killed in his home.¹⁷¹ Tragically, the murdered defenders Oqueli and Aly were brothers of Reynaldo Domínguez, a prominent defender of the CMDBCPT. They are among the 14 land, Indigenous, and environmental defenders who were killed throughout 2023 in Honduras.¹⁷² According to information received by PBI through its protective accompaniment provided to the community, there is no public information on the progress of the investigation into the killing of Oscar Oqueli

Domínguez Ramos. In September 2024, Juan López, a leading member of CMDBCPT, was murdered. Juan had previously faced criminalisation and threats due to his unwavering defence of the Carlos Escaleras National Park. Despite receiving protective measures from the Inter-American Commission on Human Rights, he continued to face harassment, leading up to his death.¹⁷³

When invited by the Business and Human Rights Resource Center to comment on attacks against defenders and criminalisation related to its operations, Los Pinares did not respond.¹⁷⁴

The tireless efforts by local communities, the CMDBCPT and human rights defenders in the face of relentless repression has begun to reap dividends. Firstly, in July 2023, the Secretary of Natural Resources and Environment announced an agreement between the government and Los Pinares to temporarily suspend mining activities for two years.¹⁷⁵ Then, in February 2024, the Honduran National Congress approved Decree 18-2024 that recovers and protects the core area of the Carlos Escaleras National Park.¹⁷⁶ This Decree annuls a previous one that effectively re-drew the boundaries of the protected areas to reduce the core area of the Carlos Escaleras National Park to allow for mining concessions to be granted to Los Pinares. This means the Guapinol river will once again be a protected area under the National Park and would cease any mining

Our land has been fenced off, given in concession, militarised, and colonised; and our brothers and sisters have been criminalised, jailed, and murdered in the violence produced by this kind of capital accumulation.

JUAN LÓPEZ

Guapinol Water Defender who was murdered on the 14th of September 2024

» Earth Rights International, Criminalized Guapinol Earth Rights Defenders Should be Immediately Released, February 27, 2020. (Accessed: 20 September 2024)



Eight environmental defenders were imprisoned in one of Honduras' highest security prisons in squalid conditions for over two years.

PBI Honduras

concessions in operation. In July 2024, the application for an extension of the mining licence of Los Pinares was also denied.¹⁷⁷ Los Pinares states that their iron oxide operations adhere to high standards of responsible mining and environmental practices.¹⁷⁸

Potential for links to the United Kingdom

Inversiones Ecotek S.A. de C.V., a company created in 2018 in Honduras by the owners of Los Pinares, operates an iron pellet plant that processes the iron oxide for steel production.¹⁷⁹ In 2020, a collaboration between Contracorriente, the Centro Latinoamericano de Investigación Periodística (CLIP) and the Univision Investigative Unit exposed links between the Honduran companies and the largest steel producer in the United States, the Nucor Corporation.¹⁸⁰

The current lack of mandatory supply chain transparency means that it is not clear which markets this steel is reaching, including whether it is ending up in the UK. If this were the case, then UK companies could very well be contributing to these harms, or they could be directly linked to them.

How a UK Business, Human Rights and Environment Act would apply in cases like this

According to our assessment, a UK Business, Human Rights and Environment Act will require UK companies to be transparent about their suppliers and assess any risks of human rights and environmental harms through effective due diligence. This requirement will create leverage for the whole industry to be more transparent and enable UK companies to also make better purchasing decisions.

According to our assessment, any UK companies seeking to source iron or steel emanating from Los Pinares and associated companies would be required to conduct human rights and environmental due diligence on their operations and supply chains under a Business, Human Rights, and Environmental Act. Globally, mining is the sector connected with the highest number of attacks on human rights defenders, according to the Business and Human Rights Resource Centre.¹⁸¹ For UK businesses purchasing steel from Los Pinares, this would mean using their leverage to improve environmental practices and ensure safe, meaningful stakeholder engagement, particularly with respect to affected communities and human rights defenders.

A CALL TO ACTION

Around the world, vital forests are being burnt down, sewage pumped into the sea, and peoples' rights undercut in a way that undermines any hope of a truly just transition away from fossil fuels.

This is not just bad for the communities on the front lines of the climate crisis, but for all of us whose prospects depend upon the future of the planet and respect for rights.

Those brave enough to stand up in the face of corporate malfeasance are being brutally silenced with impunity.

Too many UK companies and financiers are complicit. The cases in this report show that some businesses cannot be trusted to prevent and mitigate human rights abuses in their investments, operations and supply chains. Voluntary regulation schemes are failing.

