



Rights and Accountability in Development

## Review of Progress, 2012–13







## Rights and Accountability in Development

RAID is a UK-based non-governmental organisation promoting responsible conduct and respect for human rights by companies around the world. RAID works closely with affected communities, helping victims of corporate human rights abuses to seek justice through complaint mechanisms and legal action. Through research, education and international advocacy, RAID raises awareness on human rights issues among corporations and the public.

RAID informs and advises governments, the UN, the OECD and other bodies responsible for developing and enforcing international norms on the human rights responsibilities of companies. RAID advocates for binding corporate accountability frameworks, and believes that companies trading on the world's stock markets should abide by the rules and not bring markets into disrepute.

Cover photos: MMR, Gwenn Dubourthoumieu/Carter Center, RAID, Emmanuel Umpula, MiningWatch Canada, ESCR-Net, Chantal Peyer/Bread for all, Kaihsu Tai, Paul Robinson, ICoCA

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## Preface

SINCE its foundation in 1998, RAID has been at the forefront of efforts to strengthen and implement the mechanisms that can bring corporate misconduct to light and achieve justice for victims of abuse.

RAID's work focuses especially on ensuring that corporations operating in conflict-affected countries where the rule of law is weak adhere to international norms on human rights and corporate responsibility. Through field research in collaboration with national and international partners, RAID builds a detailed understanding of the harms suffered by individuals and communities as a result of corporate action or complicity with governments, and helps those affected to seek appropriate remedies. It has been a leader in such efforts in relation to mining companies operating in the Democratic Republic of the Congo (DRC), assisting victims to seek remedies in Congo and in the courts of the countries where companies are headquartered.

Simultaneously, the organisation engages with governments and international organisations to press for the development of fair and just policies. RAID is working to strengthen the effective implementation of international norms such as the OECD Guidelines for Multinational Enterprises, and the UN's Guiding Principles on Business and Human Rights, and is also increasingly recognized for its innovative work on stock exchange regulation.

RAID's unique contribution is in linking its extensive knowledge of individual cases with national and international policy debates at the highest level.



*Bronwen Manby has been Chair of Trustees at RAID since 2010. PHOTO: Andrew Testa/Panos Pictures for OSF*

*Bronwen Manby*

## Introduction



*Tricia Feeney is the co-founder and Executive Director of RAID.*  
PHOTO: RAID

IN this, RAID's fifteenth anniversary year, it is worth reflecting on what has been achieved in the intervening years, and how much still remains to be done.

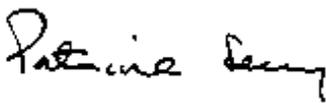
RAID started its existence as a sabbatical research project based at the Refugee Studies Centre, Queen Elizabeth House, University of Oxford, with an ambitious three-year study into the human rights impact of the sale of Zambia's state-owned copper mines. The pioneering nature of this research, which uncovered secret, unbalanced investment agreements, ineffectual oversight by government bodies and corporate malpractice during the privatisation of Zambia's state-owned assets, has informed all of RAID's subsequent work.

In 2002, RAID shifted its focus to the DRC when the United Nations Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo implicated over 80 foreign companies in the armed conflict, illicit trading in minerals and human rights violations. RAID's research highlighted the way companies operating in conflict affected countries such as the DRC were able to act with complete impunity. Then as now, the only mechanism to hold companies to account was the OECD Guidelines for Multinational Enterprises. But these guidelines, described as 'voluntary', do not have the force of law and are unable to provide a remedy to the victims of corporate abuse.

The UN's publication of the names of companies accused of breaching the OECD Guidelines caused uproar. Most governments refused to investigate the UN's allegations and, in the face of their inaction, RAID started to file complaints, most of which were rejected outright or simply ignored. However the critical issues raised by the UN with regard to the role of companies in conflict affected-countries have had a profound and lasting impact on the business and human rights debate.

RAID's work on companies in the DRC forcefully illustrated the need for the creation of a robust legal framework to hold multinationals to account. Despite the 2008 banking crisis, excessive executive pay and corporate tax scandals, Western governments have shown little political will to introduce effective measures to regulate corporate activity for misconduct overseas. Instead states have taken a soft law, self-regulatory approach. RAID's most recent work on the London Stock Market and alleged violations of EU and US sanctions against Zimbabwe by UK and US companies reveals a marked reluctance to enforce existing regulations. The growing economic and political power of the emerging economies has contributed to the collective loss of nerve. Nowhere is this more apparent than in the minerals sector and in the competition for control of resources.

This *Review of Progress* highlights RAID's recent activities. The Review covers private security companies and RAID's submissions to the US Congress (about conflict minerals and mandatory due diligence) and to the UK parliament (about the need for reforms to market regulations). It provides information on legal developments in the Anvil Mining case and the outcome of OECD complaints brought by RAID or its partners against companies such as the Eurasian Natural Resource Corporation (ENRC) and the Forrest Group in the DRC; Centerra Gold Inc. in Mongolia; and Barrick Gold Corporation in Papua New Guinea. Lastly, the Review summarizes a report on Och-Ziff Capital Management Group LLC, a New York hedge fund, in which RAID called on the US authorities to investigate loans allegedly used to fund human rights violations by the Mugabe government during the 2008 elections in Zimbabwe.



# Review of Progress, 2012–13

## RAID granted charitable status

- R** *RAID is now a registered charity*

RAID achieved this important milestone in February 2013.

There are clear benefits to being a charity – particularly in the ability to raise much-needed funds. RAID therefore decided to examine whether it could achieve the advantages of charitable status while preserving the freedom to challenge business, regulators and governments on human rights grounds. Having taken advice from the Charity Commission and others about the best way of achieving these aims, RAID ensured that its constitution was in line with its charitable objective of promoting human rights, and successfully applied for charitable status.

RAID's programme of advocacy, research, advice, education and awareness-raising remains unchanged.

## Action on OECD Guidelines around the world

- R** *RAID is involved in filing complaints against companies operating in several countries*
- R** *There have been some notable successes*
- R** *It is still very difficult to bring companies to justice*

RAID has been involved in filing complaints in a number of countries under the OECD Guidelines for Multinational Enterprises. In some cases, mediation under the Guidelines has mitigated the harms caused by corporate misconduct. However, complainants still face huge difficulties in bringing and substantiating a case, and the system as a whole lacks teeth. National Contact Points (NCPs) – through which complaints in each country must be directed – are frequently not sufficiently independent of business interests and government, and lack the powers to compel companies to act responsibly. RAID continues to work for stronger, mandatory Guidelines and for NCPs with more independence and transparency.

## Lack of access to drinking water in the DRC

In May 2013 RAID filed a complaint against the Kazakh-owned Eurasian Natural Resources Corporation (ENRC). The complaint is unrelated to the ongoing investigation into ENRC by the UK's Serious Fraud Office over allegations – which the company denies – of fraud, bribery and corruption in Kazakhstan and Africa.

