



Rights and Accountability in Development

3 July 2019

Abraham Van Ghent
North Mara Gold Mine Limited
P.O. Box 422
Tarime
Tanzania

Sent Via Email

Dear Mr Van Ghent,

Re: 13 June 2019 letter – Acacia’s grievance process and agreement with police at North Mara

We write in reference to your [letter](#) to RAID, dated 13 June 2019, which was a response to our [letter](#) of 11 June 2019 addressed to Acacia’s Board of Directors.

We are perplexed by your response. This is the second letter RAID has addressed to Acacia’s Board of Directors to which you have responded in your capacity as General Manager of Acacia’s subsidiary North Mara Gold Mine Limited (‘NMGML’). As you may recall, you also [responded](#) to RAID’s [letter](#) of 10 October 2018.

In both our June 2019 and October 2018 letters, RAID sought to bring to the Board’s attention matters concerning the human rights situation at Acacia’s North Mara mine. Specifically, we highlighted violence perpetrated by security forces at North Mara, including the Tanzanian police, against local community members and a grievance process that is failing victims of that violence. Our June 2019 letter called on Acacia’s Board to consider ending the agreement with the Tanzanian police, which lies at the heart of many of the human rights violations at North Mara, and to suspend the grievance process pending an independent third party review, while providing humanitarian assistance in the interim.

Your letter rejects that call. It does so on the basis of many inaccurate claims, as well as mischaracterisations and/or misunderstandings of the content of our letter and nature of our work. We address these below, but first please allow me to address the Board’s decision to have you respond in its place.

I. Failure of Acacia’s Board to respond to RAID

Until the end of 2018, Acacia dealt with RAID directly in relation to the grievance process and the role of police at North Mara. Acacia’s representatives [corresponded](#) with RAID regarding both issues and did not disclaim responsibility for either. It also hosted a consultation in London in September 2018, in which RAID participated, which dealt specifically with these issues. Acacia’s Head of Legal and Compliance attended that consultation. No member of NMGML was present. Again, there was no suggestion that Acacia disclaimed responsibility for security-related issues or the grievance process at North Mara.

You now assert, as you did in response to our October 2018 letter, that you, not the members of Acacia’s Board, are the appropriate person to respond to our letter because ‘NMGML, not Acacia, is the

owner and operator of the Mine'. Yet in light of Acacia's previous engagement with RAID, public representations, and direct involvement in the relevant matters, your claim that it falls to you to respond is evidently misguided. Oversight of the company's treatment of local communities or human rights is clearly a part of the Board's responsibilities. This is particularly so when these matters implicate the Board's specific mandates, some of which we identified in our October 2018 letter. Indeed, in a letter from the Interim Chair of the Board (published on the Acacia website) reflecting on the challenges Acacia has faced in Tanzania in 2018, Ms Rachel English [stated](#) that the Board 'continued to be focused on the [Acacia] Group's relationships with all of its stakeholders: including...local communities', and that it 'continues to recognise the important role the Group plays in supporting...local communities around its existing operations'.

As one of three Board members on Acacia's Environmental, Health, Safety & Security ('EHS&S') Committee, Ms English will be particularly aware of the Board's responsibilities in this area, as the Committee's key responsibilities [expressly](#) include 'overseeing and reviewing activities that are of core importance to Acacia's social licence to operate.' In addition, the committee also has delegated oversight of human rights from the Board.

By Acacia's own representations, explicit assumptions of responsibilities and past conduct, it is clear that the Mine's relationship with the Tanzanian police and its grievance process fall squarely within the Board's mandate. The sudden effort to hide behind a legal façade that it is NMGML who solely carries this responsibility is clearly inaccurate and undercuts the much needed efforts required to address the urgent human rights concerns.

II. Human rights violations at North Mara

Your letter claims that RAID 'persist[s] in misrepresenting the human rights and security situation at the Mine' and has made 'sweeping claims' about serious human rights violations by forces providing security there. It also claims that RAID 'seems to be comfortable making claims about human rights for which there is little or no factual evidence, or which are demonstrably untrue'.