We have an opportunity. One already being grabbed in other quarters. Globally, and within the UK, there is ample consensus that mandatory due diligence is what is required. It should be pushed to the forefront of the UK's legislative agenda in order to underpin the Government's ambitions on climate change, workers' rights and the economy. The UK can become a champion on corporate accountability.

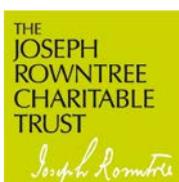
To do so, the government should open consultations on a Business, Human Rights and Environment Act, and develop a draft law which includes the principal elements set out in this report. Human rights defenders and communities affected by business abuses should be heard in these deliberations. Parliament should get behind the Act, and parliamentarians should encourage the government to act sooner rather than later.

Human rights defenders around the world need our support and protection now if we are to build the future of tomorrow. Civil society organisations, global philanthropy, the legal community, and governments worldwide need to pull together to engage, support and protect them.

Human rights defenders are taking a stand to ensure business respect for human rights and the environment. It is high time the UK government did so too. **The case for change is clear.**

ACKNOWLEDGEMENTS

Peace Brigades International (PBI) UK is extremely grateful to the institutions which helped to make this report possible. They include the Corporate Justice Coalition, the Environmental Defenders Collaborative, the Evan Cornish Foundation, and the Joseph Rowntree Charitable Trust. Numerous civil society organisations in Colombia, Honduras, Indonesia, Mexico and the United Kingdom provided vital inputs for the report, for which we are very thankful.



USEFUL RESOURCES

Good Business Matters The good business matters platform includes the latest information on the campaign for a Business, Human Rights and Environment Act, including details of parliamentary, business and civil society supporters of the campaign. www.goodbusinessmatters.org

A Business, Human Rights and Environment Act: Due Diligence to Protect the Environment and Achieve a Just Transition in Global Value Chains: CJC briefing endorsed by 29 NGOs (CJC briefing, April 2024). This parliamentary briefing explains how a Business, Human Rights and Environment Act would protect the environment and contribute to achieving a just transition in global value chains.

Bridging the gap: how could a UK business, human rights and environment act have made a difference? (CJC, November 2023). This report includes 15 case studies demonstrating how UK companies, financial institutions and public bodies are connected to severe abuses – ranging from worker exploitation, modern slavery, abuse of Indigenous peoples' rights and the right to health to illegal deforestation and land-grabbing. The case studies show how a UK Business, Human Rights and Environment Act would have made a difference.

Mandatory due diligence: an opportunity for the UK to protect the planet and those who defend it (PBI UK, November 2022). PBI UK Director Ben Leather makes the case for why the UK Government should develop a Business, Human Rights and Environment Act, and what it would mean for human rights defenders.

Business and Investor Statement for Robust UK Human Rights Due Diligence (April 2024) Statement signed by 167 businesses and investors followed earlier calls for the UK to adopt robust legislation on mandatory human rights and environmental due diligence and outlined the key elements needed including meaningful stakeholder engagement.

A Chance At a Sustainable Future: Strengthening the EU's New Law (Global Witness, April 2022). Designed to inform the EU's legislative debates regarding mandatory due diligence, many components of this paper are relevant for discussions regarding a UK law, including as it relates to human rights defenders.

Hearing the Human: Ensuring Due Diligence Legislation Effectively Amplifies The Voices of Those Affected by Irresponsible Business: Briefing paper by six expert NGOs (October 2021). Informed by regional workshops with human rights defenders in Africa, Asia and Latin America, this report provides analysis and recommendations regarding how human rights defenders could be included in – and safeguarded by – the EU's legislative process on due diligence. They are highly relevant to any UK law.

Peace Brigades International UK Policy Advocacy Resource Hub This platform is kept constantly up to date by PBI UK and includes resources related to the campaign for a Business, Human Rights and Environment Act, as well as other UK policy changes necessary to support and protect human rights defenders. www.peacebrigades.org.uk/defenddefenders

WHO IS CALLING FOR THE LAW?

Companies

In a 2022 statement,¹⁸² a range of companies called on the government to “urgently bring forward” a new UK law ensuring that human rights and environmental due diligence is carried out “to a high standard and that victims have access to justice”.