The case concerns the impoverished populations of Kisankala village and Lenge village, located on two mining concessions in Katanga province controlled by companies associated with ENRC. Kisankala's only clean water supply was in disrepair for nearly a year from July

**R** One weakness highlighted by this case is the UK NCP's apparent inability to expedite the process even when urgent issues have been raised



*Little girls gather water from a spring near Kisankala after the supply from the village standpipe was cut off.*

*PHOTO: Emmanuel Umpula*

2012 following clashes between security guards and artisanal miners. RAID's complaint alleges that these clashes were triggered by actions by security guards to remove artisanal miners from the concession.

The complaint is based on ENRC's own internal report and the findings from five visits to the concessions by RAID's Executive Director and colleagues, and on witness statements that she took from villagers.

The complaint also addresses questions about resettlement and compensation for dispossessed villagers

and the alleged absence of environmental and social monitoring, particularly for Lenge. In addition, private security guards operating at the sites are said to have engaged in human rights abuses.

In October 2013 the UK NCP issued its initial assessment on RAID's complaint, accepting many of the issues for further examination on the grounds that they are material and substantiated. ENRC denies the allegations, but in October 2013 agreed to mediate.

ENRC has delisted from the London Stock Exchange, where it has been trading since 2007. RAID has expressed concern that the company, whose registered office is in London, may leave UK jurisdiction before the problems on its concessions can be satisfactorily resolved. However, in November 2013 ENRC stated that it had no intention of relocating. Kazakhstan does not adhere to the OECD Guidelines.

### **Killing, rape and environmental destruction in Papua New Guinea**

- R** *The Canadian NCP allowed Barrick to drag out the selection of a mediator for 11 months*
- R** *The delay gave the company time to roll out its own controversial remediation programme for victims of rape and other abuses*
- R** *Victims did not benefit from independent legal advice about the terms of the compensation being offered*

In 2011 MiningWatch Canada and local NGOs brought a complaint against the Canadian mining company Barrick Gold Corporation in respect of its operations at the Porgera Joint Venture (PJV) gold mine in Papua New Guinea (PNG). RAID and EarthRights International (ERI) act as advisors on the case.

The complaint alleges widespread human rights abuses by PJV security personnel over many years, including beatings and killings of local men, and beatings and rapes, including gang-rape, of local women. The living conditions of people in the area of the mine are incompatible with human health and safety standards. In 2009 the PNG Defense Force evicted local landowners near the mine by burning down houses.

In addition, there are allegations of ongoing environmental destruction. The PJV mine disposes of nearly 20 tonnes of tailings and sediment each year into local river

systems, polluting the water and endangering public health.

The Canadian NCP accepted the complaint, and Barrick agreed to negotiate with the complainants – though it took nearly a year to agree on a mediator. By the time of the first mediation meeting in November 2012, Barrick had drawn up a remediation framework for rape victims. However, the company did not make the details available for complainants to consider in advance of the meeting. When they finally received a copy, they were deeply concerned that Barrick was asking them to sign away their rights to possible future legal action in order to access remedies from the company.

Stipulating that a negotiated agreement is in full and final settlement is standard practice, which gives certainty to both parties and stops plaintiffs seeking compensation more than once for the same grievance. However, Barrick's proposal went well beyond the standard waiver, requiring victims not to *participate in any legal action* against PJV or Barrick. This wording implied that victims would not be able to take part in criminal proceedings against the company, to act as witnesses in civil actions brought by other victims who chose not to settle, or to pursue civil claims against the company in respect of grievances unrelated to the remediation.

RAID had additional concerns about the proposal. Only women who had been raped by PJV employees were eligible. This criterion excluded women raped or gang-raped by members of police Mobile Squads who were being housed, fed and supported by PJV on PJV property. Moreover, none of the victims had access to independent legal advice before entering into the agreement.

In January 2013, following consultation with the mediator in order to avoid any inadvertent disclosure of confidential material, MiningWatch Canada, RAID and ERI issued a carefully worded press release outlining their concerns with Barrick's offer. In response, Barrick

threatened to withdraw from mediation unless Mining-Watch Canada, RAID and ERI were excluded.

In order to protect the victims' ability to continue with mediation, the NGOs reluctantly withdrew. In May 2013 Barrick proposed an amended waiver, whereby a victim of sexual violence who settles with the company will not also pursue *civil action* in respect of the *same* complaint. In line with the recommendations of RAID and others, the new wording allows victims to participate in criminal proceedings as well as to instigate civil action in respect of unrelated complaints. However, RAID and its partners remain concerned that a company allegedly responsible for serious human rights abuses has complete control over both the process and the scope of any remedy.

In May 2013 the New Zealand Superannuation Fund, which invests money on behalf of the Government, excluded Barrick Gold Corporation from its \$22 million investment portfolio on responsible investment grounds. The Fund views Barrick's activities as inconsistent with UN human rights and environmental standards for business. Given the lengthy period over which problems have continued, and the slow progress made by the company in resolving community grievances, the Fund formed the view that 'engagement with Barrick would be unlikely to be successful'.

The company denies liability.

### Forcible evictions in the DRC

**R** *The Belgian NCP's procedures were inconsistent, arbitrary and far from neutral*

**R** *The NCP took unilateral decisions about both the scope of the discussions and the remedy on offer*

In November 2009 the Compagnie Minière du Sud Katanga (CMSK), which operates the Luiswishi mine in the Democratic Republic of the Congo (DRC), supported and participated in the demolition of hundreds of houses in the nearby village of Kawama. More than 500 homes were crushed by CMSK bulldozers, and several people were injured.

CMSK was 60 per cent owned by Entreprise Générale Malta Forrest (EGMF), a subsidiary of the Belgian

group Groupe Forrest International (GFI). After the demolitions, Forrest paid the miners \$300 each to leave, but perversely refused to compensate the villagers who had lost their homes and all their belongings.

Two weeks before the demolitions, mine police and security guards clashed with unarmed artisanal miners. Boniface Mudjani, a Kawama resident, was hit in the chest by a stray bullet while taking a bath in his home.



*Boniface Mudjani Tumba with an X-ray showing the bullet close to his spine and heart.  
PHOTO: Gwenn Dubourthoumieu/  
Carter Center*

The bullet lodged in a life-threatening position close to his spine and heart. Following successful negotiations between RAID and GFI, Mr Mudjani underwent surgery in November 2013 to remove the bullet at GFI's expense (though the company does not admit liability).

RAID visited the communities to collect evidence, and in April 2012 submitted a complaint to the Belgian NCP after it became clear that the Congolese authorities were blocking an inquiry by the prosecutor into the forced evictions. The OECD Guidelines make clear that the corporate duty to respect human rights exists even when states fail to uphold their international human

rights obligations. The Belgian NCP began a process to negotiate compensation for the 500 families. RAID helped to organise visas for some of the Congolese complainants to attend a preparatory meeting in advance of mediation.

In September 2012, just before mediation began, GFI sold its share of CMSK to the state mining company Gécamines for \$52 million. The compensation sought was approximately \$1500 per affected family, enough to help the villagers rebuild their homes and buy mattresses and cooking utensils, plus \$20,000 to rebuild infrastructure such as a dispensary – well under \$1m in total.