None of these claims are accurate. RAID's findings are based on detailed field research in Tanzania. RAID's staff have visited North Mara several times since 2014, including on four occasions in 2018 and 2019. Over the past five years, we have interviewed over 90 individuals who have suffered human rights violations and/or their families; a lawyer who has assisted claimants through the grievance process; representatives of Acacia and NMGML; and Tanzanian government officials. We have also collected other credible reports about the human rights violations, such as the findings of a Tanzanian parliamentary report on human rights violations at North Mara mine. The wider security and human rights context in Tanzania is referred to in reports by Human Rights Watch and Amnesty International. Statements we have made regarding the human rights situation at North Mara are grounded in RAID's findings and testimony gathered as part of this research.

In our letter, we refer to the 22 people killed and 69 injured at or near North Mara between 2014 and 2016 that we, with MiningWatch Canada, documented. You provide no evidence to dispute, nor has NMGML or Acacia disproved, these figures. As you may be aware, the numbers are likely an underestimate. A 2016 Tanzanian Parliamentary Commission of Inquiry received reports of 65 killings and 270 injured by police jointly responsible for mine security. We understand that the parliamentary inquiry shared its findings with your company, yet, contrary to the interests of transparency and accountability, Acacia has not sought publication of the full report.

RAID also identifies six new cases in our letter. Again, you have not disputed the accuracy of this statement: you have acknowledged the mine is aware of five of the cases and the sixth you have undertaken to investigate.

The only specific claim you make is that we conflate statistics that Acacia has published regarding ‘trespasser accidents and trespasser-on trespasser related violence’ with those concerning ‘incidents involving confrontations between intruders and the mine’s private security personnel, or members of the Tanzanian police force’. In fact, our letter quotes directly from Acacia’s own annual report, which acknowledges 32 ‘trespasser-related’ fatalities during 2014-2016.

We [wrote](#) to Acacia in 2018 requesting clarification regarding the circumstances of each of these ‘trespasser-related’ deaths it had reported, and which had been attributed to ‘fall from height’, ‘infighting’, ‘drowning’, ‘rockfall’, ‘vehicle accident’, and ‘other’. We sought clarification in the context of receiving disturbing reports from individuals that security patrols were dropping rocks on people and were specifically beating people in such a manner as to avoid causing tell-tale injuries to the head and face. We also asked for transparency around the number of intruders injured. It has now been almost a year since that request and Acacia has not responded.

Finally, contrary to your letter’s misunderstanding, we did not suggest that there is a ‘conflict zone’ and that it is ‘linked to the Mine’s business’. Rather we stated that such a high number of human rights violations as documented at North Mara *outside* a conflict zone is ‘shocking and exceptional’. You may disagree with that assessment, but RAID is far from the only organization that has identified the human rights situation at North Mara as serious and requiring urgent action. Recent international press coverage, including in [The Guardian](#), [Le Monde](#), [The Namibian](#), [Forbidden Stories](#), and the [Organized Crime and Corruption Reporting Project](#), makes clear how broadly this view is shared. As we noted in our letter, the CEO of Barrick, Acacia’s majority shareholder, has also acknowledged the need for action to improve the human rights situation.

III. Actions urged on Acacia’s Board in response to human rights violations at North Mara

Your letter rejects the steps we urged Acacia’s Board to take, claiming that ‘the Mine has established and operates [its agreement with the police and grievance process] in accordance with authoritative global standards for preventing and addressing the risk of adverse human rights impacts’.

As we explained in our letter and evidenced in detail in our latest [report](#), neither the grievance process nor the MoU with the police are in accordance with global standards. On the contrary, they are inconsistent with those standards and are heightening rather than reducing the likelihood of human rights violations.

We address your assertions in relation to each mechanism in turn below. But first we wish to address your unsupported claim that RAID did ‘not cite human rights standards’ and ‘has never provided, and still does not provide, any information about the standards it purports to apply’. In our latest letter, as in previous letters and detailed [assessments](#) we have published, we cite the [UN Guiding Principles on Business and Human Rights](#), which sets out various human rights standards to be applied to businesses’ operations and their grievance mechanisms. Our latest report on the grievance process also makes extensive reference to the UN Guiding Principles, as well as citing and quoting from international human rights instruments.

(a) The need to end the agreement with the Tanzanian police

As you note, the MoU includes a human rights clause, which is recommended by the *Voluntary Principles on Security and Human Rights Initiative*. However, the inclusion of such a clause is important only insofar as it assists Acacia and its subsidiaries in meeting their responsibility to avoid causing or contributing to human rights violations. In the face of over a decade of widely reported serious human rights violations by the police in providing security services pursuant to agreements with the Mine, it is clear that the clause is not effective in achieving that aim.

