

From : Namegabe Bugabo John.

Bukavuon 10 May

2022 Resident of the Democratic Republic of Congo

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Human rights Defender and Representative of the complainant victims according to their written applications, in annex, and other male, female and child victims, from more than 2360 households.

On-site victim contact telephone number: To be provided upon request by the NCP.

TO THE CANADIAN NATIONAL CONTACT POINT (NCP) FOR THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES.

Email : [ncp.pcn@international.gc.ca](mailto:ncp.pcn@international.gc.ca)

Copy: SOMO Organization, E-mail: [info@somo.nl](mailto:info@somo.nl); [info@oecdwatch.org](mailto:info@oecdwatch.org)

**Subject : Complaint against the company Barrick Gold based in Canada, for the malicious destruction of dwellings, commercial houses, private property, belonging to the population, and death of people killed by bullets on October 22, 2021 by security agents under the orders of the companies Barrick Gold and Kibali Gold Mines in DR Congo (and other people arrested until now without assistance) during the forced eviction of the inhabitants by demolition of their houses to give place to the mines of Barrick Gold and without compensation by the companies Barrick Gold and Kibali Gold Mine, in the villages Bandayi and Mege ; And demand for reparation for the victims and families of the martyrs, spread over 1500 households in Bandayi and 860 houses destroyed in Mege.**

161 Bay Street, Suite 3700 Toronto, Ontario M5J 2S1 Tel: +14168619911, E-mail:

[investor@barrick.com](mailto:investor@barrick.com)

Reference persons :

- Mark Bristow, CEO

- Kathy du Plessis (+442075577738) e-mail: [barrick@dpapr.com](mailto:barrick@dpapr.com)

Contact of KIBALI GOLD MINE in DR Congo: Tel: +243812532441 /+618 6365 44 41

Dearest Margot Edwards,

While the information is still fresh for Barrick Gold to take good care of the victims of this forced eviction with the death of men, we have the duty to transmit this letter to you, at the request of the victims, so that within the framework of the OECD guidelines and under the mediation of the NCP of Canada, Barrick Gold can consider financial compensation to support the families affected and organize a relocation of this population, according to international standards in the matter.

See the France 24 report on these demolitions, on the link below.

<https://observers.france24.com/fr/afrique/20211026-rd-congo-maisons-d%C3%A9truites-gisement-or-durba-kibali-gold-mining>

See also the other video in the appendix in which the Provincial Government Council assists the demolition of houses not yet abandoned by the population because no compensation or relocation had been made beforehand to encourage the inhabitants to abandon their fields, houses, plantations, and their property in general. In this video we see that the houses that are being destroyed still have their curtains, doors, windows and metal sheets in place, which are assets that could be removed by their owners if they had moved beforehand, to a suitable site already built by the Kibali Gold company belonging to BARRICK GOLD. In the background we see a young man surprised by the machine, evacuating in a hurry. In the background we also see armed soldiers assisting the demolition and preventing any resistance. This video proves that the inhabitants were not involved in the demolition.

We can also see this in another video showing the results of the operation on 22 October 2021 and the subsequent photos of the martyrs. Due to the high sensitivity of the case, the identity of the complainants will be treated confidentially.

See also, the video of the public demonstrations of the populations to claim their rights.

Dear NCP members from Canada,

BARRICK GOLD's 2021 Human Rights Report, attached, which we quote: << Barrick Publishes Human Rights Report; Toronto, December 10, 2021 - Barrick Gold Corporation (NYSE:GOLD)(TSX:ABX) published its report on Human Rights today outlining the

company's revised policies and standards and their implementation since the merger with Randgold Resources. To date, all high- and medium-risk sites have been assessed, with Kibali in the Democratic Republic of Congo and Loulo-Gounkoto in Mali completed during 2021," says Barrick Gold's policy of respecting human rights by the company, including at Kibali in DR Congo. In the meantime, the houses of the inhabitants have been destroyed, their fields plundered, their land taken over, their crops destroyed, essential documents destroyed (voter's cards acting as identity cards, school diplomas, land parcel documents, etc.), and, most importantly, people killed and others arrested without assistance. The families avoid visiting these prisoners so as not to be assimilated and put in prison. All these facts create an enormous trauma on the inhabitants who are in their country.

A field survey will allow the NCP to understand the extent of the damage and the number of victims for a better compensation that we can estimate at a minimum of 118,000,000 USD (One hundred and eighteen million US dollars).

Barrick Gold is a multinational company operating in or from Canada, an OECD member country.

The DR Congo, where Barrick Gold has mining operations, is not a member of the OECD and therefore does not have a national contact point for the implementation of the OECD Guidelines.

Barrick Gold's 2020 annual report (attached) discusses Barrick Gold's business relationship with Kibali Gold in DR Congo:

- Page 4 states: "Barrick owns and operates six tier one gold mines: Cortez,..., Kibali in the Democratic Republic of Congo, ....."