Following the complaint, GFI offered to undertake some community work at Kawama such as repairing wells to provide access to drinking water, and improving maternity services. Although philanthropic work for the general good of Kawama's population is welcome, it does nothing to remedy the harms to the individuals and families who were made homeless and destitute, and some of whom were seriously injured. RAID regards this offer as an attempt to improve the company's image rather than a genuine effort to compensate the people affected by the demolitions and violence. In November 2012 the affected villagers rejected the offer.

In February 2013 the Belgian NCP closed the case, with no satisfactory resolution for the claimants. The NCP did not deal transparently with the complaint, and refused to share all the relevant documents with NGOs. Since the NCP lacks powers to sanction companies or award compensation, it can do little more than determine whether or not a company has complied with the Guidelines. In this case, the Belgian NCP did not even do that. RAID is deeply disappointed with the handling of this case, and does not regard the proceedings as providing an effective non-judicial remedy for victims.

The company denies liability.

## Environmental devastation at a protected site in Mongolia

In March 2012 RAID helped a consortium of Canadian and Mongolian NGOs to draft and file a complaint about the Canadian company Centerra Gold Inc.

Centerra's Gatsuurt site, which is being developed as a gold mine, is located in a forested area near the head of a river valley. Mongolia's Water and Forest Law (2009) prohibits mineral exploration and mining at river headwaters and in forested areas. The complaint alleges that operations at Gatsuurt are therefore illegal.

In 2010 the Mongolian Cabinet issued a list of licenses to be revoked in the light of the Water and Forest Law, including at Gatsuurt. By the end of 2010, Centerra had already completed extensive work on the mine and a 55-km haulage road to Gatsuurt, in what local NGOs saw as an attempt to present the government with a *fait accompli*. Representatives of Mongolian NGOs say that they entered the site in July 2011 and recorded evidence of continuing mine construction work. Satellite images confirm that there has been extensive deforestation.

The complaint further alleges that Centerra is seeking to change the environmental law or to seek an exemp-

**R** *The Gatsuurt mining license lies within water and forest protection zones, where mining is prohibited*

**R** *A flaw exhibited by the Canadian NCP – common to most NCPs – is the lack of clarity about the standard of evidence required to have a complaint accepted*



*Deforestation and (foreground) evidence of excavations at the construction site for Gatsuurt Open Pit Gold Mine. The excavations cut across the headwater of the Gatsuurt River Channel (dashed line).  
PHOTO: Paul Robinson/Southwest Research*

tion that was not anticipated when the law was passed – activities prohibited under the OECD Guidelines. In a Mongolian television interview in June 2010, John Kazakov, CEO of Centerra Gold Mongolia, confirmed that the company was lobbying to change or neutralise the Act.

Herders complain that the felling and use of explosives have released arsenic and other heavy metals into the Gatsuurt River, which is now too contaminated to drink safely. Livestock have developed lesions and local people suffer from skin disorders that they attribute to the company's activities.

The Canadian NCP accepted that the allegations against Centerra Gold were material. However, in a blow to residents and environmental groups, the NCP rejected most of the complaints in November 2012. The NCP accepted Centerra's assurance that it had not developed Gatsuurt since late 2010; found the company's lobbying to be within acceptable limits; and ruled that the arsenical contamination could not be proven to result from Centerra's activities.

Notwithstanding these disappointing findings, the complaint did allow important issues to be addressed. While Centerra denied responsibility for contaminating watercourses, it indicated that if development at the site went ahead it would repair the existing damage as well as making good any environmental impacts from future operations. The company has also stated that it is ready to enter into partnerships with NGOs to put in place a programme of reforestation and environmental protection designed to ensure that it delivers a net environmental benefit to the country. Finally, the NCP advised Centerra to improve dialogue with the local community and gain a deeper understanding of local sensitivities, for example regarding access to holy sites.

RAID and other NGOs are monitoring developments closely in order to ensure that Centerra abides by these undertakings and recommendations.

## Pollution from leaded fuel in developing countries

Tetraethyl lead (TEL) was widely used from the 1920s as an anti-knock additive in petrol. However, because it is so toxic, its use in motor fuel was phased out from the 1970s, culminating with bans in all but a handful of developing countries. TEL is still used in aviation fuel.

The US-based chemicals company Innospec is the world's only manufacturer of TEL products. The company was fined US\$40 million by the US Securities and Exchange Commission in 2010 for bribing Iraqi and Indonesian officials to continue to sell leaded petrol even after environmental NGOs in Indonesia had successfully campaigned for a phase-out.

The lead for Innospec's TEL was supplied by the Anglo-Swiss mining company Xstrata from its Mount Isa lead mine in Australia and its Britannia smelter in the UK.

In 2011 the LEAD group, an Australian NGO, filed complaints against Innospec and Xstrata. The OECD Guidelines specify that 'enterprises should... take due account of the need to protect the environment, public health and safety'. Four OECD countries were involved in the TEL supply chain: Australia (the source and exporter of the lead); the UK (where Xstrata had its smelter and was traded on the London Stock Exchange); the USA (where Innospec is incorporated); and Switzerland (where Xstrata and Innospec's distributor were incorporated). LEAD noted that leaded petrol is banned in all four of these countries. LEAD also pointed out that Innospec itself manufactures alternative, lead-free fuel additives, which could easily replace TEL.

Xstrata agreed to mediate; Innospec did not. In February 2012 a mediation was held in London. The LEAD group attended via teleconference, and was represented in person by RAID's Executive Director. Following successful mediation, an agreement was reached between the parties and the complaint against Xstrata was withdrawn.

In May 2013 Xstrata was acquired by Glencore.

- R** RAID was asked to represent the Australian NGO the LEAD group, in a face-to-face mediation with Xstrata
- R** The negotiations resulted in a satisfactory resolution

## Anvil Mining case goes to Canada's Supreme Court

❑ *No judicial remedy for the victims is available in Canada*

❑ *RAID is pursuing other strategic options*

THE case against Anvil Mining concerns serious human rights abuses – including torture and summary execution – carried out by the Congolese military in 2004 with the logistical support of Anvil. See ‘Fifteen Years of Achievement,’ p. 4, for further details.

In January 2012 the Quebec Court of Appeal declined jurisdiction in the case. In a bitter blow to the remaining survivors, the court ruled that the case did not have a sufficient connection with Quebec, since Anvil's Montreal office was not responsible for decisions relating to the company's alleged role in the massacre.

In March 2012 the Canadian Association Against Impunity (CAAI), which represents the victims, applied to the Supreme Court of Canada for leave to appeal. Filing the application, the President of CAAI, RAID's Executive Director Tricia Feeney, pointed to the ‘abundant evidence proving that access to justice in other countries has proved impossible.’

In October 2012 the Supreme Court of Canada dismissed CAAI's application for leave to appeal, marking the end of any judicial relief in Canada. It is notable that the Canadian judicial process hinged entirely on the technical issue of jurisdiction. Neither the Quebec Court of Appeal nor the Supreme Court of Canada considered the facts of the case, and the courts' decisions therefore do not represent an acquittal of Anvil Mining.

