

**act:onaid**

# RESIST, ENGAGE, CHANGE



SEPTEMBER 2020

WOMEN-LED  
LOBBY & ADVOCACY  
FOR IMPROVED  
CORPORATE  
CONDUCT

**5**  
YEARS

ActionAid's Fair, Green and  
Global programme:  
highlights and lessons  
learned from 8 countries

'WHY CORPORATE  
ACCOUNTABILITY  
MATTERS FOR HUMAN  
RIGHTS AND WOMEN'S  
LIVES EVERYWHERE'

Bangladesh • Cambodia • Kenya • Mozambique • Netherlands • Uganda • Zambia • Zimbabwe



## EXECUTIVE SUMMARY

This report shows the inspiring ways and strategies through which women and their communities in Africa and Asia have addressed human rights violations perpetrated by corporations, demanding accountability from governments and addressing the flaws in our global economic system.

ActionAid has seen, over the last 10 years of being part of the Fair, Green and Global Alliance, that when women and communities take matters into their own hands, they can make great gains towards improved corporate conduct and the protection of human rights. Consider, for instance, Kaweri, Uganda, which has seen thousands of people displaced and forced into absolute poverty due to the arrival of a foreign-owned coffee plantation in the area. The community, with support from ActionAid, has sought legal redress and, after almost 20 years of struggle, these families have now been promised due compensation.



**WHEN WOMEN AND COMMUNITIES TAKE MATTERS INTO THEIR OWN HANDS, THEY CAN MAKE GREAT GAINS TOWARDS IMPROVED CORPORATE CONDUCT AND THE PROTECTION OF HUMAN RIGHTS.**

### The chapters include:

- In Marereni, Kenya and Musele, Zambia, communities succeeded in addressing detrimental impacts on their water supplies, by holding companies to account for their pollution.
- In Yala swamp, Kenya, women's mobilisation resulted in the protection of an essential ecosystem and local livelihoods.
- In Matarbari, Bangladesh, community mobilisation and advocacy strategies have resulted in redress for some affected people and have reversed several socio-economic impacts of a large-scale energy project.
- In Koh Kong, Cambodia, 175 families received redress for a land grab by a sugar cane company and, thanks to human rights workshops, are now more resilient in the face of future violations.
- Communities from Bru Sra, Cambodia and the Zambian copper belt embarked on successful international litigation strategy to address the rights violations suffered at the hands of multinationals.
- In Mozambique, after sustained pressure by the community with support of ActionAid, a food-producing company has pledged to reinvest 20% of its profits in community development.
- In Marange, Zimbabwe, community members have been trained to become environmental monitors and gained knowledge on safeguard mechanisms under Zimbabwean law that will protect their rights in the future.
- In Mutoke, Zimbabwe, communities successfully advocated for the instalment of a grievance mechanism at a polluting diamond company.

The aim of the report is to showcase communities' strategies and efforts to improve corporate conduct, in the hope that the lessons learned and recommendations might be used by policymakers, civil society, corporations and communities in the achievement of the Sustainable Development Goals and full realization of human rights.

### Key lessons learned:

- In Uganda, Cambodia, Zimbabwe and many other contexts we realized that **enabling women and their communities to take matters in their own hands**, by financially supporting them and by means of capacity-building, is fundamental to structural change. In Zimbabwe, for example, community members were trained to become environmental monitors, which enabled them to spot and challenge corporate violations. Strengthening this capacity also meant they started holding public officials accountable on mineral governance and public finance management in the mining sector, by employing their knowledge of Zimbabwean law.
- In Bangladesh we saw that **capacity-building at an international level** can bring tangible change. The Japan Centre for Sustainable Development was key to influencing the public opinion in Japan and therefore the Japanese investor. Similar results were obtained working on international litigation processes in Zambia and



**GOVERNMENTS MUST UPHOLD COMMITMENTS MADE TO HUMAN RIGHTS AND GENDER EQUALITY BY OBLIGING CORPORATIONS AND INVESTORS TO RESPECT HUMAN RIGHTS AND BY ESTABLISHING ADEQUATE SOCIAL AND ENVIRONMENTAL SAFEGUARDS TO ACCOMPANY INVESTMENT AND CORPORATE CONDUCT.**

Cambodia. Working in multiple countries led to more entry points for influencing and thus a greater chance of success.

- In many cases, such as in Cambodia, Mozambique and Zambia, we learned that **upholding principled, open engagement and developing relationships with companies** who are receptive to having dialogue with the affected communities has been valuable and must be maintained. This allows us to accurately complete research, advocate directly to companies, and monitor their engagement with the dispute resolution processes.
- The work in Kenya and Zimbabwe showed us how **working with different actors** such as paralegals, government and governmental agencies and scientists can be instrumental in addressing a rights violation. In Kenya, for example, women's advocacy was corroborated by scientific tests made on local water resources. These results proved that most were highly contaminated, which showed the extent to which corporate abuse was taking place. In turn, this was essential to making our voices more convincing and our rights defence strategy more grounded.
- Our work in the Netherlands around the UN treaty on Business & Human Rights and bilateral tax treaties taught us that **solidarity in movements** is essential. By being part of the Feminists for a Binding Treaty and the Tax Justice Network, we have been able to effectively highlight feminist demands during the discussions as well as raise awareness regarding tax avoidance's adversities.

Following from the lessons learned, we propose *key recommendations* directed at civil society organizations, governments and companies to improve corporate conduct;

**Key recommendations:**

- Civil society organisations, being a critical actor when responding to corporate human rights violations, should build successful strategies that rely on solidarity and do not fail to include the voices of those who are most marginalised. These strategies should always be informed and improved by mutual capacity strengthening between communities and civil society organisations.
- Governments must uphold commitments made to human rights and gender equality by obliging corporations and investors to respect human rights and by establishing adequate social and environmental safeguards to accompany investment and corporate conduct.
- Companies should commit to respecting human rights in their operations while making sure all their supply chain actors do the same. This means that sound impact assessments, as well as grievance mechanisms to safeguard communities and their well-being, are in place.
- Wealthy countries and home states of multinationals need to uphold commitments made to human rights and gender equality by obliging corporations and investors to respect human rights, throughout their entire supply chain. They also need to ensure victims of corporate human rights violations have access to justice.



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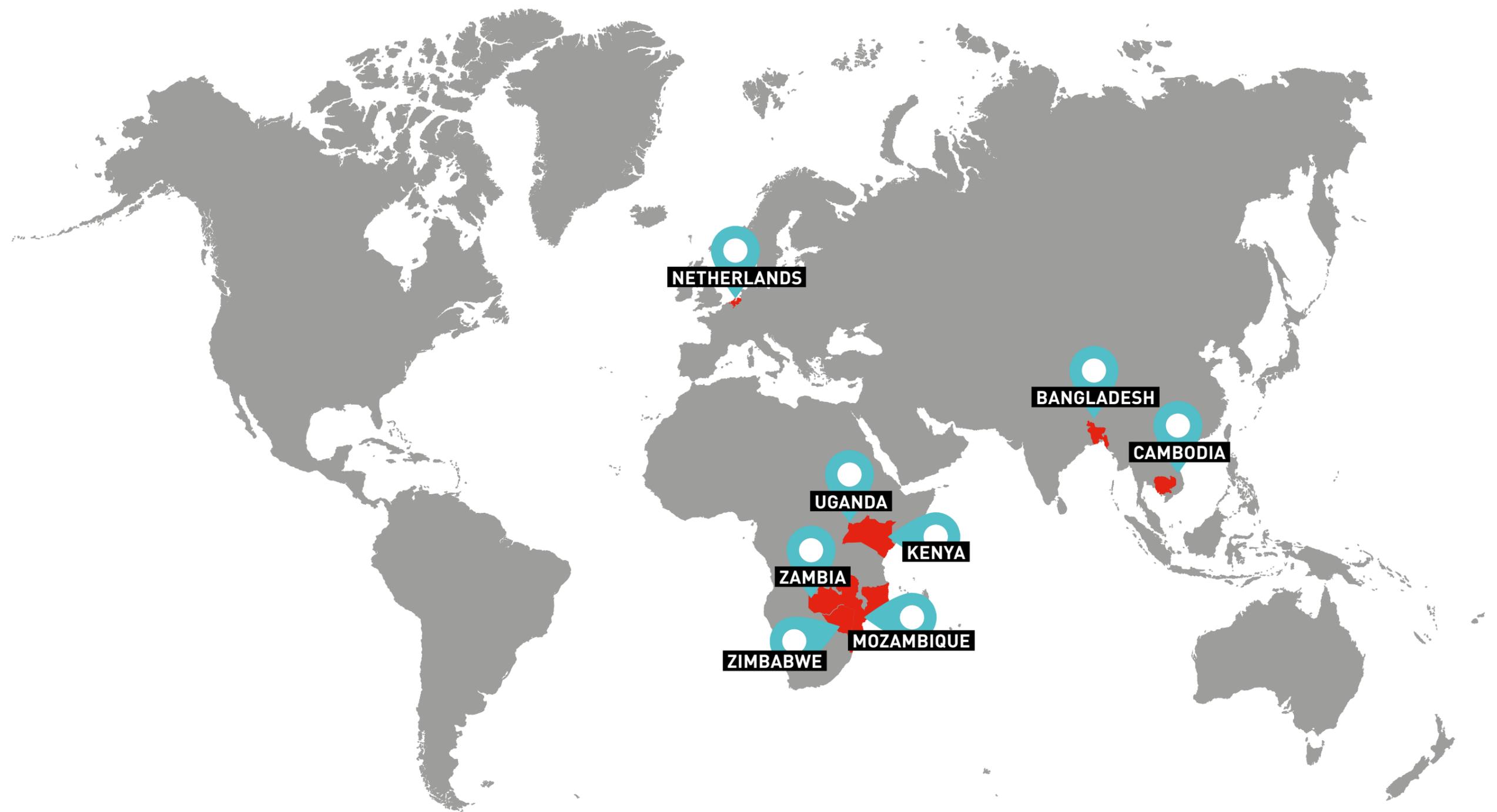
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MAGAZINE

ActionAid Netherlands is part of the global ActionAid federation. ActionAid is a leading international human rights organisation working in over 45 countries with communities and local organisations, supporting them to claim their rights and build a life without poverty and injustice. With our grassroots experience, we demand progress from those in power at local, national and international levels to build lasting change.

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# ROADMAP



# INTRODUCTION

In the last decade there has been increased attention for the adverse impact of global trade and corporate conduct on the full realisation of human rights, gender equality and the Sustainable Development Goals.

For many people around the world, global trade and the influx of foreign interest and investment in their countries has meant displacement from their lands, pollution of water and air and human rights abuses. The imbalance of power between communities living in poverty and the multinational corporations taking their land and polluting their water is often stark. Governments oftentimes stand powerless against the might and riches of these corporations. A lack of international legislation to regulate increasingly complex supply chains means these human rights violations by corporations are met with absolute impunity, as they hide behind complex company structures to avoid the consequences for their actions.

The adverse economic and social consequences of the current global economic system are felt, first and foremost, by those who are most marginalised. In particular, they disproportionately affect women. When land is grabbed and families are displaced, for example to make room for a sugarcane plantation or mining activities as we will see in later chapters, it is women who bear the responsibility of sustaining their families and themselves. When tax revenue in developing countries is siphoned off by multinationals' aggressive tax planning and the lenient tax structures of tax havens, leaving less government income available for public services, it is women who take on invisible unpaid care and domestic work.

Governments around the world have made strong commitments to the 2030 Sustainable Development Goals agenda, and to upholding human rights and gender equality. International and national efforts have been made to better regulate corporate conduct and gain insights into corporates' complex and opaque value chains. These efforts have led to the unanimous adoption of standards such as the United Nation's Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, clarifying the role of governments to protect human rights and those of businesses to respect human rights.



**FOR MILLIONS OF PEOPLE, HUMAN RIGHTS VIOLATIONS REMAIN EVERYDAY ISSUES THAT REQUIRE STRUCTURAL SOLUTIONS.**

However, for millions of people around the world, corporate human rights violations remain tangible, everyday issues that require structural, long-term solutions. Therefore, the need of communities to be able to resist remains as urgent as ever. In order to realise the Sustainable Development Goals, a strong, international regulatory framework is needed to bridge the governance gap and grant those affected an instrument to finally hold corporations to account and demand justice from their governments.



**BY STRENGTHENING COMMUNITIES' CAPACITY AND KNOWLEDGE ON THEIR SOCIO-ECONOMIC RIGHTS, THEY GAIN THE RESILIENCE TO DEMAND A BETTER PRESENT AND EVEN BETTER FUTURE.**

ActionAid has seen, over the last 10 years of being part of the Fair, Green and Global Alliance, that when women and communities take matters into their own hands, they can make great gains towards improved corporate conduct and the protection of human rights. By strengthening communities' capacity and knowledge on their socio-economic rights, they gain the resilience to demand a better present and even better future. By supporting communities with obtaining the tools and backing they need to engage in lobby and advocacy strategies, affected communities can fight injustices by holding governments and corporations accountable. The support of the Dutch Ministry of Foreign Affairs to fund and partner on this essential work has been an important asset, to ActionAid and to the communities we serve.

The report is structured in eight chapters, listed alphabetically, mirroring the countries in which ActionAid has implemented the Fair, Green and Global programme: Bangladesh, Cambodia, Kenya, Mozambique, the Netherlands, Uganda, Zambia and Zimbabwe. For each country, the report delves into one or two case studies that portray the ways in which communities and their organisations, supported by ActionAid and the Dutch Ministry of Foreign Affairs, have addressed corporate human rights violations.

## **BOX 1: THE FAIR, GREEN AND GLOBAL ALLIANCE: DIALOGUE AND DISSENT PARTNERSHIP WITH THE DUTCH MINISTRY OF FOREIGN AFFAIRS**

Since 2010, ActionAid has been one of six member organisations of the Fair, Green and Global Alliance. ActionAid works together with more than 300 CSOs all over the world to build socially just, inclusive and environmentally sustainable societies. Women's rights are central to all our work. In January 2016, ActionAid began its second five-year programme under the 'Dialogue and Dissent' framework, a strategic partnership with the Dutch Ministry of Foreign Affairs. Within this framework, ActionAid and the other members have worked relentlessly to increase the voice of civil society and strengthen the resilience of communities, their organisations and movements. When addressing poverty and inequality, the Fair, Green and Global Alliance focuses on three interlinked areas of work: **1.** Improved corporate conduct **2.** Improved trade and investment and **3.** Improved tax and financial systems. Corporate accountability plays a pivotal role at the core of these three areas of work.

# BANGLADESH

Bangladesh is a country with a unique socio-economic reality. Its 161 million citizens make it one of the most densely populated countries in the world, with a labour force that is largely semi-skilled and unskilled. The country is also prone to natural calamities and is predicted to be one of the worst victims of climate change.



Over the last few years, the economy of Bangladesh has been growing steadily, with a consistent GDP growth of over 6% during the past decade. Since 2015, it has been classified as a lower-middle-income country, as defined by the World Bank.<sup>1</sup> Aiming at becoming a middle-income country by 2021 and an upper-middle-income one by 2030, the Bangladeshi government has pursued economic policies in line with this ambition. These policies include Vision 2021, Vision 2041, the 7<sup>th</sup> and 8<sup>th</sup> five-year plans, the Power Sector Master Plan 2016 and the Bangladesh Delta Plan 2100. These strategies, dubbed as ‘growth-led development’, essentially require large-scale infrastructure development in both the public and private sectors. In order to support this, the government is raising foreign funds and foreign direct investment (FDI) on a large scale. Within the country, the World Bank, the Asian Development Bank, the Asia Infrastructure Investment Bank and many bilateral donors and financiers, especially from China, Japan and India, have increased their financing in strategic sectors such as power and energy, Special Economic Zones, transport and high-tech parks.

This desired economic development often comes at great cost for society’s most marginalised groups, with many communities, for example, displaced from their land due to the arrival of these large-scale development projects, further reducing arable land and increasingly damaging the environment. Women are disproportionately affected, due to existing gender inequality.