You claim, nevertheless, that the MoU has helped to reduce those violations. You state that ‘the Mine is continuing to see a significant year on year improvement in safety and security on the mine site, and a...decline in claims relating to confrontations between members of local communities and Mine security personnel or the Police’. We noted Acacia’s claim of a decrease in ‘security-related’ incidents in our letter. However, our letter also noted that serious human rights violations are continuing at a concerning level. Moreover, Acacia does not provide information that allows independent scrutiny of its claims regarding security-related violence at North Mara, despite RAID’s requests that it do so. For example, there is no way to verify whether an incident such as the shooting of a young student by security personnel near the mine, as [reported](#) in *The Guardian*, has been included in those publicly acknowledged by Acacia.

In any case, your suggestion that there has been a decline in police confrontations is contradicted by Acacia’s own reporting. In its 2018 annual report, Acacia states that there were twice as many incidents at North Mara ‘involving the police on or in the vicinity of the mine’ that concerned, or were alleged to concern, human rights violations in 2018 as there were in 2017. Your reference to a major security operation, clearly confrontational in nature, involving mine security, police and over 100 ‘intruders’ on 31 May 2019 also suggests that encounters where there is a high risk of human rights violations continue. As noted, there is no annual reporting on injuries to ‘intruders’ or explanations of other deaths, including by ‘rockfall’, when allegations have been made that rocks have been deliberately dropped on people by security patrols.

RAID has urged Acacia to consider ending its agreement with the Tanzanian police not simply because the human rights clause is ineffective but because of evidence that the agreement heightens rather than mitigates the risk of human rights violations. The MoU provides, amongst other things, that the Mine will pay for, accommodate, and equip police officers; that police assignments will be issued ‘in coordination’ with the Mine’s security manager; and that ‘the Company shall always be in coordination, cooperation and communication with the Police’.

None of these provisions are recommended or otherwise endorsed by the international instruments such as the *Voluntary Principles* on which you rely to justify the MoU. In these and other ways, the Mine’s MoU aligns the interests of the institution that is supposed to prioritise protection of the local population with those of the company.

Moreover, you claim that the MoU provides ‘the Mine with the ability to press the Tanzanian government to hold all perpetrators of abuse, including the police, to account’, but it has become clear that even if that ability exists, either it is not being exercised or, more plausibly, it is not effective. Acacia has [described](#) raising ‘the conduct of its forces’ with the Tanzanian government as a ‘sensitive issue’ and acknowledged that the Attorney General’s Office has determined that the use of force has been justified in ‘most’ cases. As far as RAID is aware, not a single police officer posted at the mine has ever been charged, let alone convicted, of a crime associated with the excessive use of force. This stark fact is surely of concern to the company.

There are obvious steps that the Mine could have taken to help ensure greater accountability for police associated with human rights violations, which it has chosen not to take. For example, contrary to the [model MoU](#) agreed under the *Voluntary Principles*, the Mine's MoU:

- Does not provide that police officers credibly linked to human rights abuses 'will be dealt with in accordance with applicable national and international law' but rather states that the police themselves will investigate and resolve complaints made against them according to 'established Police procedures', suspending or removing officers pending the investigation, while the Mine may 'suggest' removal of a particular officer or 'refuse' police personnel 'that fail to meet the standards' set out in the MoU;
- Empowers the Mine to coordinate missions and assignments, contrary to the clear statement in the model MoU that a company should have no authority in these matters;
- Fails to make provision to 'seek to assist in having medical care promptly provided to anyone receiving physical injuries' due to violent confrontations with the police in or around the mine site (instead, the Mine commits to providing medical treatment solely to the police officers); and,
- Neglects to include a commitment to make the security arrangements 'transparent and accessible to the public, subject to any overriding safety and security concerns'. The Mine's MoU states that 'all support provided under this MoU shall be open and transparent', but this provision is addressed to the parties themselves, whereas, despite requests by RAID, the Mine has refused to make the MoU public. Despite the clear relevance of the MoU in its entirety to claims being decided by the grievance process, the Mine has simply excerpted the human rights clause in an [annex](#) to its 'Security and Human Rights Standards - Reference Guide'.