Responding to the Supreme Court's decision, the Open Society Initiative of Southern Africa, a key regional NGO and grant-giver, sent a message to CAAI:

*You have raised the issue and made a precedent for all mining companies to pay attention [to] what they are doing with local communities. What you have achieved is greater than the judiciary decision. The general opinion knows what went wrong and the social justice has been in favour of these poor victims. Congratulations for that.*



*Family and friends of the Kilwa victims at Lubumbashi Cathedral for a service of commemoration nine years after the massacre. PHOTO: Chantal Peyer/Bread for all*

The legal profession is also becoming aware of the need for the law to keep up with globalisation. Justice Ian Binnie, a retired Canadian Supreme Court judge, told the leading Quebec newspaper *La Presse* that, while there is no law that specifically allows this type of action before Canadian courts,

*[judges] need to be creative... The law must constantly reinvent itself... Globalisation has produced a lot of positive effects, but there is still no mechanism for the people who suffer abuse to find justice. That means in effect that the cost of globalisation is borne solely by the victims.*

Throughout the long legal process, RAID has raised the profile of the Anvil-Kilwa case internationally through press releases with its partners, presentations at international conferences and papers at expert meetings. These have been widely disseminated, and have ensured that the significance of the case is well understood.

RAID finds it deplorable that victims cannot hold Canadian companies accountable in Canadian courts for their alleged involvement in serious human rights violations committed abroad. This case demonstrates the extreme difficulty of proving the legal responsibility of private companies for human rights abuses and breaches

of international humanitarian law, even when they are supporting armed groups. The case also highlights the risk of political interference and a lack of impartiality, particularly when economic interests are at stake.

Some of those who were tortured or shot have died of their injuries since the original trial. Pierre Kunda Musopelo, a local policeman tortured during and after the military operation, never recovered his health and died in November 2009. Augustin Kyambala Mwilambe, a fisherman, was one of two villagers to survive the mass execution at Nsensele but his right arm and shoulder were shattered by a bullet so that he could no longer work. He died in April 2013. The longer the case continues, the fewer victims survive. However, RAID remains absolutely committed to supporting the remaining survivors in their quest for justice, and is considering all possible options with a view to pursuing the case in an alternative jurisdiction.

## The London stock exchange – a haven for laundered conflict assets?

- *The regulation of the LSE's 'junior' market is lax and poorly enforced. RAID has recommended reforms*
- *RAID is calling for investigations in the UK and the USA into transactions that raise questions of compliance with US and EU sanctions against Zimbabwe*

In 2011 RAID raised concerns about possible breaches of listing regulations for London's (junior) Alternative Investment Market (AIM). The Central African Mining & Exploration Company plc (CAMEC) was able to trade on AIM despite the dubious provenance of its assets in the DRC, its reliance on a key manager and shareholder later named on EU and US sanctions lists, and an unsecured \$100 million loan to the Mugabe regime. RAID broached its concerns with the UK's Financial Services Authority (FSA) and with AIM's compliance department, AIM Regulation, in a confidential report, *Questions of Compliance: The conduct of the Central African Mining & Exploration Company (CAMEC) plc and its nominated adviser, Seymour Pierce Limited*. See 'Fifteen Years of Achievement,' p. 8, for details.

A year after the submission, AIM Regulation and the FSA had still not publicly addressed RAID's questions. Both bodies cited 'confidentiality' as preventing them from letting RAID know the outcome of any investigation, or indeed whether an investigation was taking place.

Accordingly, in July 2012 RAID published the original report in full, in order to bring its questions to the attention of a wider public. Simultaneously, RAID released a follow-up, *Asset Laundering and AIM: Congo, corporate misconduct and the market value of human rights*, which summarised the original report and included a detailed critique of AIM Regulation in the light of its failure to deal adequately with RAID's questions. *Asset Laundering and AIM* examines problems with both the formulation and the implementation of AIM's rules, and discusses the human rights implications. In March 2013 *Asset Laundering and AIM* was published as a book, together with a CD-ROM containing the original submission and correspondence with the regulators.

After RAID's critique, AIM Regulation set out further guidance for advisors. RAID was concerned that the requirements for due diligence on substantial shareholders and controlling individuals were ambiguous: AIM now advises that the principles of due diligence on directors apply equally to key stakeholders. Similarly, RAID identified many instances where price-sensitive information appears to have been withheld: AIM now emphasises the need for advisors to consider the 'spirit and underlying purpose' of rules governing the notification of price-sensitive information, and to follow up questions in a meaningful way.

In a parallel development, the European Union revised its Transparency and Accounting Directives to require extractive and logging companies to publish payments they make to governments. In the UK – as advocated by RAID – the directives will extend beyond the main regulated markets to include AIM.

In June 2013 RAID and Global Witness convened an expert meeting entitled *Regulation and the City: ENRC and CAMEC*, to examine what lessons could be learned from the recent controversies surrounding high-profile companies on the main and junior markets exploiting minerals in unstable host countries. The G8's Lough Erne Declaration of 2013 holds forth the prospect of bringing increased transparency to company ownership, which should assist in identifying the beneficiaries of corrupt deals.



Share prices displayed at the London Stock Exchange.  
PHOTO: Kaihsu Tai

**R** RAID's research has exposed the arbitrary and inconsistent nature of the sanctions regimes in the UK and the USA

### RAID monitors sanctions compliance

In late 2009, while RAID was researching *Questions of Compliance*, CAMEC was acquired by the Eurasian Natural Resources Corporation plc (ENRC) – a company listed at that time on the main market of the London Stock Exchange. The acquisition raised issues of compliance with sanctions and disclosure rules. In particular, the deal involved the purchase and sale of large shareholdings held by entities whose assets were frozen under US and EU sanctions against Zimbabwe.

RAID submitted a memorandum asking for an investigation by HM Treasury's Asset Freezing Unit (AFU), which is responsible for enforcing sanctions in the UK. RAID has subsequently filed a detailed freedom of information request asking the AFU to clarify its licensing of

the sale of shares and the release of any funds to sanctioned individuals. RAID is currently challenging the AFU's refusal to release information.

In mid-2013 RAID also provided information to the Treasury and to the US Office of Foreign Assets Control about CAMEC's 2008 acquisition of platinum assets in Zimbabwe. Both EU and US sanctions against Zimbabwe were in force at the time. As part of the deal, CAMEC made a \$100 million loan to the Zimbabwean government, finance that originated with a US hedge fund, Och-Ziff Capital Management Group LLC. The money was used by Mugabe to fund a campaign of violence against opposition supporters, enabling him to retain the presidency in the 2008 election.

While waiting to hear whether the authorities are to take action, RAID wrote to several pension funds in the UK and the USA that use Och-Ziff to manage investments. Funds that have led the way in promoting ethical investment must scrutinise the records not only of the companies in which they hold shares but also of their fund managers. At the same time as finance originating with Och-Ziff funded a campaign of violence condemned by US unions, many union members were unwittingly invested in Och-Ziff via their pension funds.