This situation is made even more complicated by the high political sensitivity that surrounds large-scale development projects and increasingly shrinking civic space in Bangladesh, which makes criticism difficult and dangerous. Many civil society actors and human rights defenders have experienced reprisals and threats in recent years. In order to make sure that human rights defenders and affected communities continue to be able to resist these large-scale infrastructure projects and the human rights violations connected to them, ourselves and our partners in the Fair, Green and Global Alliance have worked relentlessly to strengthen the voice and capacity of these actors. Community-based partners have lobbied the Bangladeshi government at a local, national and international level for land acquisition reform, fair compensation and resettlement-related policies, as well as safeguarding measures regarding foreign investment projects.

“  
DESIRED ECONOMIC DEVELOPMENT  
OFTEN COMES AT GREAT COST FOR  
SOCIETY’S MOST MARGINALISED  
GROUPS.

Bangladesh continues to expand its power generation capacity through mega-power projects, such as the Matarbari project discussed below. At least 29 coal-fired power projects are currently either in the construction or pre-construction phase. Without strong human rights and environmental safeguards and redress mechanisms, instances of human rights violations connected to these large-scale projects will continue to grow.



## 2.1 THE MATARBARI COAL-FIRED POWER PLANT

People are forcibly evicted from their land to make way for a new power plant. Community mobilisation leads to some compensation and regaining of jobs.

### FACTS & FIGURES

- **Number of people affected:** 90,000
- **Impact:** destruction of villages, loss of livelihoods, pollution
- **Type of company and sector:** Government-owned power company financed by development bank
- **Strategy applied:** community mobilization, direct engagement with companies, partnerships with other (international) NGOs
- **Current status:** ongoing, some rights violations were addressed, some compensation awarded and some jobs regained; the communities continue to advocate for full compensation for damages suffered.

### WHAT HAPPENED AND WHY?

The small offshore island of Matarbari was, until 2012, rather untouched by modern development. With just 27km<sup>2</sup> of land, 10km<sup>2</sup> of water and 4km<sup>2</sup> of forest, this densely populated island is home to roughly 100,000 people.

Then Matarbari was identified by the Bangladeshi government as a critical hub for economic development. Over the past nine years, foreign companies have arrived in ever-greater numbers. In 2012, community members first heard rumours of plans for a coal-fired power plant. However, when two initial scoping meetings between the government-owned Coal Power Generation Company Bangladesh Limited and the investor, the Japan International Cooperation Agency (JICA), were held in 2012 and 2013, the local community was not told about them.

In 2013, with no official announcement, JICA started conducting a partisan Environmental Impact Assessment for the Matarbari Ultra-Super Critical Coal Power Plant project. A year later, JICA also conducted a project feasibility study. With assessments still pending, the power plant was approved by the Executive Committee of the Bangladeshi National Economic Council on August 12, 2014. Project implementation was planned between July 2014 and June 2024, at a total cost of more than €4 billion. Political leaders and government officials frequently

visited Matarbari and assured people that the community would benefit from the project.

In 2014, the Coal Power Generation Company forcibly acquired 1,608 acres of land to start building. They also later acquired an additional 1,212 acres for another coal-fired power plant. There are now plans, under phase 2, for three more coal-fired power plants, as well as a new economic zone. A coal jetty would also be developed into a deep seaport, along with a transmission line, a connecting road and a township for staff.

### IMPACT ON THE COMMUNITY

Many people in Matarbari have been affected, directly or indirectly, by the large-scale forced land acquisition by the Coal Power Generation Company.

- In total 2,820 acres of land, crucial to local communities for salt production, fish and shrimp farming, were acquired. As a result, more than 20,000 landowners, salt, shrimp, fish and crab farmers, traders and labourers lost their income.
- Forty-five families were physically evicted, to this date living in temporary and rented houses.
- Housing, access to clean water, health facilities, education and food have all been compromised.
- People have been forced to migrate away, looking for new ways to sustain themselves and their families.
- Reports suggest that gender-based violence has been increasing, mostly due to disagreements on how to best overcome the situation.
- The fracture of the domestic fabric has also led to an increase in unpaid care work for women, further reducing their already limited socio-economic abilities.
- Several pregnant women have been suffering from a lack of nutrition and maternity-related medical treatment.

Significantly, most of the families who suffered forced evictions have yet to see any compensation for the damages suffered. According to Bangladeshi law, titleholders eligible for compensation are required to go to the district Land Acquisition Office to collect their money. This means people in Matarbari paying around BDT1,000 (€11) per journey, plus accommodation for up to five days. The few who have managed to get reparation had to wait years, and often ended up receiving only 50% of the total amount.

In addition to the serious social consequences, the project has been the cause of great environmental damage. It is worth noting that Matarbari is an area already subject to often extensive monsoon flooding.

- Between 2016 and 2018 the area flooded on three separate occasions, the last one severely. This flooding was caused by sediment from the power plants blocking the drainage system and silting the Kohelia river. Eight sluice gates and the central canal used for water drainage have been clogged by construction works. Twenty-



two out of 31 villages were inundated, affecting more than 10,000 people.

- At least two children drowned, and two infants died during childbirth due to the absence of medical facilities.
- The environmental damage resulted in an overall impoverishment and displacement of at least 300 families. One woman reported: “We don’t even have a place to bury our dead.”

- According to a government report, 1,100 toilets and 700 mud houses have been either completely or partly obliterated.<sup>2</sup>
- The floods also heavily disrupted the road network. The lack of effective transport links and loss of local production had serious impacts on the price of food.
- Schools and clinics closed.
- Homes were flooded and latrines started to overflow into stagnant water around the villages, compromising health.
- Livestock and poultry drowned or contracted waterborne diseases.

### STRATEGY AND RESULTS

Since 2017 CSOs have been working on land and human rights while giving significant support to inform, organise and mobilise the community so they can defend themselves from corporate human rights violations. Community-based organisations have organised workshops, meetings, campaigns, consultations and training on land property, environment and human rights issues.

- As a result, the community started forming their own Community Land Rights Groups. More than 1,200 community members organised themselves into 34 groups, led by women and with women’s participation of more than 70%.
- Community Land Rights Groups and human rights defenders also formed a People’s Safeguard Committee, aimed at safeguarding people’s land, social and environmental rights. These groups have taken several actions to claim their rights, including organising several issue-based human chains, courtyard meetings, roadblocks by displaced people, memorandums to the water development board, a seminar with government and non-government actors and press conferences.
- At the same time, national, regional and international organisations started raising their voices. One ally, the Japan Center for Sustainable Environment and Society, collected evidence in Matarbari and raised the issues with both JICA and the Japanese government. CSOs also engaged, nationally and internationally, with mass media, who started to extensively cover the situation in Matarbari.
- Following the advocacy provided by the Japan Center for Sustainable Environment and Society, in September 2018 JICA requested a meeting. Here, CSOs highlighted data detailing the suffering endured by the people of

Matarbari. Subsequently, a high-level JICA team visited the island and met with the affected community and local government. The community submitted a six-point demand note to JICA.

- As a result, both JICA and the Coal Power Generation Company have taken action to resolve community suffering. These commitments were however deemed insufficient by the community, who felt frustrated and affronted.
- In April 2019, JICA and the Coal Power Generation Company organised another consultation in Matarbari, where the community submitted a further seven-point demand note. While both organisations vowed to do better towards the community, implementation of their commitments was poor.
- In September 2019, JICA and the Coal Power Generation Company organised a third community consultation. The community, discouraged by the inaction, submitted a new 15-point demand. At the same time, Japan Center for Sustainable Environment and Society kept meeting JICA in Japan, consistently providing and updating them with evidence from the ground.
- As a result, 14 houses and compensation of BDT\$3,000 (€33) were handed over to some of the 45 displaced families. The remaining families, as of December 2019, have yet to receive compensation.
- In addition, 1,128 individuals who lost their livelihoods have been promised compensation of BDT\$280,000 (€3,020) each. Of these, 620 have received it.
- Landowners have been repaid for their loss, with 400 out of 2,100 compensated BDT\$220,000 (€2,405). Importantly, the Coal Power Generation Company has reviewed land value for more than 800 landowners (out of 1,608). Their compensation has now increased up to three times compared to the original sum. Of these 800, 300 have received the money.
- The local government and administration provided emergency support, such as food, to 430 affected individuals during the 2019 flood.
- Much-needed sources of income have now been assured to some community members. 42 families can now rely on employment opportunities within the project, and more than 1,200 individuals are now employed by the construction companies involved.
- There has been an attempt to restore the environment for the benefit of the community. Two pipelines to manage water flow have been installed. The Japanese contractor has repaired the main road to Matarbari, which was damaged by heavy vehicles. Additional construction works for an alternative road have also started, while free transport between Matarbari and Dholghat is being provided.
- In January 2019, the Coal Power Generation Company banned the community from producing salt in 1,200 acres of unused land, which had been acquired for another coal power plant. The community has been lobbying to use the area for their economic activities until project works started. At last, in February the company has opened the land for salt farming and shrimp production.

# TIMELINE

**2014**

**August-December**

The Coal Power Generation Company acquires land for the **Matarbari Ultra-Super Critical Coal Power Plant** project. The community organises a protest rally.

**2018**

**January**

The community raises their issues during the PM's inaugural **videoconference**. The company revises the compensation price of grabbed land.

**2018**

**May-October**

**Floods** affect 10,000 people and 22 villages in Matarbari. Group

**2018**  
**August**

The company pays for a **pipeline** for water drainage.

**2019**  
**April**

Human rights defenders and CSOs form a **People's Observation Committee** to monitor the project.

**2019**

**December**

The company organises a **compensation fair** to provide a one-stop service to affected people, but it is not successful.

**2015**  
**January**

The project is approved as a **Fast-Track Project**, falling under direct supervision of the Prime Minister.

**2018**  
**February**

The Japanese ambassador to Bangladesh visits Matarbari. **Local human rights defenders** and journalists highlight the issues. Residents form the CBO *Amra Matarbarir Sontan* (We Are the Sons of Matarbari).

**2018**  
**July**

ActionAid conducts a **joint needs assessment** on water logging.

**2019**  
**January**

The company forces the community to stop using the land needed for the **Kohelia Ultra Super Critical Coal-Fired Power Plant**.

**2019**  
**September**

The company hands over **rehabilitated houses** to 10 displaced families.



**HER  
STORY**



WHAT CAN WE DO TO SURVIVE IF WE CANNOT  
PROTECT THE FUTURE OF OUR CHILDREN?

... is the question Honufa Kahtun\*, 25, asked of representatives of JICA and the Coal Power Generation Company during the community consultation meeting in April 2019. She and her family were evicted in 2014. Before the eviction, they sustained themselves using their own vegetable garden as well as her husband's salt farming.

Following eviction, she has been living in a rented mud house close to the main gate of the power plant, together with her husband and children. During this period, in which they were heavily affected by the floods, she gave birth to two children. Honufa and her family have struggled for shelter, employment, food, water and healthcare. Thanks to Fair, Green and Global Alliance-funded training, Honufa became more aware of her rights and was chosen as a leader of a Community Land Rights Group. Since then, she has been the leading organiser of several protests and roadblocks.

\*not her real name

# LESSONS LEARNED

The case in Matarbari informs us on how best we can overcome human rights violations. Two central strategic elements have led to its success. One is the great power of a mobilised community. What we saw in Matarbari is that, despite the shrinking civic space, affected communities can organise, resist and bring tangible change. The other is the importance of building capacity at an international level. The alliance with the Japanese NGO, Japan Center for Sustainable Environment, was key to our success as it enabled us to influence public opinion in Japan. Moreover, direct engagement with the companies involved has proved almost always fruitful and as such, the Fair, Green and Global programme will keep on building pressure through mutual engagement.

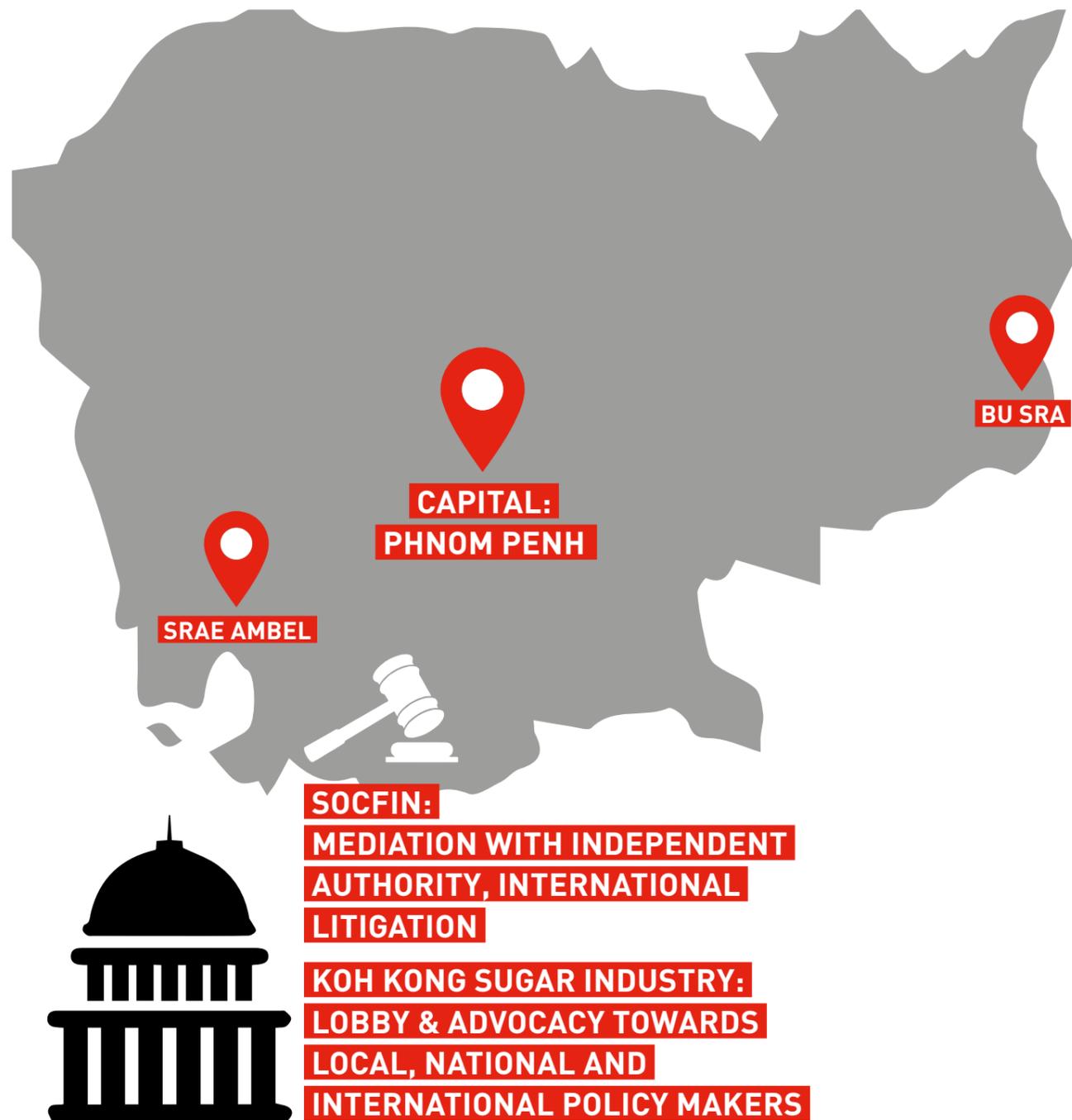
The resolution process has been made even more difficult by the poor quality of engagements with the companies involved. When, for instance, JICA and the Coal Power Generation Company created a grievance redress committee, they failed to include any community members.

While the case is still ongoing, we see that following the Fair, Green and Global Alliance's intervention, community livelihoods have improved. Most people affected by the land grab and project construction have received or are due to receive compensation. Some who lost their source of income can now rely on employment within the project. Steps have been taken to avoid future floods, which previously caused a traumatic situation for Matarbari residents.

Despite the improvements, the future construction of the Kohelia Ultra Super Critical Coal-Fired Power Plant poses additional risks to the community and more still needs to be done. A report by Greenpeace estimates that pollution caused by the power plant might cause the premature deaths of more than 14,000 people within 30 years.<sup>3</sup> The extent of the project suggests that the livelihoods and health of local people, as well as biodiversity and the environmental integrity of the area, run a great risk of being further compromised.

# CAMBODIA

The systematic violation of land rights is one of the most prevalent human rights issues in modern Cambodia. In 2019 alone, out of 176 public gatherings recorded as a part of the Cambodian Center on Human Rights' Fundamental Freedoms Monitoring Project, 52% were related to land rights: protests concerned illegal land grabs, forced evictions, the judicial harassment of land rights activists and petitioning the government to resolve disputes.