The existing MoU, which for the reasons explained above, heightens the risk of human rights violations and the company should take immediate steps to end it. Of course, it is open to the Mine to enter into a new MoU with the Tanzanian police that complies with its obligations under the UN Guiding Principles and is consistent with the recommendations of international instruments such as the *Voluntary Principles*. However, even if this course of action is taken, it is hard to see how in practice this would improve the human rights situation since impunity for the illegitimate use of force by the Tanzanian police operating at the Mine has been a practice for the past decade.

(b) Need for suspension of Acacia's North Mara grievance process

Your letter makes several claims regarding the grievance process:

- i. that RAID's 'criticisms...continue to be unsupported and undeveloped';
- ii. that the grievance process 'has been updated to further align in [*sic*] with the effectiveness criteria set out in the UNGPs' and has been a 'success';
- iii. that RAID's reference to the grievance process being disempowering and humiliating for many who go through it, and that it characterizes some as criminals, is 'simply untrue';
- iv. that RAID 'misrepresented the extensive engagement that has gone on between us over many years', as 'it simply is not true that my November 2018 letter is the only response you have received on the subject of the CGP'; and,
- v. that RAID has 'failed...to provide any constructive response to the detailed and reasoned rebuttals we have made to your unfounded and unprincipled criticisms of the CGP following its revision'.

None of these claims is accurate. Many of them are addressed at length in the 61-page [report](#) on the grievance process referenced above. We encourage you to review that report carefully, particularly as it clearly refutes the first claim listed above that RAID's criticisms are 'unsupported and undeveloped'. The report is based on close study of the grievance process' design with express reference to various international human rights instruments and standards, and over 90 interviews of individuals who have suffered human rights violations at or near the mine and/or their families, including many who have participated in the revised grievance process.

Contrary to claim (ii), the report evidences in detail that the grievance process is not 'aligned' with the effectiveness criteria set out in the UN Guiding Principles, nor is it designed or implemented to ensure that those who suffer human rights violations linked to the Mine are provided with appropriate remedies. Rather, its design and implementation entrenches the power imbalance between the Mine and local community members and ensures the Mine access to and control over information.

The report also disproves your claim that Acacia's 2018 annual report shows the 'success' of the grievance process, at least from the perspective of those seeking remedies and international standards. Like Acacia's 2016 and 2017 annual reports, the 2018 report publishes virtually no relevant information concerning the grievance process. It does little more than record how many grievances Acacia says were submitted and considered, respectively; how many were resolved by 'dialogue and engagement' as opposed to by the adjudicatory committee appointed by the Mine; in how many the Mine accepted a human rights 'impact'; and, for the few grievances for which the Mine offered a remedy, whether the committee agreed with the Mine's proposal. Even on this limited information, it is clear that the grievance process is far from a 'success'. By Acacia's own count, the Mine has accepted a 'security-related' impact on human rights in at most only 30 (or 18%) of the 163 grievances concluded. Put another way, over 80% of the individuals who seek remedies from the mine, and who must bear significant financial and emotional costs in doing so, have had their claims rejected.

Other information is entirely omitted from Acacia's reporting. The grievance process [imposes](#) strict confidentiality requirements on those seeking remedies, meaning that they and their advisors are silenced while Acacia may publish the information it chooses. And it has chosen to provide no information that allows independent assessment as to whether any of the grievances were fairly resolved, nor information concerning whether participants considered that their claims had a fair hearing or the nature of or reasons for the outcome. Even in the few cases in which Acacia does say it provided a remedy, no information is provided about the nature of the remedy or what harm it was meant to redress. Many of those interviewed by RAID who received a remedy expressed dissatisfaction with it, confusion as to how it was arrived at, and, in some cases, stated that they had been pressured to accept it.

Contrary to claim (iii), the report further documents in detail, with reference to first-hand testimony, how the grievance process is disempowering and humiliating. For example, it quotes an individual who came out of the process feeling that he had been treated like a 'baby'. It also shows how the grievance process, by design and in practice, regards many individuals as 'security threats' and criminal actors. The fact that the company purports to be unaware of this disempowering experience is symptomatic of its inability to genuinely engage with local communities.

Since publishing the report on 12 June 2019, the evidence and findings by RAID has been further supported by other organisations and actors. MiningWatch Canada, for example, published [information](#) from community representatives appointed by the Mine to its adjudicatory committee, who explained their relative powerlessness. One called the process 'exploitative'. RAID also had the opportunity to

interview a lawyer who has assisted individuals, largely on a *pro bono* basis, through the grievance process. The lawyer [told](#) RAID in relation to the process ‘I don’t trust it, the grievants don’t trust it, we just go through it because we don’t have any options’.