## Parliamentarians look to RAID for advice

In March 2012 RAID met Commissioners and staff of the US Securities and Exchange Commission (SEC) to advise them on the implementation of the rules for Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which deals with conflict minerals. Since August 2012, companies that file reports with the SEC are required to determine whether minerals in their consumer products come from the DRC or surrounding countries. If so, the companies must attempt to verify

**R** RAID routinely advises policymakers and legislators on financial conduct and human rights due diligence

that the minerals do not finance or benefit armed groups in those countries, and they must admit publicly if they are unable to do so. Companies subject to the rule are required to file their first report in May 2014. In February 2012 the Congolese government introduced domestic legislation requiring all companies and individuals operating in the DRC's tin, tantalum, tungsten and gold sectors to undertake supply-chain due diligence in the line with the OECD Due Diligence Guidance.

In autumn 2012 RAID submitted comments on the Financial Services Bill under consideration by the UK Parliament to reform, *inter alia*, the Financial Services and Markets Act. RAID's report *Polishing the Family Silver* (November 2012) was a response to the Financial Services Authority's consultation paper *Enhancing the Effectiveness of the Listing Regime*. The work has significance not only for the regulation of the London Stock Exchange, but for junior and main markets around the world.

In May 2013 RAID submitted evidence to the Foreign Affairs Committee concerning the Foreign and Commonwealth Office's human rights work in 2012. RAID's submission dealt with foreign mining assets and the regulation of the London Stock Exchange; the functioning of the sanctions regime; and the regulation of private security providers.

In September 2013 RAID's Executive Director was invited to speak at an expert meeting of the All-Party Parliamentary Group on Anti-Corruption. RAID provided input on the lax regulation of AIM (the 'junior' market of the London Stock Exchange) to the Business, Innovation and Skills Select Committee inquiry into the UK extractive industries, which is due to report in spring 2014. The Committee is examining *inter alia* the corporate governance concerns raised by the number of extractive industries companies listed in the UK, and the reputational risks for the UK and UK financial institutions in being a centre for such businesses.

## RAID and partners investigate human rights and conflict minerals

### Report exposes abuses of DRC mineworkers

DURING 2011–13 RAID's Executive Director visited mining areas in the Katanga province of the DRC with representatives of Amnesty International, to gather information on the activities of non-OECD companies. This work focuses on Chinese businesses, and follows the groundbreaking RAID survey of working conditions *Chinese Mining Operations in Katanga, Democratic Republic of the Congo* (2009), which synthesised the experiences, concerns and recommendations of Chinese and Congolese workers.

Much of the mining in Katanga is done by artisanal miners, who frequently work with bare hands, without protective clothing, and in poorly ventilated underground shafts where temperatures can be extremely high. They rarely have access to safety equipment, and are exposed to a range of health risks such as falling rocks and dust inhalation. Every year scores of them die or are seriously injured when mineshafts collapse.

Miners are no longer allowed, as they were in the past, to remove minerals from mining sites in order to sell them. Instead, they are obliged to sell to on-site traders, who are effectively agents of the concession-holders and typically pay far below market value. Artisanal miners caught removing minerals from the site are routinely beaten by guards and sometimes killed.

Chinese state-owned and private companies have been purchasing and processing minerals obtained from artisanal sources in Katanga since the mid-1990s. In January 2008 a US\$8 billion resources-for-infrastructure deal was signed between a consortium of Chinese State construction companies and the DRC's state-owned mining company Gécamines. This deal has boosted the influence of Chinese mining companies in the DRC, while the Congolese authorities have an increased incentive to support these companies' commercial interests.

- RAID is working with partners to expose the problems and make recommendations for improvement
- Chinese-owned mining companies in the DRC have a great deal of political influence and are often accused of being insensitive to community concerns and entitlements under customary law

*Kashana Ngombe, the mother of Isaac Mukeba Muzala, an artisanal miner killed in mysterious circumstances after being accused of stealing minerals. According to his family, his head had been crushed and there were bruises and scratches all over the body.*

PHOTO: RAID



The fieldwork uncovered a number of serious human rights problems.

- Mining conditions are often extremely dangerous. In the rare cases when ventilation systems are put in place, they depend on small – often manual – pumps. Serious or permanent injuries are not uncommon, and accidents are not always properly recorded.
- Child labour is widespread. There are an estimated to be between 70,000 and 150,000 artisanal miners in Katanga, of whom some 40,000 are children under 16.
- There are no adequate legal safeguards to prevent abuse. Guards can detain people and lock them in containers, sometimes for days at a time. Beatings are frequent and sometimes fatal.
- A community of around 300 families was forcibly evicted from Luisha when the Chinese mining company CIMCO acquired rights to their land. The villagers were not compensated for the loss of their crops and fruit trees, and were left living in tents, in an area with no housing or other infrastructure such as clean water supply, markets or schools.
- Access to water has been blocked. In Luisha, the Chinese-Congolese company COMILU dug a deep trench about three metres wide to block access to the

site, cutting off a rural road that had been used for decades by local people to reach their fields and fetch water. What had been a 15–20-minute walk to the fields and back became a two-hour journey.

The OECD *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas* requires all actors in the supply chain to conduct due diligence aimed at ensuring that they do not contribute to human rights abuses. Companies operating on the ground have responsibilities to the local population, even when the State lacks the capacity or the will to fulfil its own obligations. Businesses worldwide that trade in copper from these mines sustain and profit from the abuses that RAID identified, and must be regarded as complicit.

The findings from the field trips, together with a series of recommendations, were published by Amnesty International in 2013 as *Profits and Loss: Mining and human rights in Katanga, Democratic Republic of the Congo*.

### Fieldwork investigates supply chains for tin, tungsten and coltan

Researchers from RAID and *Action contre l'impunité pour les droits humains* carried out field work over a 12-month period from April 2012, visiting a number of mine sites in Manono and Mitwaba Territories in Katanga. In the Provincial capital, Lubumbashi, the researchers discussed the certification programme and the human rights context with Congolese officials and UN agencies. In Manono and Mitwaba the researchers had meetings with a range of officials including the Territorial administration, the *Service d'Assistance et d'Encadrement d'Artisanal et Small Scale Mining* (which oversees small-scale and artisanal mining), the Division of Mines (a subordinate body of the *Direction des Mines* under the Mining Ministry) and the mine police.

The researchers interviewed staff from the US capacity-building organisation Pact and the tin industry trade

**R** Working conditions are very poor for artisanal miners, including tens of thousands of children

*A young mother engaged to wash minerals at an artisanal mining site, Katanga, June 2012.  
PHOTO: Emmanuel Umpula*



body ITRI, which have been working together since 2010 to implement ITRI's Tin Supply Chain Initiative, iTSCi. They also interviewed representatives of companies, mining cooperatives and small-scale miners' groups that participate in the iTSCi programme. The research included independent visits to a number of mine sites in Central Katanga where artisanal miners – men, women and children – shared their experience of the mineral supply chain and human rights abuses they had experienced or witnessed. Sites visited include Camp-Sowe, Mwika 1, Nsele and Kankeza in Mitwaba Territory; and Dragon, Ngobo, Djibende, Lusonde and Mwikmpweto in Manono Territory. In addition the research included a desk-based study of reports prepared by the OECD, independent auditors, ITRI and Pact. A report is in preparation.