One factor driving this trend is the government's practice of allowing very large areas of land to be leased for commercial interests through the granting of Economic Land Concessions, in a bid to foster rapid economic development.<sup>4</sup> In this way, approximately two million hectares of land have been granted to foreign and domestic companies – and to the political elite – for industrial/agricultural activities.<sup>5</sup> This reallocation of land, along with insecurity of land tenure due to a lack of formal titles and land laws, and the now-halted EU Everything but Arms agreement, has resulted in a wave of land grabs and forced evictions. At least 5% of Cambodia's total land area is subject to a land conflict, or has been in the last four years, and 223 land disputes have been reported in the public domain since 2007.<sup>6</sup> Women are particularly vulnerable to the land grabs, due to their lack of formal land titles.<sup>7</sup>

Cambodia has also witnessed a severe curtailment of civic space and a general deterioration in respect for human rights, as part of the government's drive to consolidate power. Leading up to the July 2018 elections, the government implemented a wide political crackdown where many independent media outlets were closed, civil society organisations faced increased harassment and numerous restrictive laws were passed seeking to limit civic space and public participation. The chilling effects of this crackdown have continued to this day, and civic space in Cambodia has not yet recovered. Fundamental freedoms of individuals and associations are frequently encroached upon and regularly result in judicial action or harassment for human rights defenders, community representatives and activists. Incidents of intimidation and harassment of CSOs are common.

In this context, the Cambodian Center for Human Rights, in partnership with ActionAid, has been working to strengthen the capacity of CSOs and victims of land rights abuses to hold the private sector and local authorities to account. The following case studies unfold in this context, and both concern the impact of Economic Land Concessions on small rural communities in Cambodia.



**AT LEAST 5% OF CAMBODIA'S TOTAL  
LAND AREA IS SUBJECT TO A LAND  
CONFLICT.**



### 3.1 SOCFIN RUBBER COMPANY

More than 800 families are forcibly evicted and have their homes destroyed. The community embarks on an international litigation strategy in order to access justice.

#### FACTS & FIGURES

- **Number of people affected:** 800+ families
- **Impact:** loss of land, food production and income, police threats
- **Type of company/sector:** rubber company, manufacturing sector
- **Strategy applied:** community capacity-strengthening, direct engagement with companies, direct engagement with local, national and international policymakers, international litigation
- **Current status:** ongoing

#### WHAT HAPPENED AND WHY?

In 2008 the rubber company Socfin-KCD, at the time a joint venture between the Cambodian Khaou Chuly Development Co and Luxembourg-registered Socfinasia,<sup>9</sup> obtained an Economic Land Concession from the government of 2,386 hectares in Bu Sra Commune for rubber tree plantations and production of other industrial crops, for a period of 70 years. Soon afterwards, the company started to clear the land to make room for the rubber plantations.

More than 800 families from six villages, many of them from the Pu Nong indigenous community, had traditionally been using this land for farming and harvesting forest produce. They were now forcibly evicted and had their properties destroyed with no prior notice. When the families protested these human rights violations, many faced threats from both the company and the authorities. Despite corporate social responsibility promises since relayed by the company, the situation remains stagnant. Twelve years after the land grab, hundreds of families are still waiting for resolution.

#### IMPACT ON THE COMMUNITY

The land grab by Socfin-KCD has had many impacts on communities' land rights, economic rights, access to clean water, women's care burden and gender-based violence.

- Community members lost their livelihoods, as they relied on the forest for sustenance, to earn an income, to graze animals and to source medicines. One community member reported that before the company's arrival,

the community was self-sufficient. Since being displaced, community members are unable to practice traditional farming and had to find alternate forms of income, as they were no longer able to grow enough to sustain themselves.

- This was exacerbated by the deforestation carried out by the rubber plantations, which caused fluctuations in weather that strongly affected crop yields.
- Women were impacted severely by the loss of land as they were the primary users, due to the fact they are disproportionately held responsible for growing and preparing food.
- An increase in tension within households has led to an increase in domestic violence.
- Pollution of the local streams means community members could no longer fish, drink from or bathe in the water.
- Communities suffered health issues such as headaches, difficulty breathing and pregnancy-related issues, which they believe to be related to the pollution and strong smell emulated by the company's activities.
- Women have been at the forefront of addressing the human rights violations by the company. However, due to existing gender inequality and patriarchal norms in Cambodia, it is not acceptable for women to speak out, and as a result they have been subject to increased gender-based violence.

#### STRATEGY AND RESULTS

The Cambodian Center for Human Rights, in partnership with ActionAid, has supported communities affected by the Socfin-KCD land grab through mutual capacity development on lobbying and advocacy, legal support and the facilitation of advocacy towards (international) policymakers, the media and general public. Different strategies were followed to reach a resolution for those affected, namely: mediation with the company, advocacy towards local, national and international policymakers, and an international litigation strategy to secure access to justice for the communities. Through the Cambodian Center for Human Rights, ActionAid has been able to provide support to the community to engage directly with the government and corporate actors to advocate for their land rights on an ongoing basis.

- The Fair, Green and Global Alliance has funded the Cambodian Center for Human Rights' work on business and human rights in Cambodia. The Center conducted 'training of trainers' events where community representatives and partner organisations could be supported in their advocacy efforts. After having trained community leaders, the Center facilitated their forward training with community members.
- They also produced several FM radio talk shows with community representatives to reach a wider audience and influence Cambodian public opinion.
- Working with communities, the Center has documented the land rights situation and completed research projects and media monitoring, launching publications and factsheets on land rights abuses and communities' stories.



## HER STORY



- Twelve years after the rights violations, hundreds of families are still awaiting justice. Due to continued pressure, some successes have mitigated some of the worst impacts. Socfin-KCD has started to mitigate some of the environmental impacts. The company has built two lagoons adjacent to their factory through which their water waste is processed with a natural filtering system. This water has not been released back into local streams. Socfin-KCD conducts water-testing every six months and receives regular audits from the local authorities and ministries to verify compliance against national environmental laws.
- After the community complained about the adverse health impacts to the local administrative office, the complaint was taken up with the company.
- As a result of this targeted advocacy strategy, in November 2016 the Independent Mediation Organization began a mediation process, in which nearly 100 individuals participated. As a result of this targeted advocacy strategy, in November 2016 the Independent Mediation Organization<sup>10</sup> began a mediation process, in which nearly 100 individuals participate through representatives elected by their community. In 2019, the community reported a lack of transparency in the with regard to the process and raised concerns on its excessive length. Socfin-KCD reports that the delay is due to the situation's complexity, as the mediation must deal with competing claims, demarcation of land and recognition of ownership. When the provincial authorities were interviewed, they stated the dispute was already resolved prior to mediation.
- In addition to the mediation, in 2015, 51 plaintiffs filed a civil liability lawsuit in France against Socfin-KCD shareholders, the French Bolloré Group and Compagnie du Cambodge. The applicants are requesting the return of their land, as well as €65,000 in compensation for material and moral damages.<sup>11</sup> There are presently 97 plaintiffs. The first hearing was conducted on 1 October 2019, and nine villagers travelled to France to attend.
- Five applicants who travelled to France were interviewed by the Cambodian Center for Human Rights, and when asked if they felt hopeful of securing a just remedy through the French courts, they noted every effort in Cambodia had been futile. Interviewees expressed confidence in the French courts and consistently referred to its independence. Explaining they lacked faith in the domestic judicial system, they described the process of the hearing, and highlighted the stark differences to court proceedings in Cambodia. The community was surprised media could attend, that the prosecutor and defence were given equal time for submissions, and that they felt welcome. These elements gave them confidence in a better outcome, and the litigation was clearly important to them.

**Srong Prou, 44, has lived in Lames Village since 1992. She is a farmer and a traditional music teacher, from the Pu Nong indigenous tribe.**

The sole provider for her family, Srong Prou used to grow rice on her land and was able to produce 60-70 sacks per year. On her current land, nestled between the Dakac (a Vietnamese Rubber Plantation Company) and Socfin-KCD rubber plantations, she can now only produce 10 sacks a year – the economic impact of which has been immense for her family. Similarly, before the dispute she owned 20 cows; since losing her land she has nowhere to graze them and can no longer keep livestock.

Srong Prou lost her land when Socfin-KCD began clearing land for the rubber plantation in 2008. She decided to join other community members to protest. As a result, she was charged with destroying company property and provoking a fight, and summoned to appear in court in February 2009, and again in August 2017 – eight years after the fact. Despite her continued harassment by the authorities, Srong Prou continues to be active in the fight for her land and feels she has no choice – “my activism is from my heart.”



**WE HAVEN'T JUST LOST OUR LAND, WE LOST SO MUCH MORE. OUR CHILDREN'S EDUCATION AND OUR CHILDREN'S FUTURE.**

# TIMELINE

**2008**

**April**

Socfin-KCD rubber company begins to clear land near Bu Sra, prior to undertaking any **Environmental Impact Assessment** and without the participation of affected villagers. Villagers sign a contract, however, many report being unable to read it as it was not in the local indigenous language and they report being coerced to sign.

**2015**

**July**

51 plaintiffs file a **civil liability lawsuit** in France against two major Socfin-KCD shareholders regarding human rights violations and environmental damage.

**2016**

**November**

A **mediation process** is conducted by the Independent Mediation Organization, supported by the UN High Commissioner for Human Rights Cambodia. Approximately 100 individuals participate through elected representatives.

**2019**

**May**

Information gathered by the **Cambodian Center for Human Rights** shows that individuals participating in the mediation process are not being kept properly informed by representatives, who fear breaching the mediation's confidentiality agreement. Many people are left in the dark about the process.

**2009-2012**

Socfin-KCD reports they have reached agreement with all families for **compensation**, including options for keeping their original land, relocations, family plantations and financial compensation. The company also reaches an agreement with the community regarding protecting sacred forests and lands.

**2019**

**January**

Several community members plan to travel to France to **attend the hearing**, however their visas are denied by the French embassy.<sup>8</sup> The hearing is rescheduled to 1 October as a result of the absence of some plaintiffs.

**2019**

**October**

Nine plaintiffs attend a procedural **hearing in Paris** on 1 October.



### 3.2 KOH KONG SUGAR INDUSTRY LIMITED

175 Cambodian families are violently removed from their land under gunfire after a land grab by sugarcane plantations. They are finally awarded financial compensation and reclaim their land.

#### FACTS & FIGURES

- **Number of people affected:** 2,000 families
- **Impact:** loss of land, means of sustenance and livelihoods, police violence towards community members
- **Type of company/sector:** sugarcane company, agro-industrial sector
- **Strategy applied:** community capacity-strengthening, direct engagement with companies, direct engagement with local, national and international policymakers
- **Current status:** almost resolved (promised infrastructure is still missing) for the 175 families supported by the Fair, Green and Global Alliance, while the remaining ones are still seeking a resolution.

#### WHAT HAPPENED AND WHY?

In 2006, the Thai and Taiwanese co-owned companies Koh Kong Plantation Company and Koh Kong Sugar Industry Company were awarded two Economic Land Concessions in Koh Kong province by the Cambodian government. Immediately, the two companies started clearing land to make room for a sugarcane factory and plantations. The fact that 2,000 families across six communes were already living on this land was not considered. In fact, communities were only given notice of the land deal and subsequent clearing of the land a few days before by the company and the authorities. They were violently removed from the land under gunfire, leaving one person permanently disabled after being shot and their properties destroyed. Fifteen years later, the Everything But Arms<sup>14</sup> trade deal between the EU and Cambodia, which enabled the land concessions, has been put on hold. The sugarcane plantations and factory have been abandoned and the land lies unused, with many families still having no hope of a resolution. The dispute resolution process initiated after the land grab was paved with obstacles. The Cambodian Center for Human Rights, ActionAid's partner in Cambodia, has supported 175 families in their struggle for justice.



#### IMPACT ON THE COMMUNITY

- The loss of land has significantly affected the community. Land is incredibly important to the families, as it is both their home and source of income. As community representative Phav Nhieng recognised, "land equals income in Cambodia".
- People lost not only their property and possessions, they also lost their ability to farm, grow crops, raise animals and sell produce.
- The dispute resolution process, having taken over a decade, has greatly affected people's lives. The continuous travel to the capital Phnom Penh, where the relevant government ministries are based, has been a major disruption, impacting on people's ability to earn an income, as well as their children's lives and education.
- The community has faced significant reprisals for speaking out, which they cite as being one of their largest challenges. Phav Nhieng, for example, has experienced heavy police surveillance and is currently the subject of a defamation lawsuit. Another community member, Chet Bun, has been detained since August 2019 for 'environmental offences', with no update reported.

#### STRATEGY AND RESULTS

The Cambodian Center for Human Rights has supported communities affected by the land grabs by exchanging knowledge on lobby and advocacy and facilitating their engagement with national and international policymakers, media and wider public. To assure resolution, the Cambodian Center for Human Rights and ActionAid have implemented several strategies with the communities: lobby and advocacy efforts directed towards government and policymakers, and engagement with government's ministries and departments as well as international actors, such as the EU Ambassador to Cambodia. To assure resolution, the Cambodian Center for Human Rights and ActionAid have implemented several strategies together with the communities: lobby and advocacy efforts directed towards government and policymakers, and engagement with government's ministries and departments as well as international actors, such as the EU Ambassador to Cambodia.

- After the initial land clearing, the community did not protest because they were afraid. However, when other community groups spoke out in defense of their lands, the community became inspired to claim their land back. So, in 2014 and 2015, the 175 families supported by the Cambodian Center for Human Rights submitted many petitions and complaints to local, district and provincial authorities. After receiving little response from the authorities, the families travelled to Phnom Penh to protest and defend their rights.
- In August 2016, the community submitted petitions to the Ministries of Land Management, Urban Planning and Construction, Environment, Agriculture and Interior, the National Assembly, the Prime Minister's Cabinet, and the EU Ambassador for Cambodia.
- They travelled to Phnom Penh in late 2016 and January 2017 to follow up.



- No solutions were offered by the decision-makers addressed, so the community embarked on daily advocacy towards these actors, for many months in Phnom Penh.
- Finally, after a meeting between the families, a senator, representatives from the companies and relevant officials from the different ministries, under supervision of the EU Ambassador and civil society on 20 March 2018 the families accepted an offer of three hectares of compensation land and financial compensation of USD\$2,500 each.<sup>14</sup> The government also pledged to improve the infrastructure in the area.

Whilst the families are grateful for the compensation, they do not feel it is just, as many received far less than what they lost. Some families report having had up to 10 hectares of land, and they had to fight for three. The government has not improved infrastructure in the area as promised. The compensation land the community received is isolated without sealed roads, is far from the main road, and lacks electricity, drainage systems, a local school and medical centre.

Many more communities in the area are affected by land grabbing by the same companies. This includes 200 families from Chi Kha Leu Commune. These families are currently in the process of seeking redress from British company Tate & Lyle, a purchaser of the sugar from the plantations. In March 2018, they received land compensation of 1.5 hectares but no monetary compensation. Another 1,825 families are in varying stages of the resolution process and have yet to receive compensation. Although the 175 families supported by the Center for Human Rights and the Fair, Green and Global programme do not consider their compensation fair, other communities have demanded the same remedy, and have not received any resolution. Although the 175 families supported by the Cambodian Center for Human Rights and the Fair, Green and Global programme do not consider their compensation fair, other communities have demanded the same remedy, and have not received any resolution. The community credits this resolution to the commitment and solidarity of the families throughout the dispute.

# TIMELINE

**2006**  
August

The Cambodian government grants **two Economic Land Concessions** of 10,000 hectares to Koh Kong Plantation Company and 9,700 hectares to Koh Kong Sugar Industry Company. The companies begin clearing the land in Srae Ambel district.<sup>13</sup>

**2014**

The community mobilises and 175 families elect **Phav Nhieng** (see case study) as their community representative.

**2017**  
January

Community members travel to **Phnom Penh** for three months to advocate for a resolution.

**2018**  
March

Community members travel to Phnom Penh again to protest the lack of resolution and enter negotiations with the Ministry of Land Management, Urban Planning and Construction, and others. The Ministry of Land Management announces a resolution had been reached between the parties, offering **three hectares of land and US\$2500 in compensation** to the 175 families, who directly receive the money.