Contrary to claim (iv), RAID did not misrepresent Acacia’s engagement on issues concerning the grievance process. The reference to your letter of November 2018 being the ‘only response we received’ was made in relation to RAID’s October 2018 letter to Acacia’s Board and to note the absence of a response to it from the Board.

As you note, RAID and Acacia have engaged in discussions and correspondence regarding the revised grievance process on multiple occasions. RAID has undertaken its engagement on the good faith understanding that Acacia was interested in and open to developing a grievance process that would reflect concern for the interests of local communities around North Mara and enhance their access to remedies for human rights violations. Unfortunately, over time it has become apparent that the grievance process, both on paper and in practice, is not changing for the better as a result of this engagement, but is preoccupied with retaining the company’s control over victims, information about violations and outcomes.

Acacia states in its 2018 annual report, as you repeat, that it has engaged in ‘extensive consultation’ with other actors, including community members, regarding the grievance process. However, it has published no information regarding the feedback it has received through those consultations and there is no indication that it has made any changes to the process in response to them. On the contrary, what evidence is available suggests that no such changes have been made. For example, the [Handbook for Grievants](#) on Acacia’s website states that it was ‘last revised’ in December 2017.

Even when the company committed to a non-substantive amendment of the process’s standard operating procedure in response to feedback, as in its April 2018 [response](#) to an assessment published by RAID and the Tanzanian NGO Legal and Human Rights Centre, the commitment remains unfulfilled, despite over a year having passed.

Finally, regarding claim (v), your letter also refers to Acacia’s ‘rebuttals’ to RAID’s previous criticisms. That Acacia has declined to make efforts to account constructively for the criticisms of the revised grievance process, many of which are from those who have had to use it, and instead sought to ‘rebut’ them, is revealing as to how meaningful its engagement has been. In any event, as can be seen from our latest report, those ‘rebuttals’ are not sustainable.

We further note on the issue of engagement that Acacia has posted some correspondence regarding its North Mara grievance process on its [website](#) under the title ‘Grievance Process Consultation: Critiques and Responses’. However, while it has posted your last two letters, it has not posted ours. Nor has it posted our June 2019 report. In the interests of transparency and not misleading the public, we trust that you/Acacia will correct these omissions, as well as posting this letter.

IV. *Unfounded allegations against RAID*

Your letter makes many allegations impugning RAID and its motives in advocating for Acacia to take steps necessary to improve the human rights situation at North Mara. For example, you claim that RAID’s criticisms of the grievance process are ‘unprincipled’; that RAID ‘appears to be interested only in serving its own campaign and personal agendas rather than advancing the interests of the communities around the mine’; and that RAID is engaged in an ‘anti-mining campaign’. Similar allegations were made in your November 2018 letter and again in Acacia’s [‘Response to Forbidden Stories Articles’](#).

Neither you/Acacia has provided, or even referenced, any evidence in support of these allegations, nor do you/Acacia have any basis for them. RAID's mission is to press companies to respect human rights and work with those who are harmed by corporate abuse to achieve justice. It has acted consistently with that mission throughout its dealings with Acacia. You identify no 'personal agendas' RAID is supposed to be serving, and we trust that you and Acacia do not consider advocating for respect for human rights to be an 'anti-mining campaign'.

More importantly, these allegations against RAID are a distraction from matters that should be prioritised, namely the need to prevent further human rights violations at North Mara and provide remedies to those who have suffered them. In the interests of those objectives, we urge you to work with Acacia's Board and its EHS&S Committee to take the necessary steps to ensure the company and its subsidiaries respect human rights.

As indicated in our June 2019 letter, we remain open and willing to meet with you and Acacia's Board to discuss these matters in more detail.

Yours sincerely,



Anneke Van Woudenberg
Executive Director

Cc:

- Rachel English, Interim Chair of the Board
- Peter Geleta, Interim Chief Executive Officer
- Stephen Galbraith, Non-Executive Director
- Steve Lucas, Independent Non-Executive Director
- Alan Ashworth, Independent Non-Executive Director
- Deborah Gudgeon, Independent Non-Executive Director
- Adrian Reynolds, Independent Non-Executive Director
- Mark Bristow, CEO, Barrick Gold
- John Thornton, Executive Chairman, Barrick Gold