During 2012 and 2013 RAID regularly participated in meetings of the International Conference on the Great Lakes Region (ICGLR) and the OECD to review and discuss implementation of the *OECD Due Diligence Guidance*

for *Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* and the ICGLR Regional Certification Mechanism. Carolyn Norris, a RAID consultant, attended the 6th meeting of the ICGLR-OECD-UN GoE (Group of Experts) Joint Forum on Responsible Mineral Supply Chains in Kigali, Rwanda in November 2013.

## Private security providers' Code of Conduct Association launched

OVER the past 10 years RAID has interviewed numerous victims of human rights abuses related to private military and security companies (PMSCs), and has worked closely with affected communities and NGOs in Africa and the Americas to hold the perpetrators to account.

In September 2008, following a joint initiative of the Swiss Government and the International Committee of the Red Cross, an initial statement of good practice for PMSCs was published. Since then, a series of stakeholder workshops and meetings have been held in order to develop a more formal code of conduct and an oversight mechanism. RAID's Executive Director Tricia Feeney has contributed regularly as a member of the Working Group on the Resolution of Third Party Grievances.

The discussions led to the agreement of an International Code of Conduct (ICoC) in November 2010. Initially adopted by 58 PMSCs, it has now been signed by over 700 companies from 70 countries. Further meetings since 2010 have concentrated on disseminating the ICoC and developing a charter for its Oversight Mechanism. In September 2012 RAID and Human Rights First organised a meeting in London for UK and European NGOs, seeking their input into the ongoing debate about the form and reach of the Oversight Mechanism.

The International Code of Conduct for Private Security Service Providers' Association (ICoCA) held its inaugural conference in Montreux in September 2013. Tricia Feeney was elected to the Board of Directors.

**R** RAID is contributing to the development and dissemination of good practice guidelines for private security companies

## Collaborations

■ *RAID works closely with local groups and international partners to achieve results*

COLLABORATION with other NGOs continues to be an important means for RAID to increase its impact and disseminate its analysis. During 2012–13 RAID’s successful partnerships have included working with:

- *Action contre l’impunité pour les droits humains* (ACIDH, DRC) and the International Federation of Human Rights on achieving redress for the victims of the Kawama evictions (see p. 20)
- *L’association africaine de défense des droits de l’homme* (DRC), ACIDH, *L’entraide missionnaire* (Canada), the Canadian Centre for International Justice and Global Witness on the Anvil Mining case (see p. 26)
- Amnesty International on the report into mining conditions in Katanga (see p. 33)
- the International Commission of Jurists to write the report *Access to Justice: Human rights abuses involving corporations: Democratic Republic of the Congo*, which has been used to increase awareness among prosecutors and judges regarding corporate human rights abuses and the difficulties in holding perpetrators to account
- Human Rights Watch, the International Corporate Accountability Roundtable, Global Witness and others, calling on the US Securities and Exchange Commission to publish rules on reporting relating to conflict minerals. Following pressure from RAID and others, the rules (which legally should have been released by April 2011) were finally published in August 2012, and took effect from January 2013
- the International Network on Economic, Social and Cultural Rights (ESCR-Net), developing its Corporate Accountability strategy
- Oxfam GB on mediation with the London-based New Forests Company regarding the eviction of villagers, and the consequent loss of their livelihoods, to make way for new timber plantations.

## Publications, media engagement and conferences

RAID has built a strong reputation with the media community for reliable research and informed comment, and Tricia Feeney, RAID's Executive Director, is much in demand among media researchers and producers drawing on her expert knowledge of corporate human rights issues. Feeney has briefed journalists from business news agencies, national daily and weekly newspapers (including the *Financial Times*, the *Wall Street Journal*, *Outlook of India*, the *Daily Telegraph*) and the broadcast media (BBC Radio's *File on 4*, BBC Television's *Panorama*, BBC World Service, Radio Okapi of the DRC).

RAID's work has been covered extensively in the press as well as on television and radio. Among the very large number of media outlets reporting on RAID's projects were the *Wall Street Journal*, the BBC, CBC News (Canada), Africa Focus, Radio France International, *Radio Télévision Belge Francophone*, Yahoo News, AllAfrica News, *La Presse* (Canada), Sky Financial News, the *Independent* (Zimbabwe); agencies such as Reuters, Bloomberg and MarketWire; many financial and mining-related trade publications; and many online news outlets.

### Reports, briefings and articles

"LONG road to justice: Anvil Mining and the Kilwa massacre", *Openspace on International Criminal Justice*, OSISA, March 2012, pp. 86–8. At [http://www.osisa.org/sites/default/files/long\\_road\\_to\\_justice-patricia\\_feeney.pdf](http://www.osisa.org/sites/default/files/long_road_to_justice-patricia_feeney.pdf).

"Request for Review of Centerra Gold's Operations at the Boroo Mine and at the Gatsuurt gold deposit, Selenge Province, Mongolia", RAID, OT Watch, MiningWatch Canada and others, March 2012.

*Access to Justice: Human rights abuses involving corporations: the Democratic Republic of the Congo*, International Commission of Jurists and RAID (Geneva: ICJ, 2012). At <http://www.icj.org/wp-content/uploads/2012/06/>

RAID disseminates its research extensively through the media and at national and international conferences

Democratic-Republic-of-Congo-rights-abuses-corporations-publication-2012.pdf.

“Complaint Against George Forrest International under the OECD Guidelines for Multinational Enterprise”, referral to the Belgian National Contact Point, FIDH, RAID and ACIDH, April 2012.

*Asset laundering and AIM: Congo, corporate misconduct and the market value of human rights*, July 2012. Republished as a book in March 2013 (Oxford: Rights and Accountability in Development, 2013).

*Polishing the Family Silver*, RAID response to the FSA’s Consultation Paper CPI2/25, *Enhancing the effectiveness of the Listing Regime*, November 2012.

*Demolitions at Kawama*, Briefing Paper, November 2012.

“Did money from a New York Hedge Fund and US Public Pension Investments help finance human rights violations in Zimbabwe?”, RAID backgrounder, July 2013.

*Sanctions, violence, pensions and Zimbabwe: A New York hedge fund, a London-traded mining company and the stealing of an election?*, RAID Briefing Paper, July 2013.

## Press Releases

**2012** 1 February 2012: “Congolesse massacre survivors to pursue justice at the Supreme Court of Canada”.

14 March: “Centerra Gold Inc. flouting Mongolia’s environmental protection laws: organizations file complaint with Canadian Government”.

26 March: “Congolesse victims’ pursuit of justice against Canadian Company goes to Supreme Court”.

5 April: “NGOs Complain to Belgian National Contact Point for the OECD Guidelines for Multinational Enterprises about George Forrest International’s Illegal Demolition of Houses in the DR Congo”.