**2006-2010**

Communities begin **protesting** and **advocating** to local authorities for their land.

**2016**  
August

The 175-family community group **submit petitions** to the government and the EU Ambassador.

**April 2019**

The 175 families receive the three hectares of land each. Local infrastructure, promised by the government, is still not built including electricity, drainage systems, schools and healthcare. The **community continues to advocate** for this.



## HER STORY



**Phav Nhieng, 44, has lived in Srae Ambel district since 1995. Ms. Nhieng was elected as community representative for the 175-family group in 2014 because of her active role in protesting since the initial land clearing, such as the protest she led in 2007 saving three of six community houses from demolition.<sup>16</sup> Ms. Nhieng has taken on writing petitions, complaints, following up on the resolution process and planning protests. She explains this role has changed her life, as she went from being an ordinary community member to an activist and human rights defender.**

Ms. Nhieng reports feeling unsafe as she faces constant intimidation from the authorities, and fears what will happen in the future. In August 2019, a permanent police post was placed in front of her house for constant surveillance. Charges were filed against her in January 2020 covering defamation, insult and incitement, and as a result she was summoned to court on 17 March 2020. Hundreds of supporters from affected communities showed up to support her at her hearing.

Having not received a response to the land complaint at the national level, Ms. Nhieng led protests in Phnom Penh demanding a resolution, one of which lasted over three months. When they were called for a meeting to negotiate a resolution, she negotiated three hectares of land instead of the originally proposed 1.5 hectares, and US\$2,500 per family as compensation. Ms. Nhieng is proud of her achievements for her community, and the near completion of the dispute resolution process.

# LESSONS LEARNED

**ActionAid understands that community solidarity and a commitment to working together is fundamental for the successful resolution of land complaints. The communities in both land disputes outlined above worked together through countless petitions, complaints and resolution processes, and this solidarity has been key to their success.**

**D**espite the centrality of community solidarity, the journey towards resolution was slowed by some setbacks, including a lack of commitment from the authorities and companies involved. The government has been systematically slow in fulfilling promises, such as improving infrastructure in the case of Koh Kong.

Our strategy of upholding principled, open engagement and developing relationships with companies who are receptive to having dialogue with the affected communities has been valuable and must be maintained. This allows us to accurately complete research, advocate directly to companies, and monitor their engagement with the dispute resolution processes.

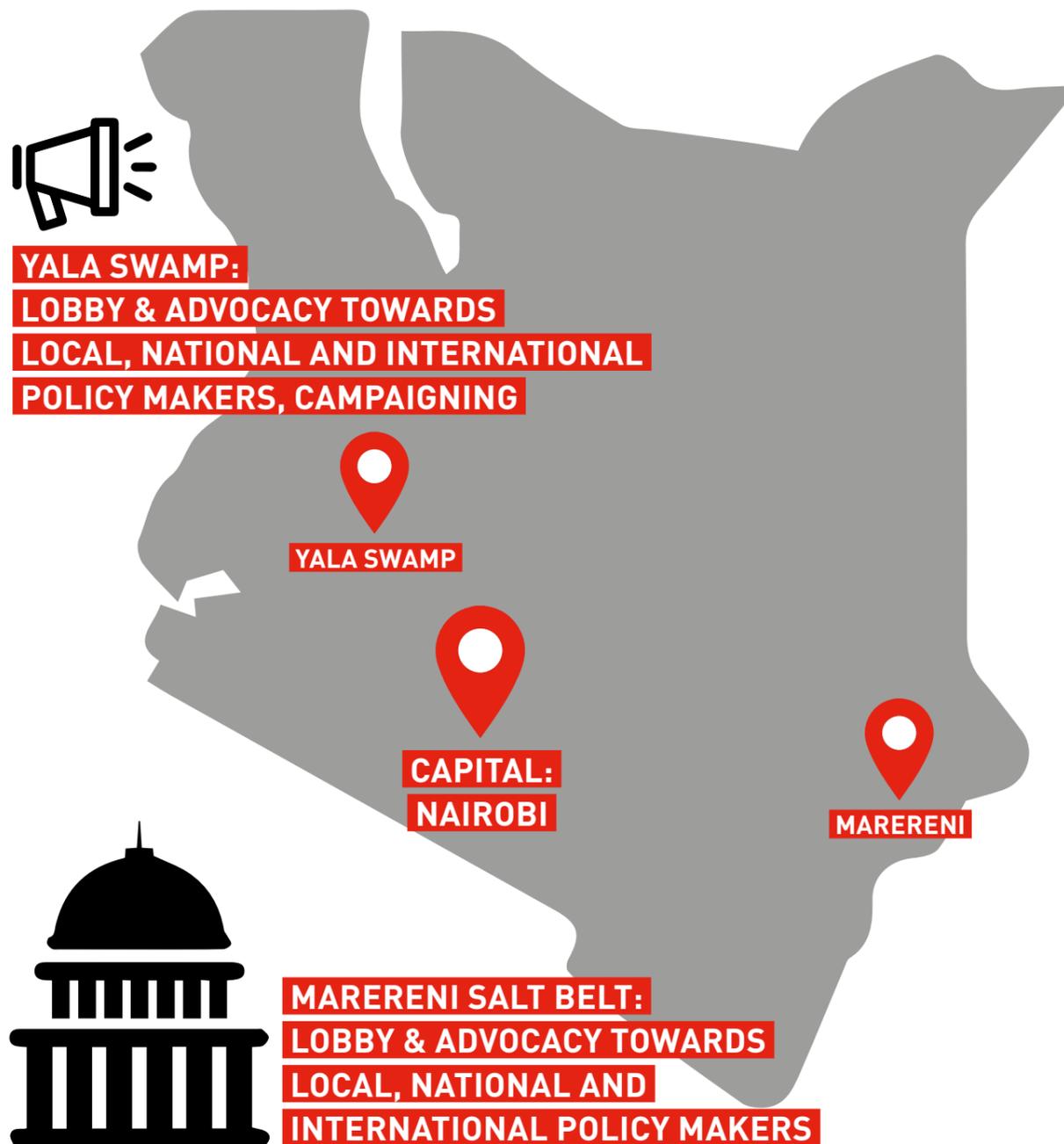
There is also a lack of transparency regarding company ownership. In the case of the sugar plantation, not one of the provincial, district or local authorities interviewed in March 2020 could identify the current owners, making resolution increasingly difficult. At the same time, government ministries are not transparent in handling land disputes, and do not provide information or updates to communities on the process.

The government's granting of Economic Land Concessions has also been problematic, giving rise to many of the land disputes ActionAid sees today. Government and companies alike must work with communities to reach a resolution prior to a land dispute occurring, respect their rights to the lands they live on, and follow through on promised solutions. The government must be transparent about the process of when and how they allocate land and grant Economic Land Concessions.

We have seen that scrutiny of the behaviour of businesses internationally and locally has a significant impact. In the Koh Kong case study, the two sugar companies were subject to significant criticism for their human rights violations and received many calls to reach a resolution with communities and cease and prevent human rights violations.<sup>17</sup> Locals were quick to associate the companies with 'blood sugar', and the companies have not financially benefited from their sugarcane operation and lost a significant amount of capital. This serves as a crucial reminder that there are very real commercial consequences from operating without respect for human rights, or following the UN Guiding Principles on Business and Human Rights.

# KENYA

Almost 65% of Kenyan land is customarily owned by communities as trust land, recognised by the Kenyan constitution, while 20% is publicly owned and about 6% privately owned.<sup>18</sup> Land remains a fundamental resource for most people, who rely on it for survival. In recent years, however, economic expansion has made community land more susceptible to grabbing by corporates, politically connected individuals and government. While women traditionally rely on the land for their care and domestic work, they officially own only 1% of the total registered land, making the brunt of forced evictions disproportionately hard on them.<sup>19</sup>



Kenya's development discourse has been partly based on free trade and investment and industrialised agriculture growth. This has resulted in an intensified scramble for land between national and international investors. While a progressive Community Land Law – requiring extensive consultation with communities prior to its adoption – was passed in 2016, implementation started last year with a few counties as pilots. It was expected that community land would be protected after this regulation passed but implementation is lacking. Private interests, in for example agriculture, are continually prioritised over much-needed public investment. Corporate violations of rights remain pervasive all over the country, aided by unsecured land rights and political corruption in land administration.

Under the Fair, Green and Global programme, ActionAid in Kenya has identified community and women's land rights and corporate accountability as two key issues. To achieve local development that is fair and green, ActionAid has been working on strategies that strengthen civil society to uphold people's socio-economic rights, such as the right to land, water, food and a clean, healthy environment. As such, over the course of the last five years, ActionAid has highlighted critical violations conducted by corporates and their effects on local communities, and on women, while successfully supporting people in their struggle for justice.



WHILE WOMEN TRADITIONALLY RELY ON THE LAND FOR THEIR CARE AND DOMESTIC WORK, THEY OFFICIALLY OWN ONLY 1% OF THE TOTAL REGISTERED LAND, MAKING THE BRUNT OF FORCED EVICTIONS DISPROPORTIONALLY HARD ON THEM.



## 4.1 THE MARERENI SALT BELT

Communities in Marereni are forced from their land and suffer environmental destruction. They successfully lobby the Kenyan government to hold salt mining companies to account

### FACTS & FIGURES

- **Number affected:** 4,500+ families
- **Impact:** loss of land, livestock and livelihoods, forced evictions, environmental degradation, increased women's care and domestic work
- **Type of company/sector:** salt harvesting, agro-industrial sector
- **Strategy applied:** community capacity-strengthening, engagement with local and national policymakers, public petitions, collaboration with government agencies, public litigation case
- **Current status:** ongoing

### WHAT HAPPENED AND WHY?

Salt mining companies started acquiring land in Marereni in the 1980s, with the lion's share of activities starting in the 1990s. The result was in a large increase in businesses that harvest and produce salt, used locally for domestic, farm and industrial use. Six companies are currently operating in what has become known as the Marereni Salt Belt, an area of nearly 10,412 hectares sitting in Kilifi county. Here, the impacts of large-scale salt mining have affected more than 4,500 households.

After numerous advocacy campaigns by the community, in 2006 a public inquiry conducted by the Kenya National Commission on Human Rights noted that the post-colonial administration committed a grave injustice towards the community when it decided to give the land to salt manufacturers without due process.<sup>20</sup> The lease, they reported, had left local people with no arable land, the main resource needed for sustenance. The inquiry found that the administration at the time failed to fairly compensate affected communities. The lease was unlawful because it failed to acknowledge the local community's de facto ownership over the land they had been using for several generations and ignored customary land rights.

The area in question used to be extremely fertile. A publication by the Kenyan CSO *Muungano wa Wanavijiji* reports that the area was under the rule of a wealthy kingdom during the 15th century. The local economy was driven by agriculture and trade. People could rely on a range of diverse agricultural produce (both fruits and vegetables) and cattle. Importantly, just before the 1980s, communities' livelihoods were still relying on this fertile land. Agriculture, fishing, livestock keeping, and the timber trade were critical activities that allowed communities to flourish.

When the company Malindi Salt established itself in the region in 1982, the community, mostly farmers, timber sellers and fishers, saw a chance for further employment and therefore welcomed the arrival of the investors. Moreover, the salt companies promised they would limit their activity to a swampy, unused area, which was perceived as a relief for communities intermittently suffering from diseases associated with this stagnant water. These promises, however, were not met.

### IMPACT ON THE COMMUNITY

*Bahadzana* – life was better off yesterday than today – is a Giriama term often used by local people to describe their day-to-day lives. It underlines that, even linguistically, local communities have long lamented the struggle caused by the salt mining operations on their land.

Mining activities expanded quickly beyond the unused swamp land the companies initially promised to use. Companies forced people to leave under the pretence that the land belonged to others, not the communities. Kensalt, for instance, which started operations in 1995, evicted the surrounding communities in less than three months, offering little compensation and causing widespread suffering. Those who opposed and resisted forced evictions were met with the destruction of their houses.

- As mangrove trees were cut down, water polluted and public roads to the beach closed, the establishment of the salt mining companies dramatically decreased communities' ability to make use of the land, either to graze or farm on it.
- Over the years communities have faced evictions, environment-related illnesses and work exploitation. Community crops and water were rendered unusable due to the high amount of salt water in the ground.



- Women are disproportionately affected by salt pollution in the water. Fetching water, which is often done by women, has been made more difficult by the amount of salt present in previously uncontaminated wells. Women are either forced to walk longer distances or buy water at exorbitant prices. As a result, they have less time available to fulfil other responsibilities such as unpaid care work, let alone to pursue economic activities, which has left them unable to improve on their socio-

economic situation.

- The situation has been equally dire for children, as poverty in the area worsened due to the violations by the salt companies. In the late 1990s and mid 2000s, local schools slowly became ghost buildings since children were forced to drop out and look for casual employment in the salt business, in a bid to support their families' shrinking income.

### STRATEGY AND RESULTS

Despite the worryingly shrinking civic space, ActionAid has been working closely with affected communities to create greater consciousness on their socio-economic rights. Mutual capacity development, in a bid to enable people to secure and defend their rights, has been the lead strategy.

The community approached ActionAid for support in defending their rights against the land grab and other adverse socio-environmental impacts by the salt companies. ActionAid Kenya facilitated training and land-related lobby and advocacy strategies, as well as the mobilisation of other affected networks. This led to the creation of valuable, bottom-up advocacy plans, sensitive to the communities' needs, which are still being used today by community activists.

More and more community members organised and joined the mobilisation. People came together and organised themselves in various community-based organisations, such as the KAKIMUU Farmers' Association and women-led initiative MMUKADO. All these different movements and groups formed the grassroots movement 'Malindi Rights' Forum', ActionAid Kenya's local partner.

The Forum, supported by ActionAid, implemented advocacy strategies and embarked on several campaigns to highlight the human rights abuses suffered by the community. For instance, the Kenya National Commission on Human Rights' intervention in 2006 was the result of both ActionAid and the Forum's political pressure. Part of the advocacy strategy relies on official engagement with local and national authorities to address the rights violations happening in Marereni. In 2013, for example, ActionAid facilitated a dialogue between local and

county authorities and the communities. A committee was formed to investigate boundary verifications of the land. The committee found that the salt companies had illegally encroached on land that belonged to the communities, rivers had been diverted or blocked and several public roads blocked. As a result, the committee recommended that all land extensions be converted back to the community, land ownership in the area be re-established, all land leased to the salt companies and not in use reverted back to the community for agricultural use, and public roads re-opened.

In 2016, ActionAid drafted a petition to the county government that resulted in the government addressing some of the issues caused by the salt mining companies. The County Assembly allocated KES\$1.5million (€12,890) to the National Land Commission to undertake an audit to review if the grants and disposal of the leases offered by the government were abused by the salt companies. This resulted in the reopening of certain roads, and acres of land still not developed by the salt companies were returned to the communities. A great success was that further expansion of salt mining activities was halted.

Strong collaboration with independent government agencies was also key. In 2017, for instance, ActionAid asked the Malindi Water and Sewerage Company to conduct water testing in 10 different wells. It found that eight of them were deemed unfit for human use as they had chemical levels above WHO standards. These findings have been used by the community to forward an official complaint to the County Executive Committee Member for Water and Environment in Kilifi county. This, in turn, forced the salt companies to provide much-needed alternative sources of water.

In 2018, ActionAid involved the National Environment Management Authority and asked them to introduce an exclusive liability principle in investment agreements, to hold corporates fully responsible for any pollution or damage arising from their operations. This resulted in the suspension of operations, together with a fine, for one salt company that had cut down mangroves. The company was forced to comply in restoring the environment before operations could resume.

Throughout 2019, the Malindi Rights' Forum has been working on a public interest litigation case in collaboration with the legal advice centre Kituo Cha Sheria, ActionAid Kenya, American Jewish World Services and Urgent Action Fund. Preliminary actions have been completed including scientific investigation of human rights violations in partnership with Kenyatta University, with a petition to the court due this year.

# TIMELINE

## Pre-1980s

The area now known as the 'Salt Belt' is fertile land providing sustenance to all surrounding communities.

## 1975-1984

Kensalt, Malindi Salt and Krystalline arrive in the area.

## 2013

With the support from ActionAid, the community's demands reach the Speaker at the County Assembly. A committee is formed, and 89 acres of land are subsequently returned.

