

Follow-up Questions on the Community Grievance Process at North Mara Mine

Thank you for agreeing to answer additional follow-up questions to the on-the-record 21 June 2018 meeting between RAID and Acacia Mining’s staff leading the Investigations and Community Engagement Team at North Mara Mine. The UN Guiding Principles on Business and Human Rights require that operational grievance mechanisms are transparent, rights-compatible and a source of continuous learning if they are to be effective. We believe the answers you provide to the questions below can help to demonstrate the effectiveness and functioning to date of the pilot Community Grievance Mechanism.

1. In 2014, 2016 and 2017, Acacia’s Annual Reports record 3, 2 and 1 deaths relating to the use of force against intruders and/or police involvement (no such deaths are recorded for 2015). Please could you explain the cause of death in each case?
2. The number of ‘intruder fatalities’ is recorded in Acacia’s Annual Reports as 17, 9, 6 and 2 in each year from 2014 – 2017 and are attributed to ‘fall from height’, ‘infighting’, ‘drowning’, ‘rockfall’, ‘vehicle accident’, and ‘other’. Please could you provide further information about how many of these intruder fatalities occurred while security operations were underway? It would be useful to have such information broken down for each category and for each year.
3. The Annual Reports provide information on injuries to mine employees as part of health and safety reporting. However, no information is provided on injuries to intruders. Please could you provide figures for the number of intruders injured on the mine site for each year (2014-2017) and what caused the injury?
4. The 2016 Annual Report (p.58) refers to the progress in clearing the backlog of pending cases from previous years with 117 cases relating to public or private security being concluded through North Mara’s human rights grievance process. Of these cases, 109 were rejected as being ‘unsubstantiated or inconclusive’ with remedy agreed in the other 8 cases.
 - a) Please could you clarify by what process and by whom these 117 cases were determined, since the revision of the grievance mechanism was already underway?
 - b) Given that Acacia referred to a two-tier grievance process and ‘a three member Second Order Mechanism panel’ operating in at least the last quarter of 2016, according to a letter from Peter Geleta to RAID on 17 January 2017, how many of these 117 were considered on appeal?
 - c) Please will you provide a breakdown of the 117 cases by year of complaint lodged as well as the type of grievance concerned such as fatality, the use of force, injury to an intruder or sexual misconduct?
5. The 2017 Annual Report refers to the consideration of 25 security-related human rights grievances ‘that were pending or had been considered by the previous process in past years’, and 1 new grievance out of the 13 new security-related grievances. This and other information provided is summarised in the table below:

			Dialogue stage	Reviewed by Grievance
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			Committee				
	Total	Considered under pilot CGM	Human rights Impact	No human rights impact	Reviewed by Grievance Committee	Human rights impact	No human rights impact
Past/pending grievances	?	25	5	19	28	14	14
New 2017 grievances	13	1	1	0	0	0	0

- a) Please could you give a figure for the total number of past/pending grievances outstanding at the beginning of 2017?
 - b) Please could you clarify how a greater number of grievances (28) were reviewed by the Grievance Committee than the actual number of grievances (26, 1 of which was withdrawn) considered under the pilot CGM in 2017?
 - c) Please can you give a breakdown of the 25 past/pending cases in terms of how many of these had been considered under the previous OGM and how many were pending?
 - d) How many of the 25 cases went to the Grievance Committee during 2017? What were the outcomes?
 - e) Assuming that all 26 (minus 1 withdrawn) of the grievances considered in 2017 went through a dialogue stage, is it correct that 19 were rejected as having no human rights impact? Did all of the rejected grievances continue to appeal/determination by the Grievance Committee?
 - f) How many of the grievances considered in 2017 that were rejected at the dialogue stage were also rejected by the Grievance Committee?
6. How are grievances concerning allegations of a sexual nature categorised? Are such grievances included as human rights grievances? How many grievances of this type have there been in each year 2014 – 2017?
 7. Please will you provide the number of, and details about, any incidents dealt with under Precautionary Measures or Humanitarian Relief provisions under the CGM in 2017?
 8. A fatal shooting is recorded in the 2017 Annual Report and referred to as resolved. Was this grievance resolved in a dialogue meeting, following the procedures to agree impact and remedy set out in the Standard Operating Procedure, or by any other means? Did the grievant(s) receive independent legal advice and, if so, did they receive unlimited free advice throughout or just 4 hours' worth of assistance?
 9. The 2017 Annual Report states that '[r]emediation plans were established in 16 cases, 12 of which were from past years' in respect of security/human rights grievances.
 - a) Given that the CGM process resulted in agreed human rights impacts in 20 cases overall (6 cases at the dialogue stage, plus 14 through the Grievance Committee), is it the case that remediation was not achieved in 4 such cases where there had been an impact? What next steps, if any, are planned for these 4 cases?
 - b) Given that 12 remediated cases are from past years, we assume the remaining 4 are from 2017; however, only a single new grievance (the fatal shooting) was considered (and remedied) in 2017. Please could you provide further details on the 3 other current cases which were remedied?

10. In the meeting, Acacia staff referred to a ‘Risk Register’ that included the names of police officers known or alleged to have been engaged in human rights violations, including the use of excessive force. How many police officers per year have been recorded on this register since 2014? In each case, has the particular officer been reported to the authorities for investigation? On how many occasions has there been any outcome of an investigation? If there was an outcome, what was it?
11. In respect of the 2017 fatal shooting, reference is made in the Annual Report to ‘follow up with the authorities’. Please can you give details the form of the follow up and the outcome? To your knowledge, was any police officer disciplined, charged or convicted in relation to this incident?
12. In Acacia’s 2016 year annual report, there is reference to a mine security employee having been dismissed for excessive use of force. Please could you clarify the number of mine security employees who in previous or subsequent years faced disciplinary action and/or have been dismissed for known or alleged human rights violations, including the use of excessive force? In each case, was the particular officer reported to the authorities for investigation? What was the outcome?

We thank you in advance for your response to the above questions.