- Page 3 says in the first column: - Barrick back in business in tanzania settles all legacy disputes. This means that Barrick Gold is taking over the litigation of its mining companies in Tanzania. The DR Congo should be no exception to Barrick Gold's takeover.

The same page 3 states: Kibali commissions New battery technology to further offset the need for diesel generators.

- Page 5: Operational excellence: - Strive for zero harm work places.

- Stream line management and operations with managers accountable for the business they run

- Build trust-based partnership with governments, business partners and local communities to drive shared long-term value. This means that Barrick Gold must take into account the rights of the communities in Bandayi and Mege villages that were victims of this forced eviction and death.

- Page 7 of the report shows the mapping of Barrick's operations including Kibali in the DRC on the African continent.

- Page 8 states: Our Tier one assets: Kibali is one of the largest gold mines in Africa . Kibali is one of the most automated underground mines in the World. 2020 production: 808,000 ounces, or over US\$1 billion produced by Kibali in 2020. Hence the strategic importance of Kibali Gold in Barrick Gold's holdings.

- On page 16, third paragraph: Kibali in Democratic Republic of Congo also grew....

- Page 29 unfortunately shows that the incidents of 22 October 2021 at Kibali are not the first to occur there and that the company had not learned the lesson of similar incidents in November 2020 as described as follows: "Sustainability score card: Although our group safety frequency rates have significantly improved year-over-year, we received a bottom quintile score of 5 for our TRIFR performance due to the unfortunate fatality at Kibali in 2020 . Thus despite improvement across most of our Sustainability score card indicators we believe a B grade for 2020 is fair, as it is our absolute belief that one fatality is one too many.

- Pages 152, 156, 158, 160, 171, 172, 185 also show that Barrick Gold is a co-owner of Kibali Gold in the DR Congo.

-On page 171, corporate information: we have ownership interests in producing gold mines that are located in Argentina, Democratic Republic of Congo, ...

Therefore, as the incidents of 22 October 2020 took place at Kibali Gold's mines owned by Barrick Gold, Barrick Gold should actively seek ways to remedy the violations described in this complaint and take immediate steps to prevent such abuses from occurring again. Kibali Gold's reported low share capital (\$10,000,000 published in 2021) compared to Kibali Gold's annual revenues (808,000 ounces in 2020 or more than US\$1 billion) should not be used as an excuse for not properly compensating the victims. See the share capital of USD 10,000,000 declared on the job offer in the appendix.

On the other hand, the publication of this low share capital in relation to the annual revenues of more than one billion US dollars constitutes a violation by Barrick and Kibali of the

Article 13 of the King's Decree of 27 February 1887 on commercial companies, in the absence of a presidential order authorising an increase in Kibali Gold's share capital, in view of the more than 100-fold increase in its turnover in relation to its share capital.

This publication of a low share capital in relation to revenues (a ratio of 1 in 100) also constitutes tax evasion because the share capital of Kibali Gold is artificially kept low by Barrick Gold in order not to pay the Congolese public treasury the 10% required in the event of an increase in the share capital and which leads to the amendment of the company's articles of association in accordance with Article 13 paragraphs a), b), c) of the said decree.

These demolitions and deaths of men constitute clear violations by Barrick Gold and Kibali Gold of articles 16; 29; 34; 35 of the constitution of the DR Congo:

"Article 16

The human person is sacred. The State has an obligation to respect and protect them. Everyone has the right to life, physical integrity and the free development of his or her No one may be held in slavery or similar conditions. No one may be held in slavery or similar conditions.

No one shall be subjected to cruel, inhuman or degrading treatment. No one shall be required to perform forced or compulsory labour.

Article 29

The home is inviolable. Visits or searches may only be carried out in the manner and under the conditions laid down by law.

Article 34

Private property is sacred.

The State guarantees the right to individual or collective property acquired in accordance with the law or custom. It shall encourage and ensure the security of private, national and foreign investments.

No one may be deprived of his property except in the public interest and in return for fair and prior compensation granted under the conditions laid down by law.

No one may have his property seized except by virtue of a decision taken by a competent judicial authority.

Article 35

The state guarantees the right to private initiative to both nationals and foreigners. It encourages the exercise of small trade, arts and crafts by the Congolese and ensures the protection and promotion of national expertise and skills.

The law shall determine the manner in which this right is to be exercised.

The guiding principles are violated in the following chapters: I. Concepts and principles; II. General principles; IV. Human rights; XI. Taxation.

### I. Concepts and principles.

1. The Guidelines are recommendations that governments jointly address to multinational enterprises. They set out principles and standards of good practice consistent with applicable law.

- Barrick Gold does not apply the recommendations that the Government of Canada makes to its multinational companies to Kibali.

- Barrick Gold did not follow good practice in the process of relocating people, even to the point of using firearms leading to the deaths of the people to be relocated.