## 2017

Independent water-testing suggests that eight out of 10 wells are unfit for human use due to chemical levels exceeding WHO recommendations.

## 2018

A scientific study on human rights and environmental violations is carried out by ActionAid and partners, led by researchers from Kenyatta University.

## 1980s

Salt mining starts to attract investors. Six different salt harvesting companies are allocated land to operate in the area.

## 2006

The Kenya National Commission on Human Rights states that local communities' ownership over the land had been usurped without fair compensation.

## 2016

A petition is sent to the county government. Afterwards closed roads are reopened, undeveloped land returned to the communities and further expansion of salt mining is put on hold.

## 2018

ActionAid and the community petitioned the National Environment Management Authority, one company is suspended and fined. Operations later resume after the company repairs the environmental damage.

## 2019

ActionAid Kenya and partners start working on a public interest litigation case.



## HER STORY



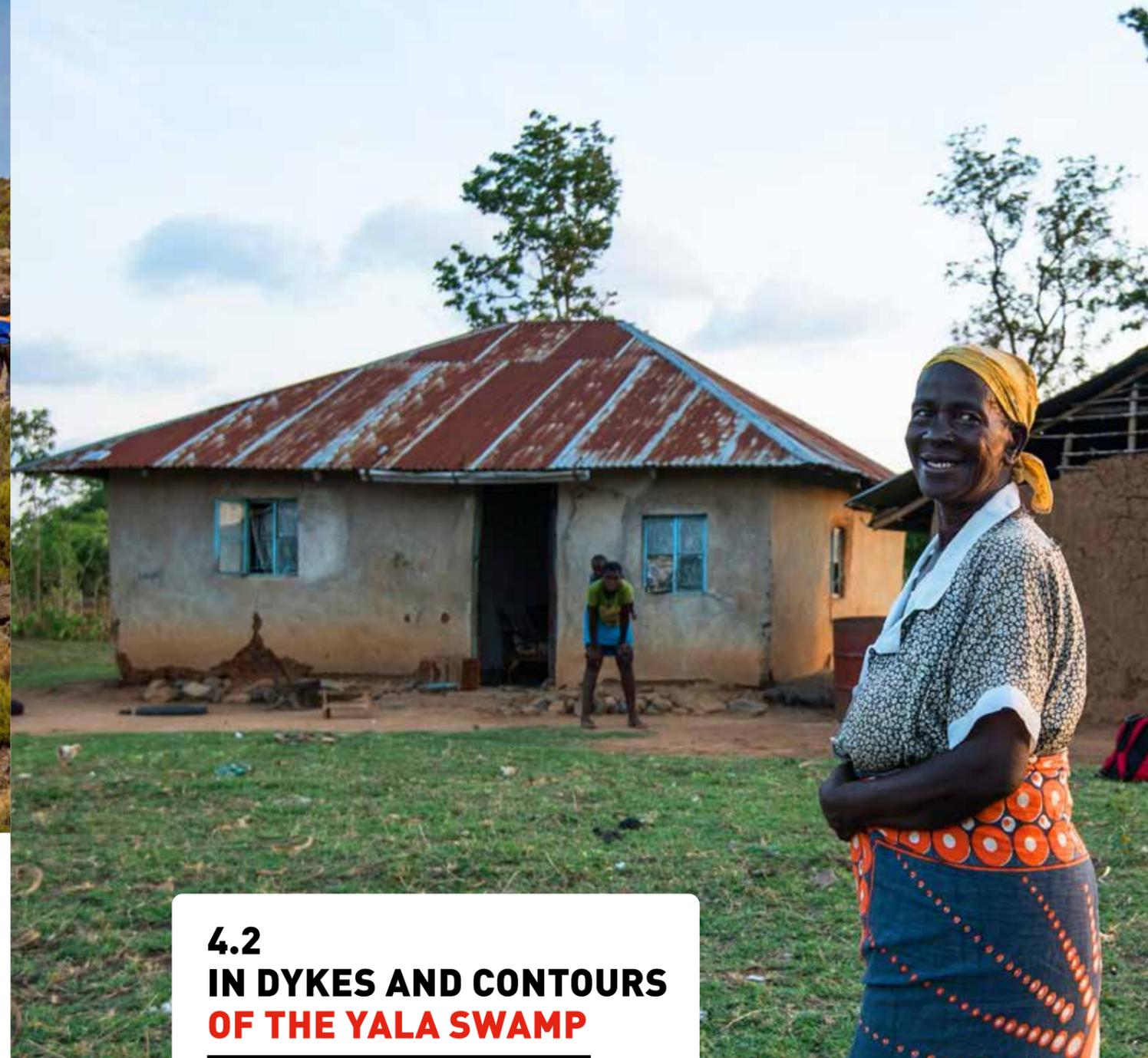
Margaret Luganje, 45, lived with her husband in Bunda Saga village in the Marereni Salt Belt. At the time, the village was thriving with farming activities, which sustained the entire community.



**MARGARET WAS ONE OF THE MANY WOMEN THAT, BECAME A LOCAL ACTIVIST. AFTER TRAINING FROM ACTIONAID, MARGARET SOON BECAME ABLE TO MOBILISE WOMEN WITHOUT FEAR.**

Margaret recalled how, in 1995, the local chief announced that a company owned by Kenyans of Indian origin was claiming back part of the land and the villagers would soon have to move. She also recalls the collective trauma lived by the entire community. Elderly women and children were most affected, as everyone was left with little compensation and no resources or accommodation.

Margaret was one of the many women that, became a local activist. After training from ActionAid, Margaret soon became able to mobilise women without fear. With other community members, she founded the women led MMUKADO, a community self-help group that aimed to verify land ownership and apply for title deeds. When the National Environment Management Authority came to conduct an environmental and social impact assessment for the expansion of Kurawa Salt company, Margaret took charge of the assignment in her area together with other women. She says proudly: "The final Environment Authority report had our footprints". Key amongst the resolutions was no expansion before resettlement and adequate compensation.



## 4.2 IN DYKES AND CONTOURS OF THE YALA SWAMP

Communities successfully stand up against human rights violations by an American rice company and force its disengagement to safeguard the Yala swamp, a valuable eco-system.

### FACTS & FIGURES

- **Number affected:** 1000 people
- **Impact:** loss of land, livestock and livelihoods, forced evictions, environmental degradation, increased women's care and domestic work
- **Type of company/sector:** rice company, agro-industrial sector
- **Strategy applied:** community capacity strengthening, media engagement, using international platforms, engagement with company management and political figures, public petitions, public litigation case, community exchange
- **Current status:** ongoing, land to be registered as community land



### WHAT HAPPENED AND WHY?

In western Kenya lies the Yala swamp, a wetland region of over 200km<sup>2</sup> covering the northeast shore of Lake Victoria. Its unique eco-system sustains both the surrounding environment<sup>21</sup> and the wider community, whose livelihoods depend on it.

Given its highly fertile soil, the British colonial government had already tried to invest in Yala swamp during the 1950s, but environmentalist campaigners managed to halt the operation. The swamp continued to be the main source for fish, grazing and animal water sources and farmlands for many communities until 2004. In 2003, an American-owned rice company, Dominion Farms, was granted a 45-year lease for 2,833 hectares of land, to grow rice and sugarcane on a large scale. Communities were not consulted and did not give their consent for the deal to go ahead.

However, at first communities had good expectations of the arrival Dominion Farms; besides creating more jobs locally, it was believed that the investment would have a ripple effect and stimulate the growth of the local economy.

### IMPACT ON THE COMMUNITY

That optimism would not last long.

Over the years Dominion Farms extended its operations, fencing off more land than it leased. An additional 3,200 hectares used by the community were illegally occupied by the company. The land around Yala swamp, previously considered community land, soon became private, with no access for local people.<sup>22</sup>

- Physical barriers prevented people accessing the water, farmland, grazing and fishing zones that they used to sustain themselves before the arrival of the company. The fencing, illegally installed by Dominion Farms, also restrained local movement and interaction between communities was cut off.
- The company installed a weir that caused several instances of flooding. As a result, substantial acres of land were rendered unusable, severely affecting communities' food security and causing malnutrition. Women were severely affected, as they were the ones cultivating the land and thus lost their income and livelihoods.
- Women were also disproportionately affected by floods sweeping away Aduwa market, a pivotal trading centre, primarily used by local women. By losing the market, they lost their ability to trade, which left them without income. Some women who plaited mats from reeds could no longer access the raw materials they needed, as the water level became too high to wade into.
- Some children were forced to drop out of school, as families could no longer afford their school fees.
- Communities experienced detrimental effects to their health from water-borne diseases after the floods and other



activities by the company, such as the large-scale use of farming chemicals. Livestock was affected as they grazed pastures surrounding the swamp, unwittingly ingesting chemical-heavy grass.

- A small compensation of KES\$45,000 (€387) per hectare was offered by the company to a few inhabitants whose land and homes became submerged by the floods. As communities at the time were not aware of their legal and land rights, many accepted the inadequate compensation and were unable to seek further legal action against the company. Those who did not accept the compensation at the time have to this day not seen any fairer offer, despite their livelihoods being destroyed.

### STRATEGY AND RESULTS

Community leaders approached ActionAid to support their fight. In doing so ActionAid Kenya was the first non-state actor to boldly challenge the company. The advocacy strategy was to raise public awareness about the extent of the injustice happening in Yala swamp. Using the media, the issues were uncovered in the public domain through radio talk shows, interviews and printed articles. This was also needed to counter the narrative spread by Dominion Farms. This, in turn, led to a greater engagement of other social justice actors in the area.

- Together with local partners, ActionAid invested in strengthening the capacity of the communities to understand their rights under Kenyan law and to voice their concerns about the rights violations on various platforms. Given the specific and differentiated impacts women had encountered, women took a forefront role.
- One of the most successful platforms was the Mount Kilimanjaro Rural Women mobilisation, where rural women from all over Africa climbed the Kilimanjaro claiming land rights and ownership, as well as demanding participation in public decision-making and accountability from national and international policymakers. Here, the community saw a chance to demand corporate accountability and responsible investment from Dominion Farms.
- Other platforms included petitioning political leaders, joint meetings with Dominion Farms' management, use of the courts through public interest litigations, and peer-to-peer learning with other communities and demonstrations.
- This pressure contributed to Dominion Farms stopping its operations entirely. When leaving, they mentioned 'unfavourable conditions to invest in the area'.<sup>23</sup>
- The Gazette Notice of 1 March 2019 reported that the governmental Committee on Historical Land Injustices had granted the community its claim over the Yala swamp. Effectively, this means people can register their land under the 2016 Community Land Act. ActionAid in Kenya continues to support the local community in the registration process.

# TIMELINE

**1954**

Colonial government of Kenya assigns **Alexander Gibb** and partners to investigate the potential of reclaiming the Yala swamp wetlands.

**1965-1970**

The request is granted. The **UN special fund** and the FAO implement reclamation of 2,300 hectares.

**1979-1982**

Mehta Group International carries out a **feasibility study** for Area 2.

**2016**

The **Kilimanjaro Rural Women's mass assembly** takes place.

**2019**

**March**  
The **Committee on Historical Land Injustices** grants the community claim over the Yala swamp.

**1963**

Government requests UN assistance to **execute the recommendations** of the Commission Report to reclaim Yala swamp.

**1972**

Ministry of Agriculture commissions **ILACO** (Dutch Consulting Firm) to investigate **possible development options** of the Yala swamp.

**2003**

**Dominion Farms** is granted 2,833 hectares of central land in the Yala swamp.

**2018**

**Dominion Farms** exits the area.



## HER STORY



**Gladys Adhiambo Oking, 43, is one of the women who took part in the Kilimanjaro campaign. When Gladys saw herself and her fellow women lose the source of their livelihoods due to Dominion Farms' expansion, she decided to become a women's rights champion.**

At first, she tried to engage with the company's director asking for a dyke, but this, she recalls, was not fruitful. As she started to actively speak out, the community around her lent their support. With ActionAid and its partner SCODA's support, Gladys has become a community facilitator on women's rights, land rights and public participation. She is the champion of the rural women land rights charter and takes lead to see that women and widows are not disinherited. Currently, she is leading community campaigns towards registering the swamp as community land.



**GLADYS IS THE CHAMPION OF THE RURAL WOMEN LAND RIGHTS CHARTER AND TAKES LEAD TO SEE THAT WOMEN AND WIDOWS ARE NOT DISINHERITED.**

# LESSONS LEARNED

**Our work with people affected by corporate abuse, such as those in Marereni and Yala, constantly shows us the importance of women and their communities standing up for their rights. When women obtain the necessary tools, they can achieve incredible results for themselves and their communities. As women remain the group most affected by corporate abuse, ActionAid believes justice can only be achieved together with respect for women's rights and the full realisation of gender equality.**

In Kenya, within the community, the role of paralegals is also paramount to successful lobby and advocacy strategies, as their local and national judicial knowledge makes them valuable social justice actors. The two cases highlighted above show the importance of linking testing and scientific research to advocacy work. In this sense, women's advocacy was corroborated by scientific tests made on local water resources. These results proved that most were highly contaminated, which showed the extent to which corporate abuse was taking place. In turn, this was essential to making our voices more convincing and our rights defence strategy more grounded.

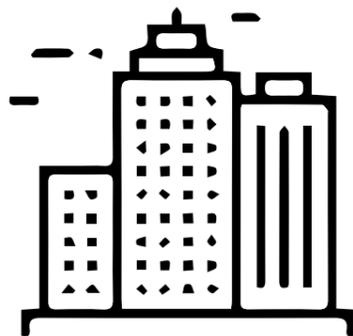
Moreover, ActionAid in Kenya realised that fighting corporate abuse requires constant follow-ups and consistency. In this regard, our partner Malindi Rights' Forum has been highly supportive, especially in cases where the intersection between land and women's rights has been central.

In the future, should talks with investors and government prove futile, ActionAid in Kenya will seek judicial action as an option from the very start. ActionAid will make sure the agreements stipulated between corporates and local officials remain accessible, transparent and, if necessary, contestable. Furthermore, in the case of agri-businesses, ActionAid will compel them to share ahead their plans in terms of chemical usage. This will assure third-party checks whenever dangerous chemicals might be used.

ActionAid in Kenya continues to lobby so that all the women in our land have equal access to land ownership.

# MOZAMBIQUE

Land remains one of the most important natural resources in Mozambique, where more than three quarters of the population live in rural areas. **Around 24% of Mozambique's GDP is attributable to the agriculture sector<sup>24</sup>, where women make up a sizeable portion of unskilled workers.<sup>25</sup>**



**MOZAMBIQUE BIOFUEL INVESTMENT:  
LOBBY & ADVOCACY TOWARDS LOCAL  
AUTHORITIES, DIALOGUE WITH  
COMPANY, PROTEST**

**F**avourable conditions, such as an abundance of natural resources and good climatic conditions, make Mozambique an attractive destination for foreign investors, especially those interested in agriculture and minerals. In the early 2000s, Mozambique became one of the top targeted African countries for FDI. Despite its wealth of natural resources and steady stream of revenue flowing into the country, Mozambique remains one of the poorest countries in Africa. On paper Mozambique has a strong regulatory policy framework to regulate land ownership. However, as the national economy is highly dependent on foreign investments, the government has been reluctant to enforce these laws and has let corruption thrive unchecked.

In Mozambique, civic space remains highly constrained. Political corruption is widespread in the country's political class. This makes it easier for corporates to access land unfettered, while being shielded by corrupt politicians. Moreover, NGOs as well as human right defenders are often targeted by the authorities, who actively try to restrain their work. Despite this, ActionAid in Mozambique stands in solidarity with affected communities, while providing training and workshops to women smallholder farmers on agroecology and trade.



**DESPITE ITS WEALTH OF NATURAL RESOURCES  
AND STEADY STREAM OF REVENUE FLOWING INTO  
THE COUNTRY, MOZAMBIQUE REMAINS ONE OF  
THE POOREST COUNTRIES IN AFRICA.**



## 5.1 MOZAMBIQUE BIOFUEL INVESTMENT

Smallholder farmers from Malopa finally recover their land after 12 years.