19 July: “The London Stock Exchange – A haven for laundered conflict assets?”

1 November: “No justice in Canada for Congolesse massacre victims as Canada’s Supreme Court dismisses leave to appeal”.

30 January 2013: “Rape victims must sign away rights to get remedy from Barrick”. 2013

6 February: “Illegal Demolitions in DRC – George Forrest International Refuses Compensation for Dispossessed Villagers”.

13 May: “OECD complaint filed against Eurasian Natural Resources Corporation (ENRC) regarding DRC mining communities”.

29 July: “Five lost years: how money from a US Hedge Fund and a British Mining Company kept Mugabe in power”.

4 September: “The UK Action Plan on Business and Human Rights will bring little comfort to victims of corporate abuse”.

2 October: “Eurasian Natural Resources Corporation (ENRC): OECD Complaint Admissible, Says UK Government Watchdog”.

### Meetings and conferences addressed or attended

Tricia Feeney, RAID’s Executive Director, is in great demand as a speaker and panellist at seminars and conferences. Meetings and conferences addressed and attended include:

24 November 2011: “Anvil Mining and Human Rights Abuses in the Congo: Seeking Justice through Canadian Courts”, Centre for International Policy Studies, University of Ottawa, Ottawa.

19 January 2012: International Conference, *Corruption and Human Rights – the Arab Spring*. Organised and Chaired by Tricia Feeney for the Centre for the Study of Governance and Transparency, Kellogg College, University of Oxford. 2012

21 February: “Global Companies: Enemies or Friends of Human Rights?”, St Antony’s College, Oxford; St Antony’s Visiting Parliamentary Fellowship seminar series.

6 March: Forum on International Regulation of the Private Security Sector, Lancaster House, London.

## 2012 (cont.)

9 March: CSO workshop on UK implementation of the UN Guiding Principles.

13–15 March: Meetings with the Securities and Exchange Commission in Washington, DC on the Dodd-Frank Act's Section 1502 on Conflict Minerals.

23 March: OECD/UK Department for Business, Innovation and Skills meeting on OECD National Contact Points and the Extractive Sector.

3–4 May: ICGLR-OECD-UN Group of Experts Joint Meeting on Implementation of the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* in the Great Lakes Region.

23 May: Meeting on the draft charter of the International Code of Conduct for Private Security Service Providers, hosted by the Foreign Office, London.

13–17 August: Open-ended Inter-governmental Working Group on Regulation of Private Military and Security Companies, Geneva.

6–8 September: "Private Military And Security Companies", XXXVth *Round Table on Current Issues of International Humanitarian Law*, Sanremo.

10 September: *Human Rights and Private Military and Security Companies – Ensuring Accountability*. Round table meeting organised by RAID and Human Rights First (see p. 37).

14–17 October: "Child Rights and the Business Sector: Urging states and private companies to meet their obligations", 16th *Sion International Child Rights Seminar*. International Institute for the Rights of the Child (IDE) with the University Institute Kurt Bösch (IUKB), International Commission of Jurists (ICJ), Competence Centre for Human Rights, Zurich University. Tricia Feeney raised the plight of children working in the exploitative and unsafe extractive industries of the DRC, including 40,000 children working on mining sites in Katanga's copperbelt. She also pointed out the serious problems in both the Eastern DRC and Katanga, where armed groups

(Mai Mai) and the Congolese national army (FARDC) troops routinely use threats and coercion to force men and children to mine for minerals, turn over their mineral production, and pay illegal “taxes”.

28–30 November: ICGLR-OECD-UN Group of Experts Joint Meeting on Implementation of the *Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* in the Great Lakes Region.

4–6 December: UN Forum on Business and Human Rights. (RAID arranged for Dickay Kunda, a representative of the Kilwa victims, to speak on access to justice.)

January 2013: Represented NGOs at a meeting in London with senior social environmental staff from the European Bank for Reconstruction and Development about concerns over the Oyu Tolgoi Project, Mongolia.

2013

19–22 February: Drafting Conference for the Oversight Mechanism of the International Code of Conduct (ICoC) for Private Security Service Providers, Montreux.

2–3 May, with Emmanuel Umpula N’Kumba of ACIDH: 5th meeting of the ICGLR-OECD-UN GoE (Group of Experts) Multi-Stakeholder Forum on due diligence in the tin, tantalum, tungsten and gold supply chains, OECD Conference Centre, Paris. Presented findings on human rights abuses related to artisanal mining and conflict in Northern Katanga (see p. 35).

7 May: “International Regulation of the Private Security Sector”, briefing on the upcoming establishment of the Oversight Mechanism of the International Code of Conduct (ICoC) for Private Security Service Providers, Australian High Commission, London.

14 June: RAID helped organise a meeting on Private Military and Security Companies, chaired by Elizabeth Wilmshurst at Chatham House. The meeting brought together various stakeholders to discuss the UK Government’s policy on improving and monitoring human rights compliance by Private Security Companies. Dis-

cussion focused on the new International Code of Conduct Association, launched September 2013 (see p. 37).

20 June, with Global Witness: *Regulation and the City: ENRC and CAMEC*. Expert seminar.

24 June: Foreign and Commonwealth Office event on the raising of standards across Private Security Companies working in complex environments, FCO, London.

26–27 June: Global Forum on Responsible Business Conduct, OECD Conference Centre, Paris. Tricia Feeney was a speaker at the session on Stakeholder Engagement and Due Diligence in the Extractive Sector.

9 July: Tricia Feeney was invited to the launch of the UK EITI Multi-Stakeholder Group meeting, BIS Conference Centre, London.

10 September: Tricia Feeney spoke at an event held by the All-Party Parliamentary Group on Anti-Corruption, jointly chaired by the Group's co-chair Catherine McKinnell MP and Baroness Stern. The meeting was also addressed by the Rt. Hon Clare Short in her capacity as Chair of the International Board of the Extractive Industries Transparency Initiative.

19–20 September: International Code of Conduct for Private Security Providers' Association inaugural conference, Montreux. Tricia Feeney elected to Board of Directors.

8 October: RAID invited by Freeport-McMoRan Copper and Gold company to a "Stakeholder Assurance and Verification Meeting" on its Corporate-level Human Rights Impact Assessment. Emma Grylls spoke on human rights and security issues at Freeport's Tenke-Fungurume mine in the DRC.

15 October: Fall Meeting, American Bar Association, Section on International Law 2013, London. Tom Bradford, a barrister, spoke on behalf of RAID in the session "Human Rights and Environmental Protection: From tentative embrace to powerful partnership".

5–7 November: Tricia Feeney was a speaker and panel moderator at the People's Forum on Business and Human



*RAID's Executive Director Tricia Feeny speaks at the People's Forum in Bangkok, November 2013.*

*PHOTO: ESCR-Net*

Rights, Bangkok. Meeting jointly organised by International Network on Economic, Social & Cultural Rights and Asian Forum for Human Rights & Development.

13–15 November: Carolyn Norris, a RAID consultant, attended the 6th meeting of the ICGLR-OECD-UN GoE (Group of Experts) Joint Forum on Responsible Mineral Supply Chains in Kigali, Rwanda (see pp. 36–7).