Signatories include:

ALDI	Ethical Trading Initiative	Local Authority Pension Fund Forum	Seasalt Cornwall
Alsico	Fashion Roundtable	Mars	Tata Consumer Products GB
AMT Fresh	Fidelis Insurance	Microsoft	Tesco
Ardea International	Hilton Food Group	Mondelez International	TFG Brands London
Ardevora	Investor Alliance for Human Rights	Morrisons	Tony's Chocolonely
Asset Management LLP	Investors One+All	Nestlé	Triodos Bank
ASDA	John Lewis Partnership	New Look	Twinings
ASOS	Joseph Robertson	Oliver Bonas	Unilever
Aviva	Jupiter Asset Management	Polden-Puckham Charitable Foundation	UN Global Compact Network UK
The Body Shop	Justice in Fashion CIC	Primark	Union Hand-Roasted Coffee
BMO Asset Management	LDH (La Doria) Ltd	Princes Group	The Very Group
British Retail Consortium	Liberty Retail Limited	Sainsbury's	The White Company
The Co-operative Group			
Erve			

Investors

Also in 2022, UK investors representing more than £4.5 trillion in assets under management released a statement¹⁸³ saying that businesses “should be held legally liable for harm, loss and damage arising from their failure to prevent adverse human rights and environmental impacts within their operations and throughout their global value chains”, adding that they should be “required to adequately compensate victims of abuse”.

Signatories include:

Abrdn	Charles Stanley PLC	Future Super	London CIV
ACTIAM	Charles Taylor Investment Management Company Limited	Investec Wealth and Investment (UK)	Mineworkers' Pension Scheme
Aikya		Investor Alliance for Human Rights	Niederösterreichische Vorsorgekasse AG
Apis Partners LLP	Close Brothers Asset Management	Jupiter	PIRC
Ardevora Asset Management	Cometa Pension Fund	Lady Lawyer Foundation (LLF)	Storebrand Asset Management
BMO	Dalriada Trustees	Lady Lawyer Fashion Archive (LLFA)	Tulipshare
Boston Common Asset Management	Digital Transformation Capital Partners	Lady Lawyer Village (LLV)	UN Principles for Responsible Investment
Brunel Pension Partnership	EQ Investors Limited	Legal and General Investment Management	Van City Investment Management Ltd
Cairn Capital Group Limited	Equitile Investments Ltd	Local Pensions Partnership Investments	Zevin Asset Management
Central Finance Board of the Methodist Church	Ethos Foundation		
CCLA	Ethos Engagement Pool International		

A 2024 statement signed by 167 businesses and investors followed the 2022 calls for such legislation, and outlined the key elements needed for robust legislation including meaningful stakeholder engagement.¹⁸⁴

Civil society organisations

39 organisations, spanning trade unions, human rights organisations, environment and climate NGOs and many more besides are united in their clear demand for what a new law must look like.

Supporters include:

ABColumbia	Environmental Justice Foundation	Global Witness	Share Action
Action Aid	EKO	Home Workers Worldwide	The Circle
Amnesty International	Fairtrade Foundation	Justice & Care	Trade Union Conference
Anti-Slavery International	Fashion Roundtable	Just Money Movement	Transform Trade
Business and Human Rights Resource Centre	Fauna & Flora	Labour Behind The Label	Unicef
Catholic Agency for Overseas Development	Focus on Labour Exploitation	Lawyers for Palestinian Human Rights	Unison
Christian Aid	Forest Peoples Programme	London Mining Network	Unseen
Clean Trade	Freedom United	Oxfam	War on Want
Corporate Justice Coalition	Friends of the Earth	Peace Brigades International	Womankind Worldwide
	Global Justice Now	RAID	Women Working Worldwide

The general public

A YouGov poll¹⁸⁵ in April 2024 showed that:

- Four in five adults in the UK support new laws requiring companies to prevent serious environmental harm and human rights abuses in their operations or supply chains.
- More than 80% of UK adults want new UK laws requiring British companies to prevent human rights abuses and serious environmental damages in their operations and supply chains.
- 73% think UK companies should be doing more to reduce their contribution to global warming.
- More than 60% believe that people living overseas who are harmed by human rights abuses or environmental damage through UK business supply chains should be able to seek justice in UK courts, an option not currently available for most corporate crime victims.

Hundreds of thousands of people have also petitions on a number of civil society platforms calling for a Business, Human Rights and Environment Act. The principal petition can be found at <https://corporatejusticecoalition.org/our-campaigns/due-diligence-law/>.

Parliamentarians

A growing number of MPs and Peers from a range of political parties have signed a pledge expressing their support for a new law on business, human rights and the environment to protect people and the planet from abuse.¹⁸⁶

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Wayúu community member in La Guajira where the Cerrejón mining operation is located.

Credit: Centro de Investigacion y Educacion Popular Programa Por la Paz, CINEP