### FACTS & FIGURES

- **Number affected:** 1,590 families (7,950 people)
- **Impact:** loss of land, labour and livelihoods, work exploitation
- **Type of company/sector:** food production, agro-industrial sector
- **Strategy applied:** women's capacity-strengthening, engagement with company management, engagement with local authorities
- **Current status:** closed

### WHAT HAPPENED AND WHY?

Malopa is a small village of 1,590 houses in Mocuba district. As in many small villages in Mozambique, agriculture and land work are the main sources of income and food security for most families. In Malopa, there are 12 smallholder farmer associations specialising in different crops such as vegetables, cereals and cassava, together covering a total area of 50 hectares.

In 2007 the Mocuba government allocated South African-owned company Mozambique Biofuel Investment the same land these farmer associations use, in order to produce corn and cassava to brew alcoholic beverages.

In Mozambique the law requires community leaders to consult fellow citizens when leasing out communal land.<sup>26</sup> In particular, Free, Prior and Informed Consent from the community is required in order to allow companies to make use of the land. This means that communities have to be consulted in a timely manner prior to the land deal, they have to be informed about possible (negative) impacts of the project, and they must be made to feel like they can say no to the investment, without coercion.

In Malopa, Mozambique Biofuel Investment proceeded with the acquisition without permission from the community. Soon afterwards farmers were barred from using their own fertile land, with an immediate impact on food security. ActionAid has supported the community in addressing the violations of this company.

## TIMELINE

**2007**

South African-owned company **Mozambique Biofuel Investments** is allocated fertile Nadala land in Malopa by the district government.

**2016**

ActionAid's partner CODESA starts **training community** leaders on strategies to fight corporate land grabbing.

**2018**

After sustained pressure, **Mozambique Biofuel Investments** promises to provide quality seeds, **build boreholes**, build a health facility and install electricity in the community.

**2019**

**November** The company agrees to **return 12 hectares of land**, provide seeds and assistance, and reinvest 20% of its profits into the community.



### IMPACT ON THE COMMUNITY

- As residents were no longer able to farm the land to sustain and support themselves, they had little choice but to work for the biofuel company. However, labour conditions at the plantation were dire, with employees physically and psychologically mistreated by management.
- The company burnt houses in surrounding villages, citing assets being vandalised and produce stolen from the fields as the reason.
- The arrival of the company also had an impact on local infrastructure, as critical roads were closed. The community now lacks space for building much-needed classrooms for their children.
- Women were the most affected as they are the largest number in the communities, more vulnerable and depend mostly on farming as a source of income. For the women of Malopa, losing their land meant losing their livelihoods.

### STRATEGY AND RESULTS

In 2016 ActionAid, with its partner CODESA, started training community members on the law and policies relating to land, as well as land and investment laws and the principle of Free, Informed and Prior Consent, in order to enable the community to defend their rights against the company. Through several workshops, communities developed the skills and instruments to address their longstanding concerns with the company, and to effectively negotiate with the management of Mozambique Biofuel Investment.

In the early stages, ActionAid applied a strategy of corporate engagement and attempted to include Mozambique Biofuel Investment in the wider discussions with the community, in order to reach a joint, effective solution. The company was reluctant to address any of the issues, remained unresponsive and did not show up for several meetings.

Therefore, a next step was to engage decision-makers. ActionAid facilitated meetings between the community and the district government and engaged with local officials such as the District Director of Agriculture, in order to pressure the company's management to meet the community's demands. These included access to fertile

land for farming and compensation for community natural resource exploitation by the company – as stated in Mozambican natural resources law, 20% of profits must be returned to community development. Next to a social responsibility by building classrooms for the kids and a health facility where women may deliver babies.

- In 2018, these efforts eventually resulted in Mozambique Biofuel Investment agreeing to meet with community leaders. They also committed to some community demands, such as quality seeds, boreholes for clean water, a health facility and infrastructure for electricity. However, these commitments have not yet been carried out.
- The community once again advocated for their needs with the district authorities to make Mozambique Biofuel Investment more accountable. Representatives of the women smallholder associations played a pivotal role in this engagement, by employing the knowledge they had gained from the training. They publicly protested about the company, stating their fears that, unless Mozambique Biofuel Investment started to comply with the law, they would soon force the women to leave their land.
- Finally, in November 2019, following several advocacy meetings, Mozambique Biofuel Investment decided to return 12 hectares of land to the community. An agreement was reached whereby the company promised to help the community with the cultivation of the land by providing technical expertise and quality seeds. In the signed agreement, the company also accepted its social responsibility towards the community by pledging to re-invest 20% of yearly profits in community development.



**HER  
STORY**



**Helena Joaquim Cipriano, 39, is a farmer from Malopa. Together with the women of the Olima Obola association, she cultivates an area of one hectare, in which they produce various vegetables, boer-beans and sesame. Her work allows her to provide her eight children and herself with nutritional security. But when Mozambique Biofuel Investment started its operations in Malopa, she and her family lost their land as well as their livelihood.**

Helena learned about land law as well as family law. This knowledge allowed her to quickly become an important community activist. She started to mobilise her friends as well as her neighbours. Helena's help was crucial in making Mozambique Biofuel Investment accountable and responsive. Today, she remains a leader in the fight against corporate land-grabbing and violence against women.

**“  
HELENA'S HELP  
WAS CRUCIAL IN  
MAKING  
MOZAMBIQUE  
BIOFUEL  
INVESTMENT  
ACCOUNTABLE AND  
RESPONSIVE.**

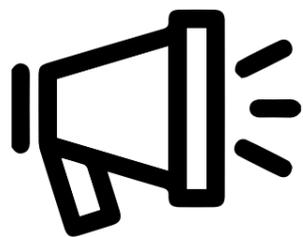
# LESSONS LEARNED

**Corporate accountability advocacy processes often take a long time. It took 12 years for the community to recover even some of the land that was lost to Mozambique Biofuel Investment. By strengthening the community's capacity on laws and policies, and how these can be effectively used to defend human rights, the community was supported to lobby and advocate Mozambique Biofuel Investment to improve their accountability on human rights.**

**W**hen the company refused to engage, the community knew to change strategies and engage with local authorities, which was key to getting some of the issues resolved and improved relations between the community and the company. Consequently, a key lesson learned is that communities and their organizations should be flexible in order to adapt quickly to a changing context and change strategies accordingly. In this case, trying to engage with the company first before addressing policymakers improved relations with the company in the long term. ActionAid in Mozambique continues to work with the community.

# NETHERLANDS

Despite being a small country, the Netherlands has an impressive trade record, with Dutch companies operating all over the world. Its lenient tax regime also attracts businesses from all over the world to settle in the Netherlands. This strong international economic presence means that the global footprint of the Netherlands, through its production and consumption, is large.



**FEMINIST BINDING TREATY:  
LOBBY & ADVOCACY TOWARDS  
NATIONAL AND INTERNATIONAL  
POLICYMAKERS, CAMPAIGNING**



**ACTIONAID NETHERLANDS WORKS IN THE NETHERLANDS THROUGH LOBBY, ADVOCACY AND CAMPAIGNS TO MAKE SURE THAT DUTCH POLICIES, WHETHER THAT BE CLIMATE, TRADE, FINANCIAL, ECONOMIC, ENERGY OR AGRICULTURE, DO NOT HAVE ANY NEGATIVE IMPACTS ON COMMUNITIES WORLDWIDE.**

The Netherlands, for example, is one of the biggest importers of minerals in Europe – and the extraction of these minerals can have tremendous negative impacts on people and the environment in production countries. Similarly, Dutch emissions of greenhouse gases per capita are high in comparison with larger European countries.<sup>27</sup> Despite some efforts by the Dutch government to increase awareness about human rights standards amongst internationally operating businesses, the percentage of Dutch companies that take human rights and the environment into account in their worldwide business operations remains low.<sup>28</sup> As a result, several Dutch companies have been linked to stark human rights violations in supply chains, ranging from land grabbing to pollution to labour rights violations.<sup>29</sup> As previous chapters have shown, these rights violations have far reaching implications on people’s – especially women’s – lives, and the sustainable development of their countries.<sup>30</sup>

Similarly, the lenient Dutch tax system has consequences for the realisation of human rights and the promotion of gender equality for many people and communities around the world. Its status as a tax haven, now officially recognised by the European Union, facilitates multinationals in dodging tax in the places where they operate. In Zambia and Uganda for example, this means that tax revenue that is supposed to strengthen government income ends up in the pockets of already rich corporations. As a result, less government spending is available for the welfare of the general population and essential public services such as healthcare and education. Women bear the brunt of this, as in many contexts they are still disproportionately held responsible for care work, for example collecting water, preparing food and taking care of children, the sick and the elderly. When public services are inadequate or simply non-existent, this care work increases, leaving women less time for other activities, such as an education or formal paid work.

ActionAid Netherlands, as well as supporting the work of our colleagues and communities around the world, works in the Netherlands through lobby, advocacy and campaigns to make sure that Dutch policies, whether that be climate, trade, financial, economic, energy or agriculture, do not have any negative impacts on communities worldwide. During the last 10 years of implementing the Fair, Green and Global programme, ActionAid Netherlands has lobbied and embarked on campaigns to address flaws in the international financial and economic system, working with and influencing the Dutch government to improve the lives of women through policy coherence.



## 6.1 FEMINISTS UNITE!



The international campaign, supported by ActionAid, for a feminist UN binding treaty that protects women's rights against corporate abuse.

### FACTS & FIGURES

- **Strategy applied:** alliance building, knowledge exchange, lobby and advocacy at a national and international level, campaigning
- **Current status:** ongoing, governments are currently negotiating for the second draft version of the binding
- **Instrument:** the first draft showed promising developments when it comes to women's rights and gender

### WHAT HAPPENED AND WHY?

Since the 1970s corporations have gained more and more influence, becoming major global actors. The increasing complexity of global supply chains, coupled with the might of these multinationals, makes it challenging for national authorities to regulate internationally operating corporations. This is a problem because in many contexts business operations are accompanied by families being displaced from their land, communities suffering pollution and environmental damage. Many communities who have risen up against these violations have been met with violence and are to this day waiting for justice. Tragedies such as the Rana Plaza collapse in 2013, where 1,138 mainly female garment workers lost their lives, and the BP oil spill in the Gulf of Mexico in 2010, which caused long-lasting human harm and environmental damage, show the need to prevent such human rights violations by corporations and realise access to justice for the victims.

It is in this context that movements in South Africa and Ecuador, tired of standing powerless in the face of foreign companies exploiting their natural resources and suffering under business activities such as mining, started calling on the international community to come up with a multilateral solution to this problem. In 2012, diplomatic representatives of South Africa and Ecuador submitted a joint statement to the United Nations Human Rights Council calling for a legally binding instrument on transnational corporations. The resolution to elaborate on this binding instrument passed during the 26<sup>th</sup> session of the Council in 2014, and since then annual negotiations have been held between governments.

Working with communities affected by the adverse impacts of business activities in Africa, Asia and Latin America, it became apparent to ActionAid and its partners that these violations are far from gender neutral. Women are overrepresented in the most insecure, low paid, volatile sectors such as textiles and agriculture, experiencing serious barriers to obtaining decent work. In many contexts, women are held responsible for most care work, such as collecting water and care for children, sick and the elderly. This means that when this work increases due to the pollution of air, land and water, women bear the brunt. Similarly, women encounter social, economic, cultural and judicial barriers to justice, and face gender-based and sexual violence when standing up for and claiming their rights. The need for a solution that considers the differentiated impacts of these rights violations on women became apparent.

Therefore in 2018, ActionAid joined the Feminist for Binding Treaty coalition, an informal coalition of feminist and women's rights organisations from all over the world advocating for a structural inclusion of women's rights and gender in this UN binding instrument. Through research, drafting policy recommendations, mutual capacity development and targeted advocacy the coalition aims to make sure women are not left behind in the establishment and implementation of this binding instrument.

### STRATEGY AND RESULTS

ActionAid as a global federation is well-positioned to influence such an international process. Working with communities worldwide and having partners everywhere means that intelligence is gathered quickly, and that pressure can be applied to various actors, from national governments to regional bodies to different civil society networks and academics.

Since 2018 ActionAid has worked with the Feminist 4 Binding Treaty coalition to make sure that feminist demands to the treaty text are included, as well as to make sure diverse voices are heard at the negotiations. Every year since then ActionAid has supported women human rights defenders to take part in the negotiations to make sure the instrument will be effective for those to whom it matters most.

The advocacy of the coalition is starting to bear fruit: whereas the first draft text of the treaty was gender-blind, the subsequent draft acknowledges the need to prevent and address differentiated impacts on women, and this is reflected in some treaty articles. For example, the article on 'rights of victims' calls for access to justice and



remedy that includes “appropriate protective and support services that ensure substantive gender equality and equal and fair access to justice”.

In general, more and more governments are attending the negotiations and taking an active role. In 2019 some government delegations, for example from France, Spain, Cuba and Namibia, actively advocated for including a gender perspective in the treaty. This was a success compared to previous years, where it was mostly academics and civil society advocating for including women's rights.

Prior to 2019 ActionAid Netherlands focused on a strategy of lobby and advocacy aimed at Dutch policymakers to motivate the Netherlands and the EU to take part in the negotiations. As a strong ally when it comes to women's rights and gender equality, the Netherlands could play an influential role in supporting feminist demands during the negotiations. However, the Netherlands will only take part in the negotiations as a part of the EU. Negotiating as an individual member state, whilst also having to adhere to the rules of the internalised market, is not seen as effective by the Dutch government. Yet to date the European Union still has to officially take part in the annual negotiations. This means that, although they are present in the room during the negotiations, they are solely observing the process and not contributing to the improvement of the draft treaty text.

As the world's largest trading block, home to the world's largest multinationals, the EU could make a real difference at the negotiations. Despite many European Parliament resolutions, European institutions speaking out in favour and 847,000 European citizens calling on the EU to engage with the treaty, prior to 2019 the political process was at a standstill with no real hope of European engagement in the negotiations.

Thus in 2019, ActionAid decided to supplement its political strategy with a campaign aimed at the Dutch public and decision-makers, to raise awareness of the need for an international instrument that addresses women's rights violations in global supply chains. ActionAid Netherlands believed that by influencing the Dutch government to advocate for the importance of the treaty with other member states and the European Commission, it would be possible to move the position of the European Union. As part of the campaign, called 'Feminists Unite!', we organised stunts in front of the Dutch parliament, facilitated dialogue between women human rights defenders from the Global South and Dutch policymakers, enabled strategy meetings between Dutch and Global South

movements addressing corporate abuse, targeted media and collected 2,000 signatures on a petition calling for a 'feminist binding treaty'.

In the same year, ActionAid Netherlands started seeing the results of its engagement. The number of allies in parliament advocating for an ambitious Dutch engagement with the UN treaty process expanded and a strong partnership with the Dutch Ministry of Foreign Affairs was created, exchanging information and recommendations. As a result, Dutch engagement with the UN treaty process became more tangible. The government still could not join the negotiations in Geneva, but it advocated in Brussels for EU participation in its bilateral conversations with the Commission and member states. The Dutch government also published its appreciation of the first draft of the binding instrument, being one of the first European member states to do so, offering civil society actors a clear insight into the legal analysis and strategy of the European Union.

It is still unclear whether the European Union will take part in negotiations for the UN treaty in October 2020. However, clear momentum for implementing binding supply chain legislation for European corporations is increasing. During the 2019 negotiations, France was the only European member state who had implemented regulations (*Loi du vigilance*) obliging corporations to prevent and mitigate human rights violations in their supply chains. In recent months, more and more European member states have announced or are researching options to implement similar regulations. In February 2020, the European Commission announced its intention to establish Europe-wide mandatory due diligence legislation, in order to prevent human rights violations in supply chains worldwide. This is a great success for civil society organisations, unions, human rights defenders and affected communities who have been advocating for this for years. The UN treaty would be complementary to respective national and regional legislations and enable governments to harmonise standards at the international level, grant more legal certainty and a level playing field to corporations, and prevent human rights violations worldwide. ActionAid continues to advocate at the different levels to include women's rights and gender.

# TIMELINE

**2011**

The **UN Guiding Principles on Business and Human Rights** are unanimously adopted by the UN Human Rights Council (UNHRC).

**June 2014**

The UNHRC adopts the resolution drafted by Ecuador and South Africa to elaborate a **binding instrument** on transnational corporations.

**2018**

ActionAid Netherlands joins the **Feminists for Binding Treaty coalition**. Third round of negotiations between governments.