2–4 December: Tricia Feeny: “Do Non-Judicial Grievance Mechanisms Undermine Human Rights?”, as part of the panel “Access to Remedy: Opportunities and challenges for judicial and non-judicial grievance mechanisms”, UN Forum on Business and Human Rights, Geneva.

12 December: “Accountability and Victims’ Access to Remedies”, Montreux +5 Conference, Montreux. Conference organised jointly by the Swiss Government and the International Committee of the Red Cross, in cooperation with the Geneva Centre for the Democratic Control of Armed Forces. The conference marks the fifth anniversary of the signing of the Montreux Document which reaffirms the obligation on states to ensure that private military and security companies operating in armed conflicts comply with international humanitarian and human rights law.

## Future work

RAID will continue to engage in mediation with ENRC under the auspices of the UK National Contact Point, with a view to resolving outstanding human rights issues related to the company's Congolese mines. RAID hopes that a resolution will be possible despite ENRC's delisting from the London Stock Exchange.

RAID will maintain its efforts to strengthen the enforcement of stock market regulations. RAID will pursue a complaint with the Alternative Investment Market (AIM) about the listing of a shell company whose directors have a demonstrably poor track record of compliance. Under UK and US sanctions against Zimbabwe, RAID will continue to seek disclosure of information on, and to press for an investigation into, transactions by CAMEC and Och-Ziff.

The UN Guiding Principles prescribe that both State and business have roles to play to ensure access to effective non-judicial grievance mechanisms as a complement to judicial mechanisms. However, non-judicial mechanisms have inherent weaknesses that often undermine human rights and may even cause harm to complainants and/or the affected communities they represent. Through its research, RAID will critically examine a number of non-judicial grievance mechanisms and, drawing on detailed case studies, assess whether there is a gap between human rights principles and the procedures and outcomes of these mechanisms. RAID will also work towards the development of effective certification, monitoring and complaints procedures for private security companies.

RAID will also continue to work for justice for the survivors of the Kilwa massacre. Following the disappointing ruling in the Supreme Court of Canada, RAID is consulting lawyers as to the feasibility of filing a claim in a different jurisdiction.

There is still, then, much work for RAID to do. One should not end, however, without acknowledging that over the past fifteen years there has been significant progress on some issues that RAID has campaigned for. In June 2011 the Human Rights Council of the UN adopted a set of Guiding Principles on Business and Human Rights. In addition to such guidance, many practical tools have been developed to assist companies in identifying and preventing human rights abuses. There is, though, still deadlock over the issue of legal accountability for serious corporate-related human rights violations. Globalisation has increased the reports of corporate abuse in the developing world. While investment treaties and political risk insurance seek to provide multinational companies that operate even in inherently unstable environments with ever greater protection, international human rights law has not yet developed instruments capable of ensuring an effective remedy for the victims of corporate abuse. This imbalance urgently needs to be addressed, for without corporate accountability there is no deterrence and no prospect of reparation for the victims of violations. 

## People

### RAID staff

|               |                             |
|---------------|-----------------------------|
| Tricia Feeney | Executive Director          |
| Tom Kenny     | Senior Research Consultant  |
| Fran Copeland | Financial Officer           |
| Ilana Cravitz | Communications Co-ordinator |
| Ben Yudkin    | Publications Consultant     |

### Board of Trustees

RAID's Trustees serve in their private capacities.

Bronwen Manby (Chair), Senior Programme Adviser, Africa Governance Monitoring and Advocacy Project (AfriMAP), Open Society Foundation

Dr David Grylls, Fellow of Kellogg College, University of Oxford

Seema Joshi, International Business and Human Rights Director, Amnesty International

Dr Mikko Kuisma, Senior Lecturer in International Relations, Oxford Brookes University

Anneke Van Woudenberg, Senior Researcher for the Democratic Republic of Congo (DRC) in Human Rights Watch's Africa division

Emmanuel Umpula N'Kumba, Executive Director, *Action contre l'impunité pour les droits humains (ex officio)*

### Legal Adviser

Dan Leader, barrister, Leigh Day & Co.

## Donors and contributors

RAID gratefully acknowledges the generous support of our funders, without whom our work to promote human rights and responsible business conduct would not have been possible. In particular, we thank

- Sigrid Rausing Trust
- American Jewish World Service
- Open Society Institute for Southern Africa
- Ford Foundation
- *Fondation des droits de l'Homme au travail* – FDHT.

RAID is very grateful to Nicholas Garner and Aviation Partners for donating our beautiful new typefaces, Combi serif, italic and sans.

## Financial summary

RAID's accounts may be obtained from Companies House or by writing directly to the Trustees at RAID's registered address: 1 Bladon Close, Oxford, OX2 8AD, UK. In due course, accounts will also be available from the Charity Commission. (Since RAID became a registered charity only in 2013, charity accounts are not yet available.)

Below is a summary of RAID's financial position for the year ended 30 September 2013.

|                         | £             |
|-------------------------|---------------|
| Income                  | 190,722       |
| Administrative expenses | (132,891)     |
| Interest                | 13            |
| Surplus for the year    | <u>57,844</u> |

RAID had net assets (capital and reserves) of £136,612.

The accounts were independently examined and signed off on 8 January 2014 by John Richard Hunter, FCA, Hunter Marshall & Company Limited, Hinksey Court, West Way, Oxford, OX2 9JU.



RAID was involved with the Kilwa case right from the outset... spearheading the campaign for justice in our case at the international level... RAID is a human rights organisation with a 'human soul'.

*Dickay Kunda, Kilwa victim*

RAID has played a big part in taking the Kilwa case forward. We owe RAID our hope of – one day – seeing justice done.

*Adele Mwayuma, Kilwa victim*

RAID's work is detailed, well-focused and deeply researched, and provides insightful and innovative responses to issues of legal accountability of corporations for abuses of human rights. Its contribution is especially important in regard to access to judicial and non-judicial remedies, including grievance mechanisms, in conflict zones. Tricia Feeney has impressive experience on the ground and is enormously determined and dedicated.

*Professor Robert McCorquodale, Director, British Institute of International and Comparative Law*

RAID conducts hard-hitting and meticulous research in some of the most challenging environments in the world, bringing to light the connections between human rights and corruption in natural resource development and giving an international voice to people whose stories would otherwise remain in the shadows.

*Jonathan Kaufman JD, Legal Advocacy Coordinator, EarthRights International*

Tricia Feeney and RAID have been at the forefront of challenging systemic patterns of human rights violations involving corporations and pushing the boundaries of existing remedies in efforts to secure justice for affected communities. RAID co-founded the Corporate Accountability Working Group a decade ago to help coordinate and magnify the advocacy of ESCR-Net members, and has continued to provide vital leadership to a growing global movement to secure binding human rights regulation and effective remedy for violations.

*Chris Grove, Director, International Network for Economic, Social and Cultural Rights (ESCR-Net)*

I admire RAID's magnificent work in the field of business and human rights, particularly in the DRC but also in other parts of the world... I wish you every success for 2014.

*Emmanuel Umpula N'Kumba, Director, Action contre l'impunité pour les droits humains (ACIDH)*