2. As multinational enterprises operate worldwide, international co-operation in this area should extend to all countries. Governments adhering to the Guidelines encourage enterprises operating in their territories to respect the Guidelines wherever they operate, taking into account the particular circumstances of each host country.

- In the context of international cooperation, the Canadian government has a duty to encourage Barrick Gold operating on its territory to respect the guiding principles in the DRC where Barrick Gold operates, taking into account the particular situation of the DRC, its host country.

- Barrick Gold must comply with the DRC's laws on the 10% tax on increases in share capital and on relocation with dignity.

### II. general principles.

2. Respect the human rights of those affected by their activities, in accordance with the international obligations and commitments of the host government.

- By the methods used to relocate the population through forced evictions which led to the death of some inhabitants, Barrick Gold was guilty of violating human rights including the right to life, the right to security, the rights of the poor, social economic rights, etc.

10. Encourage, to the extent possible, their business partners, including suppliers and subcontractors, to apply business conduct principles consistent with the Guidelines.

- Barrick Gold must encourage Kibali Gold to ensure that its affairs are in line with the guiding principles. This is not the case with the events of 22 October 2021 as a result of Barrick Gold's and Kibali Gold's poor policy of relocating people.

11. Refrain from undue interference in local political activities.

- Barrick Gold, having a company-controlled police force in Kibali, has the ability to unduly interfere in local political activities.

#### IV. Human rights.

States have a duty to protect human rights. Within the framework of internationally recognised human rights, international human rights commitments made by the countries in which they operate, and relevant national laws and regulations, companies should :

1. Respect human rights, which means that they must not infringe on the rights of others and must counteract negative human rights incidents in which they have a stake.

- Barrick Gold must not kill or cause to be killed the local population in DR Congo.

- Barrick Gold must address the negative human rights impacts at Kibali, in which it has a stake.

2. In the course of their activities, avoid causing or contributing to negative human rights impacts, and address such impacts when they occur.

- As the death occurred in these incidents, Barrick Gold must actively seek compensation and measures to prevent similar incidents from occurring again.

#### XI. Taxation

-Barrick Gold, by artificially maintaining a low share capital in the operations at Kibali Gold Mines despite the large revenues earned by Kibali Gold, is not contributing effectively to the public finances of the DR Congo.

Ladies and Gentlemen,

This issue is very important because it concerns the human lives that are put at risk by Barrick Gold's activities in DR Congo. There is a need for Barrick Gold and its partners to consider remedial action.

The commentary on the implementation procedures for the OECD Guidelines for Multinational Enterprises, at paragraph 26, states that "When assessing the significance for a specific instance procedure of other national or international actions dealing with comparable issues in parallel, NCPs should not decide that the issues do not warrant further consideration simply because parallel actions have existed, are ongoing or may be undertaken by the parties concerned.

Ladies and Gentlemen,

The inhabitants of the DR Congo in general and those of the villages forcibly evicted (Bandayi and Mege) in particular, are demanding just reparation as evidenced by their public demonstrations.

The acts committed on 22 October 2021 against the Congolese population prove that the lives of the Congolese people weigh nothing before the interests of Barrick Gold.

As Congolese citizens living in the same country as the victims, we have a duty, in accordance with Article 28 of our country's constitution, to oppose any manifestly illegal order.

As these acts by Barrick Gold are clearly illegal and concern human life in the DR Congo, any Congolese must oppose them and can lodge a complaint.

It is important that redress be provided to victims who will be identified by Barrick Gold under the supervision of the NCP of Canada or other entity designated by the NCP.

Barrick Gold and Kibali Gold are taking advantage of the weak governance situation to violate human rights in DR Congo.

We show the NCP and Barrick Gold the few reports published on this subject:

- Transparency International's [Corruption Perceptions Index 2021](#) ranked the DRC 11<sup>th</sup> from the bottom (169 out of 180 countries) for corruption levels. So, 11<sup>th</sup> most corrupted country in the world.
- A report published under the auspices of the New York University School of Law, Hauser Global Law Program, entitled "[Update: Overview of the Legal System of the Democratic](#)

[Republic of the Congo \(DRC\) and Research](#)" (July/August 2020), notes that "factors such as the lack of infrastructure, weak institutional capacity, serious resource limitations and corruption undermine the effectiveness, stability and predictability of the legal system."

- The "DR Congo Corruption Report" (August 2020) of GAN Integrity, a company that undertakes country risk reports covering issues of corruption, notes that the DRC's "judicial institutions suffer from widespread corruption... "and that the judiciary is "severely under-financed and lacks the most basic infrastructure... [and is] subject to political influence."

<https://www.radiookapi.net/2019/01/30/actualite/societe/la-rdc-parmi-les-20-pays-les-plus-corrupt-world-according-to-transp>. Radio Okapi is the radio station of the United Nations Stabilisation Mission in Congo (MONUSCO).

Dearest NCP of Canada,

After a brief presentation of the situation, we remain at your disposal for further information.

Sincerely, For the  
victims

Namegabe Bugabo John

Human Right Defender