**2018**

**October**

Fourth round of negotiations between governments. ActionAid colleagues and partners from **Zimbabwe, Guatemala, Zambia and Bangladesh** join the negotiations to advocate for the feminist demands.

**2019**

**June**

The Chair of the Working Group publishes the **first revised draft of the UN treaty**, a clear improvement is seen on women's rights and gender.

**2012**

Ecuador and South Africa present a **joint statement** to the UNHRC.

**2015**

First round of **negotiations** between governments.

**2018**

**July**

The **first draft** is published by the chair of the Working Group.

**2019**

**March**

ActionAid Netherlands launches the **Feminists Unite! Campaign**.

**2019**

**October**

ActionAid organises the **Feminists Unite!** speaker tour, with travel to Geneva to take part in the binding treaty negotiations and advocate for the feminist demands. The Netherlands adopts **mandatory due diligence legislation** to oblige corporations to prevent child labour in their supply chains.



**THEIR  
STORY**



One of the main aims of the Feminists Unite! speaker tour ActionAid organised in October 2019 was to bring activists from the Global North and the Global South together, to exchange experiences and strategies and foster international solidarity.

Thus Juvience, a woman human rights defender from Zambia, travelled to Groningen, northeast Netherlands, together with ActionAid and other activists to meet the *Groninger Bodem Beweging*, a grassroots movement. One of the leaders of the movement, Trudy, 67, lived in Groningen for many years. After working hard all her life, she planned to sell her farm and travel the world. Unfortunately, her property, like others in the area, has been rendered virtually worthless. Gas drilling activities had caused earthquakes, damaging homes and other infrastructure. When talking with Juvience, the two women discovered great similarities in their experiences, despite being on opposite sides of the world.

Juvience lives in the Zambian copper belt, a mineral-rich area where many foreign-owned companies are mining for copper. Similarly, in Zambia, the mining activities caused vibrations that destroyed local infrastructure. Both in Groningen and Zambia, authorities did not listen to their citizens, siding with the companies



**BOTH IN GRONINGEN AND ZAMBIA, AUTHORITIES DID NOT LISTEN TO THEIR CITIZENS, SIDING WITH THE COMPANIES IN FAVOUR OF ECONOMIC GROWTH AND JOBS.**

in favour of economic growth and jobs. Juvience and Trudy in their respective contexts decided to take matters in their own hands. In Groningen, Trudy joined two grassroots organisations while in Zambia Juvience joined Green & Justice, a community organisation addressing the human rights and environmental impacts of mining. Conversing in 2019, both women realised not only their experiences but also their strategies to deal with the human rights violations have been similar. Now, in Groningen the government and company have conceded to some of the communities' concerns, they will be compensated and gas drilling halted. While this does not make up for all the years of suffering the Groningen people experienced, it is a start. In Zambia, where Juvience is dealing with a repressive government, corrupt justice system and influence of big foreign multinationals, communities are still waiting for any form of justice.



## 6.2 LET THEM BE TAXED!

Corporate abuse also comes in the form of tax avoidance, which deprives countries in the Global South of revenue to fund much-needed public services.



This trend has however turned around over the last few years, and, more recently the Dutch government has come under increasing pressure from both the general public and other national and international actors to take alternative measures. So far, the response has been only half-hearted. ActionAid believes that building pressure is needed to trigger more profound policy changes.

### IMPACT ON THE COMMUNITY

The Netherlands has optimised a system that was originally intended for international companies to avoid double taxation but ended up enabling them to avoid any tax at all. Consequently, the existence of such a system created an entire sector that profits from it, from advising international companies on how to best elude taxes to providing them with a domicile in the Netherlands to do so. This scheme is made possible by the Netherlands' large network of tax treaties, together with the absence of strong counteracting measures.

Given that the Netherlands, representative of the largest FDI stream globally, has an overarching influence during FDI negotiations, developing countries are often unable to negotiate treaties with strong tax rights. Moved by the empty promise of further economic development aided by additional FDI, they fall into the trap of double tax treaties and give up their tax rights. The countries' inability to do otherwise is fueled by the companies' behaviour. Should countries be unwilling to satisfy their caprices or allocate them the most favourable tax treatment, international companies threaten to disinvest and move to countries where double tax treaties are in place.

As a result, developing countries that have tax treaties with the Netherlands miss out on large sums of money that could have been used to benefit local people. This lack of tax revenue constrains governments in their spending on public facilities and services. And yet, people in developing countries are in desperate need of investments in, for example, education and healthcare, services that will become ever more important with the growing climate crisis.

Importantly, ActionAid sees that one of the consequences of tax avoidance is aggravating gender inequality. Women are, in fact, the ones forced to fill in the gaps when governments in developing countries fail to provide basic services. Funding critical public services will alleviate women's burden of care work, allowing them to engage in formal employment and gain an independent position.

The consequences of tax avoidance are harmful on yet another marginalised group. As developing countries are unable to raise their budget with corporate tax, they will naturally try to do so through simple collectable VAT.

### FACTS & FIGURES

- **Impact:** loss of state revenue in the Global South, lack of much-needed public services for women and the most marginalised, costs of living increase
- **Type of company/sector:** multinationals
- **Strategy applied:** lobby and advocacy towards national and European policymakers, knowledge exchange with Southern partners, campaigning

### WHAT HAPPENED AND WHY?

Worldwide, developing countries are losing US\$200 billion a year to tax avoidance. Through artificial legal constructions, companies manage to ensure that they pay as little tax as possible. Not coincidentally, the Netherlands plays a leading role in many of these constructions. Over the past few decades, the country has shaped and refined its policy to secure and expand a pivotal role in international corporate tax avoidance.

As a result, international companies can easily set up a shell company here to take advantage of the benefits that the Netherlands offers. The extensive network of tax treaties ensures that companies can let their money flow, without being taxed, through the Netherlands to countries with virtually no tax. **Importantly, the Netherlands has become the largest foreign investor on paper in the world. Yet approximately 80% of these investments concern letterbox companies.**<sup>32</sup>

The Dutch government and people do not really profit from this unfair system. Nonetheless, Dutch policymakers have been reluctant to confront the already powerful Dutch financial sector. The complexity of the issue of tax avoidance has made public discussion difficult, with the general public being unaware of the damaging consequences of tax avoidance.



Taxation on consumption, rather than wealth, disproportionately affects people and women living in poverty, who already have little to spend. Ultimately, within our work, ActionAid sees that, while international tax policies are not gender specific per se, their impact certainly is.



## STRATEGY AND RESULTS

ActionAid strongly believes that there can be no economic justice unless corporates pay their fair share. Therefore, under stage II of the Fair, Green and Global Alliance, ActionAid has decided to continue to focus on the pressing issue of corporate tax avoidance. ActionAid focuses on the impacts of Dutch fiscal policies on developing countries. Our goal is to change those elements of the Dutch fiscal architecture that enable international companies to avoid paying taxes in the developing countries in which they operate. This means targeting both the untaxed flow from developing countries into the Netherlands, and the untaxed outflow to tax havens. Special attention goes to making tax treaties fairer for developing countries.

ActionAid uses research to uncover the impacts of unfair Dutch fiscal policies, including unfair bilateral tax treaties with developing countries, and uses these findings to engage with policymakers, politicians and the wider audience in face-to-face meetings. This means persuading the Dutch government to move beyond their focus from only tackling tax treaty abuse, to promoting more profound treaty changes. In this light, ActionAid has been pushing for the Dutch overall policy to be changed. A process is currently underway that focuses strongly on the position of developing countries.

ActionAid engaged in discussions and gave presentations to policymakers and politicians to influence tax treaty negotiations between the Netherlands and developing countries including Malawi, Zambia and Uganda. Simultaneously, our Southern partners engaged with their governments, enlightening them on the role of the Netherlands and providing advice on treaty specifics. Collaboration within ActionAid offices as well as the wider federation was also key.

In the case of the Dutch and international policy processes, such as those spearheaded by the OECD or EU, ActionAid collaborated strongly with the Dutch Tax Justice Network to provide politicians with analysis and detailed advice based on the needs of developing countries. In such engagements, ActionAid always highlights how people in developing countries are hurt and how Dutch fiscal policies are not coherent with the overall development and even current fiscal policy commitments.

In the many public tax avoidance scandals, ActionAid promoted and facilitated political follow-up, ramping up the pressure on the government to improve its policies. Media engagement has been an integral part of our strategy to ensure research findings and policy analysis contribute to shifts in public opinion and increase political pressure. ActionAid also used media to inform the general public on the shortcomings of these policies, to counter the overly positive framing used by the government. ActionAid also engaged in public events to inform and actively discuss these topics with interested citizens. ActionAid organised, for instance, public stunts such as a pop-up tax haven at the Dutch parliament building and public bus and bicycle tax tours through Amsterdam, visiting tax avoidance hot spots.

So far, ActionAid's work has contributed to public awareness, benefited political discussion regarding the impact of corporate tax avoidance on developing country populations, and contributed to policy processes and changes. ActionAid kept tax treaties on the political agenda by continuously pushing the UN Model Treaty as the minimum standard to be used instead of the alternative OECD model, which is deemed unfit for treaties between economically unequal parties.

ActionAid also made sure that new tax treaties are thoroughly debated in parliament, by informing policymakers on weak aspects of bilateral or multilateral tax treaty processes. Our research on and engagement with treaty negotiations have contributed to a sense of political urgency. Both the Ministry of Foreign Affairs and the Ministry of Finance are committed to reviewing the current policy standards and are also more willing to investigate possibilities to transfer more taxation rights to developing countries. More specifically, the government is currently reviewing its tax treaty negotiation strategy and has proactively evaluated the inclusion of the UN Model Treaty's clauses. The Dutch tax treaty policy new draft, which informs the negotiations' content, has been delayed due to, amongst others, Covid-19, and is expected to be slightly more favourable for developing countries.

The continued pressure, together with other Tax Justice Network members, has contributed to unilateral measures focused on limiting tax avoidance to several tax havens outside the EU by implementing a withholding tax on interest and royalties. Although far from perfect, this measure limits tax avoidance to the Netherlands by blocking popular tax avoidance routes.

# TIMELINE

**2013**

The Dutch government offers developing country treat partners the inclusion of **anti-abuse provisions** in tax treaties. ActionAid actively lobbied for this.

**2015**

ActionAid organises **Tax Tours** for interested citizens in Amsterdam to visit the hotspots of tax avoidance.

**2016 -2018**

The EU launches the Anti-Tax Avoidance Package (ATAD). ActionAid and the Tax Justice Network advocate for the adoption of a **developing country-friendly ATAD** package in the Netherlands.

**2017**

The Netherlands **ratifies a treaty with Zambia**. ActionAid advocates for a fairer treaty and organises a Pop-Up Tax Haven in front of the Dutch parliament.

**2019**

The Netherlands ratifies the **OECD Multilateral Instrument**, designed to amend many tax treaties simultaneously. ActionAid has been advocating for additional action from the Netherlands to make treaties truly fair for developing countries, rather than focusing solely on treaty abuse.

**2013-2015**

The OECD develops rules against Base Erosion and Profit Shifting (BEPS), commonly known as tax avoidance. ActionAid advocates for more **inclusive decision-making** and a package that helps developing countries counter tax avoidance.

**2016**

ActionAid organises a second bicycle caravan **Tax Tour in Amsterdam**, visiting the hotspots of tax avoidance with speeches in the financial district.

**2018-2019**

The Netherlands develops unilateral measures to **counter tax avoidance**. ActionAid lobbies for stronger measures that would benefit developing countries more.

**2018-2020**

The Netherlands negotiates a **new tax treaty** with Uganda. ActionAid advocates for a fairer treaty. The Netherlands also develops its tax treaty negotiating policy. ActionAid promotes the inclusion of clauses that help developing countries raise sufficient tax revenues.



**HER  
STORY**



Grace Namugambe is a programme officer for the Southern and Eastern Africa Trade Information and Negotiations Institute's (SEATINI) financing for development/tax justice programme. Established in 2000, SEATINI is a sub-regional organisation, and one of ActionAid's many partners. Together with ActionAid, Grace has been working on Uganda's double tax treaties with the Netherlands and Mauritius.

As she reports, double tax treaties severely affect Uganda's capacity to retain important revenue, which should be used to fund much-needed public services. The amount of money lost annually on dividend tax is estimated to range from UGX 2 to 62 billion (€5 to 15 million). Due to SEATINI and ActionAid's mutual pressure building, the Ugandan government has started the renegotiations of these double tax treaties.

Grace believes the collaboration with the Tax Justice Alliance has provided useful knowledge exchange, as well as refinement of the lobby and advocacy strategy. Currently SEATINI, representing the Alliance, sits on the advisory committee for the Ugandan government. Grace sees our teamwork as key: only by knowledge exchange and experience sharing, she says, can ActionAid hope to influence tax treaties for the better.

“  
GRACE  
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REFINEMENT  
OF THE LOBBY  
AND ADVOCACY  
STRATEGY.”

# LESSONS LEARNED

ActionAid sees the reluctance to implement the binding treaty and to address tax avoidance as two sides of the same coin: profits over people. For too long, corporations have been given leeway to enable aggressive tax planning and look away from issues in their supply chains, in the interests of economic growth and employment creation. As such, corporates have unfairly benefited from a global system where a lack of regulation, standards and government scrutiny have allowed them to avoid consequences for their actions and human rights violations, and ordinary citizens as far apart as the **Zambian Copper Belt and Groningen in the Netherlands** have paid the price.

**A**s a small country with an enormous footprint, the Netherlands has a large impact on the wellbeing of people worldwide. Luckily, over recent years increasing measures have been introduced to protect human rights worldwide, such as the child labour due diligence legislation and measures to regulate shell companies.

At the core of ActionAid's strategy in the Netherlands lie two interlinked elements. On the one hand, building public awareness and lobbying key decision-makers nationally and internationally. On the other, continuously working, sharing knowledge and strategising with our partners in the Global South. In the Netherlands and abroad, ActionAid has been able to push for important policy improvements that will change the lives of many worldwide.

Solidarity within coalitions has been fundamental too. By being part of the Feminists for Binding Treaty and the Tax Justice Network, we have been able to effectively highlight feminist demands during the discussions as well as raise awareness regarding tax avoidance's adversities.

ActionAid in the Netherlands will continue in its efforts to influence the national government, Dutch companies and supra-national actors to achieve just societies and free people from poverty.

# UGANDA

Over the past few years Uganda's national context has seen some worrying changes. The political situation has become more repressive, severely shrinking an already limited civic space. The Ugandan government has actively created a rather hostile environment for both vulnerable communities and NGOs. In 2017, it approved a constitutional amendment to raise the age limit for the president, hence extending the current president's ability to be in power beyond the age of 75 – making him eligible to stand for the 2021 elections. In 2017, there was also a proposal for a constitutional amendment to the effect that the government can legally displace communities anywhere in the country without prior payment of fair and adequate compensation. This move was averted in September 2018 following public outcry and campaigns by ActionAid and others.



**KAWERI COFFEE PLANTATION:  
LITIGATION, LOBBY & ADVOCACY  
TOWARDS NATIONAL AND  
INTERNATIONAL POLICY MAKERS**



**THOSE WHO SPEAK OUT, SUCH AS (WOMEN) HUMAN RIGHTS DEFENDERS, OFTEN FACE INTIMIDATION AND THREATS FROM THE AUTHORITIES.**

Those who speak out, such as (women) human rights defenders often face intimidation and threats from the authorities. NGOs such as ActionAid that try to address the repression have been labelled as likely enemies of progress and, thus, the state. At the same time, corporates have taken full advantage of the situation and, using governmental protection as a legal shield, have acted undisturbed in their business as usual, seizing land from communities without their consent and without awarding any compensation.

In Uganda, the work of ActionAid, like other NGOs, has become more and more challenging. During stage II of the Fair, Green and Global Alliance, ActionAid's offices have been raided by military personnel, accounts frozen and assets confiscated more than once, leading to several stoppages in project implementation. In a sense, our work in the country has become increasingly challenging and, at the same time, increasingly resilient and important. Over these last five years, our colleagues in Uganda have never stopped in their battle to resist corporate and government land grabbing, despite the real risk of ending up in detention.

The Kaweri case, discussed below, is one proof among many of the strength of non-violent activism and community empowerment against injustice. From day one, when the government decided to sequester the land of hundreds of families to make space for a German-owned coffee plantation, ActionAid has been there, giving the affected community tools and support to fight for themselves and their homes. The struggle has not yet come to an end. Nonetheless, the situation has largely improved, and families have been promised, after almost two decades, due compensation.



## 7.1 THE KAWERI COFFEE PLANTATION

Twenty years after being forcibly evicted by the national army for a German-owned coffee plantation, the Kaweri community in Uganda obtains justice.

### FACTS & FIGURES

- **Number affected:** 4,000 individuals, 2,000 of whom filed a complaint
- **Impact:** loss of land, livelihoods, absolute poverty, displacement, arbitrary detentions, premature deaths
- **Type of company/sector:** coffee plantation, agro-industrial sector
- **Strategy applied:** knowledge exchange between communities, support during public litigation cases, lobby and advocacy towards public officials
- **Current status:** compensation is promised by the Attorney General

### WHAT HAPPENED AND WHY?

In August 2001, 401 families (about 2,000 people) from four villages in Mubende district were violently evicted from their land by the Ugandan state army. Their houses, schools, crops together with the health centre and a borehole were destroyed in the process. The families were evicted from the 2,524 hectares of land they had been living on for years because Kaweri Coffee Plantation Ltd, a subsidiary of the German-owned Neumann Kaffee Gruppe, had leased the land from the Uganda Investment Authority to grow coffee. Following the eviction, the community saw an increase in illnesses and deaths, as most people were prevented from accessing enough food, shelter, clean water and healthcare. In August 2002, the community sued the government of Uganda and the company. The case was however delayed at the High Court for 11 years, engulfing the community in a legal battle lasting many, many years. ActionAid supported the community throughout, and finally in 2019, witnessed a major success when the community was finally awarded compensation for the struggles they have endured.

### IMPACT ON THE COMMUNITY

- The first violations occurred when the community was evicted and their land grabbed by the Ugandan armed forces, the Uganda People's Defence Force. People were threatened and forced to leave at gunpoint, many were beaten in the process. Homes were set on fire and demolished and life-sustaining crops were destroyed.

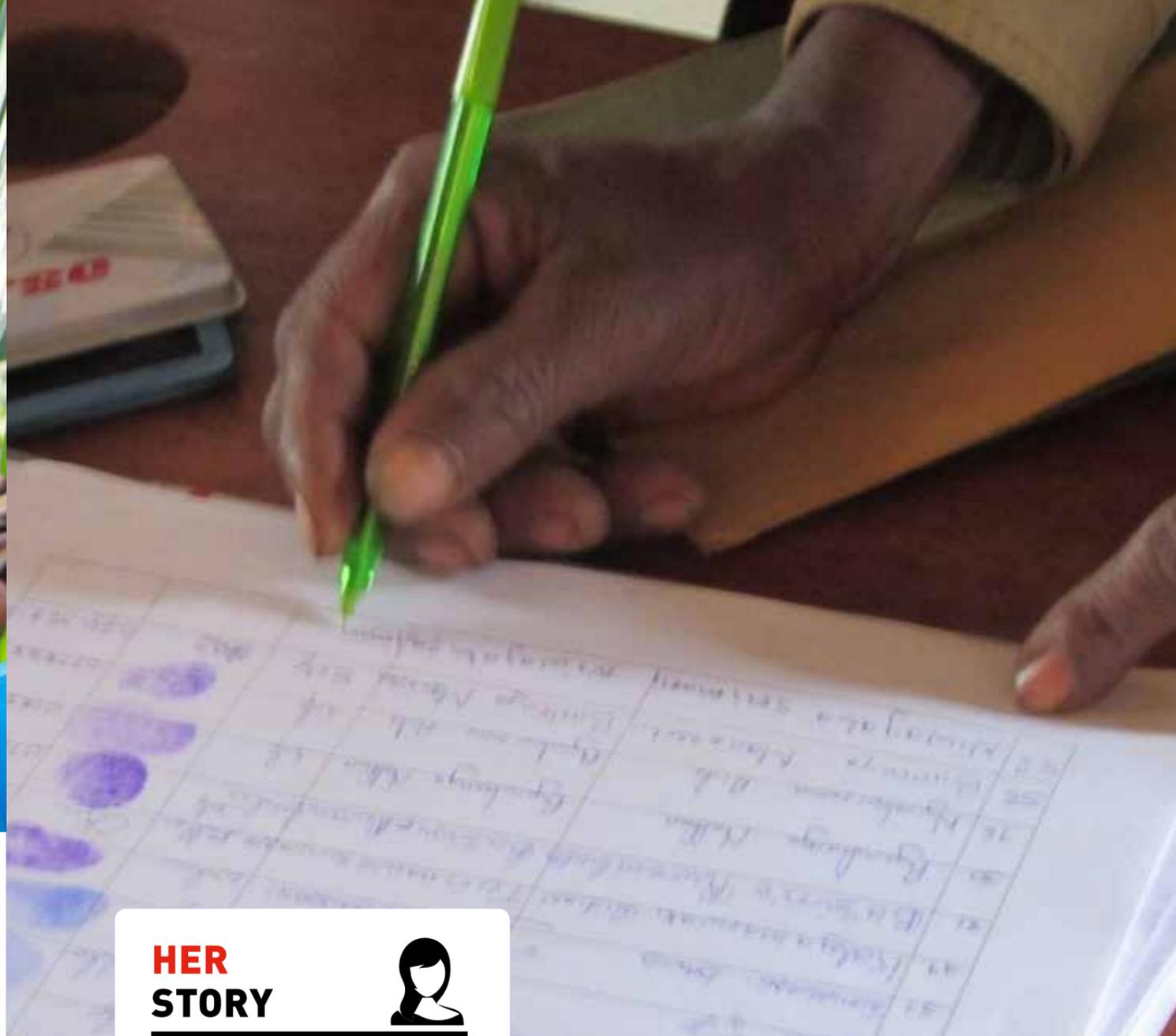
- Over the years the community has faced homelessness, poverty, hunger, illness and arbitrary detention. This dire situation has led most people to live in the nearby bush for an extended period, with no access to food or clean water.
- Women saw increased domestic violence due to the poverty and lack of food, as men struggled to fend for their families.
- Those who were most vulnerable and in need of constant care, such as the elderly and infants, have faced and encountered death.
- Some families were not able to stay together as they were forced to settle all over Uganda.

### STRATEGY AND RESULTS

ActionAid Uganda has stood from the very beginning with the affected community, supporting them in their legal battle to seek reparative justice. Community members were trained on advocacy skills, and ActionAid encouraged community leaders not to give up, despite the long and difficult journey. ActionAid also fostered exchange programmes between the Kaweri and other affected communities to enhance knowledge exchange, including on strategies.

In 2002 the community filed a criminal complaint against the Ugandan government and Kaweri Coffee Plantation Ltd, to demand legal redress for the destruction and damage brought by the land grab and evictions. The criminal case cited the severe human rights violations against the community and demanded an independent land survey to determine the land's real ownership, the restitution of their land, or adequate compensation. After several delays, the High Court of Uganda started hearing the case in July 2003.

Accessing the available judicial mechanisms was not easy for affected community members, most of whom live hours away from Kampala, where the High Court is situated. When the community was required to appear in court, ActionAid provided transport to enable them to attend, alongside other strategies such as keeping the violations in the media spotlight, and advocacy with different national and international bodies, including the UN Human Rights Council and the UN Committee on Economic, Social and Cultural Rights.



- The case was delayed at the High Court for 10 years. Finally, in February 2013 the judge set a date for the final hearing. Neither the company nor the Ugandan government attended. In March 2013, the judge ruled that the community had been illegally evicted without adequate compensation. He ordered compensation equivalent to €11 million to be paid to the evictees. The judgement, however, acquitted both the government and Neumann Kaffee Gruppe. The compensation is thus imposed on the Ugandan Investment Authority's lawyers for allegedly misadvising the government on purchasing the land. Consequently, the company's lawyers appealed the verdict. In April 2013 the Court of Appeal provisionally suspended execution of the judgement, and in July 2015 it ordered a retrial at the High Court.

Throughout the judicial handling of the case, the community sought to apply additional pressure in order to come to a resolution, and thus lobbied various decision-makers. As such, they wrote, via the minister of state for Kampala, to President Museveni to ask for his support. Eventually, following sustained engagement, on July 1, 2019, the High Court ordered mediation, in order to bring the long court battle to an end. Initially, the Ugandan government refused to pay the full amount the community asked for.<sup>33</sup> Yet, on December 13 of the same year, in an unexpected turn of events, the government offered UGX 3,814,570,050 (€918,148) for special damages in a full and final settlement, plus UGX 150 million (€36,104) as costs of the court proceedings.<sup>34</sup> The news of the offer was received with excitement among the 401 families, many of whom were growing old and more disillusioned and had feared that their efforts to seek justice had been in vain.

- By February 2020, 325 of the 401 evicted households had signed consent forms accepting the compensation. Efforts to get the remaining signatures are ongoing, as many of the evictees have long left the area. Others have died during the 19-year long struggle and, as such, their families are struggling to appoint representatives to obtain consent and eventually receive the sum owed. ActionAid Uganda, together with its partner Network of Public Interest Lawyers, continues to offer guidance to the Kaweri community so that everyone receives adequate compensation. ActionAid continues its advocacy towards the Ugandan government, as it is critical that the remaining members receive compensation in a timely manner.

## HER STORY



**Pulkeria Nakitende, one of the evicted community members, said her family was brutally displaced in 2001 from their home. As their property was destroyed, her family was forced to camp out in the bush. Pulkeria reported losing some of their loved ones due to widespread malaria and lack of access to medical facilities.**

Until a few months ago, she expressed concern over the delayed compensation. She, like many others, had to wait almost 20 years and saw her livelihood dramatically compromised. She expressed gratitude for ActionAid's continuous involvement with and support for her community. After the long struggle, she believes that, in the future, the government should consider compensating community members before evicting them from their homeland.

# TIMELINE

**2001**

**August**

The Ugandan military evicts **401 families** from their homeland to pave way for a coffee plantation owned by Neumann Kaffee Groupe.

**2005**

**January**

Human rights defender **Peter Kayiira**, speaker and leader of the evicted community is arrested by the Ugandan authorities under the pretence of misappropriation of funds. He is freed six months later.

**2013**

**March**

The High Court awards **compensation** of €11 million to approximately 2,000 plaintiffs but the Ugandan government appeals the verdict'

**2015**

**January**

Anna Nadyose Katende, supported by the evictees' lawyers, states that the **company is occupying** her piece of land, annexed illegally to the land already occupied by Kaweri Coffee Plantation Ltd.

**2017**

**February**

The United Nations Committee on the Elimination of all Discrimination Against Women (CEDAW) addresses Germany's extra-territorial state obligations to regulate the operations of German companies abroad, and to **grant victims of human rights violations access** to remedies in Germany.

**2019**

**July**

The High Court orders **mediation** between the parties.

**2002**

**August**

The community files a **lawsuit** against Kaweri Coffee Plantation Ltd and the Attorney General.

**2008**

**February**

The request of **Kaweri Coffee Plantation Ltd.** to be removed from the case as accused party is denied by the judge'

**2017**

**January**

The Minister of State for Kampala presents an offer of an **out-of-court-settlement** that would prevent the evictees from claiming their land back and engaging in further legal actions.

**2019**

**June**

The evictees change lawyers and **are now represented** by the Ugandan Network of Public Interest Lawyers.

**2019**

**December**

The Ugandan government finally agrees to **pay compensation**, after an initial refusal to do so.



# LESSONS LEARNED

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**The very foundation of success has been the community and their persistence. ActionAid supported members in their inspiring resilience. The long-lasting Kaweri case is one among many cases of which ActionAid is rightfully proud. In Uganda, ActionAid will continue to support whoever is marginalised by corporate abuse.**

**A**ctionAid has advised and counselled the community on how to handle the process in the best way possible and promoted unity within the community. Throughout the years, ActionAid has supported the community on all grounds. We have made it possible for plaintiffs to attend court sessions, making connections with lawyers and facilitating engagement. Crucially, ActionAid assisted the Kaweri community in the documentation process, which was essential to success in court.

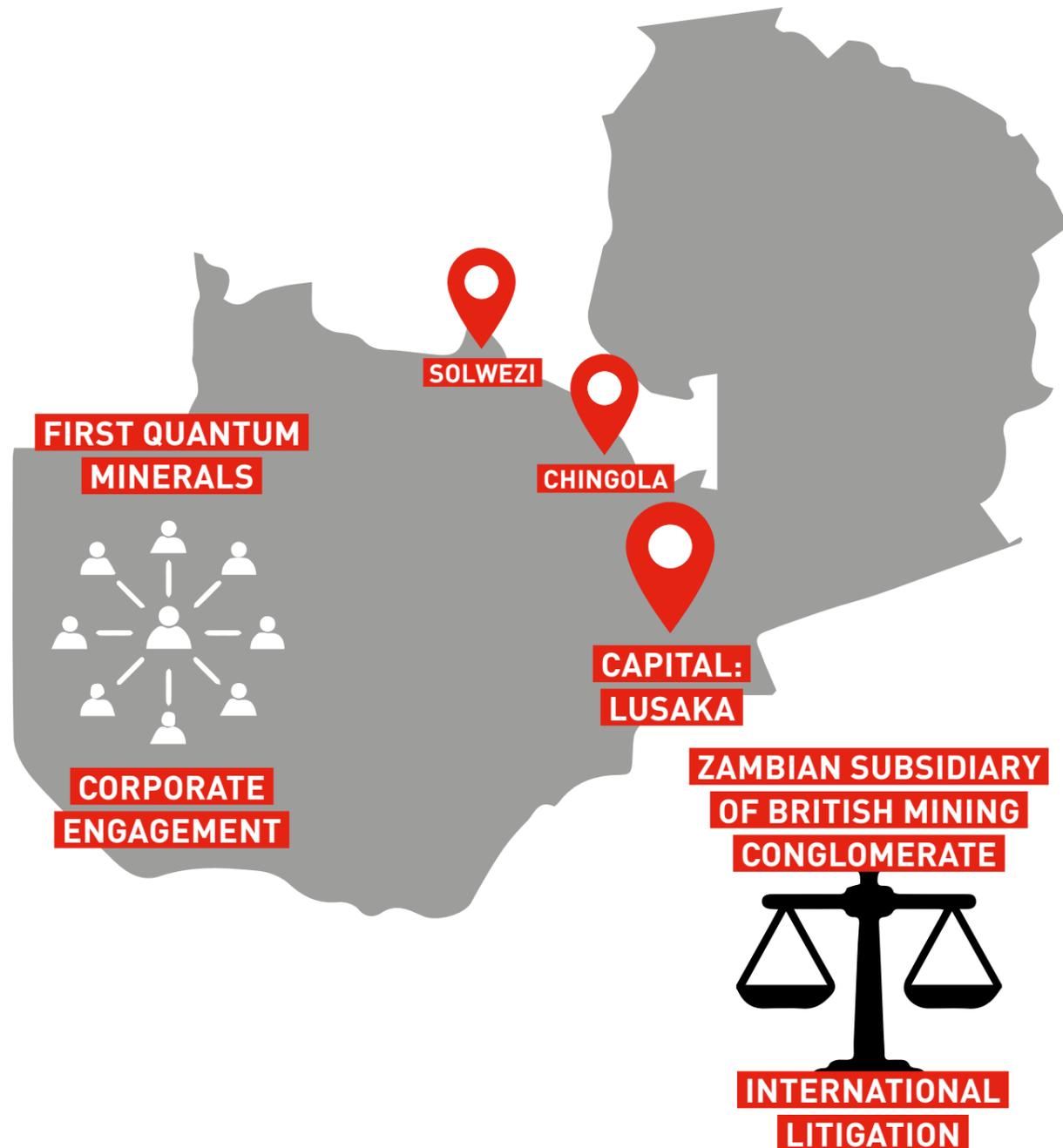
The community's efforts have finally paid off and, with our continued pressure and collaboration, we hope to see everyone compensated by the end of 2020.

Importantly, the Kaweri case and its setbacks will continue to inform ActionAid's future strategies. A crucial component to success has been the criticality of contextual differences: different communities require different approaches, in relation to the environment in which they find themselves. Other fundamental elements have been in-depth engagement with pro-bono lawyers, open communication with relevant stakeholders, and joint collaborations with partners such as national and international CSOs.

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# ZAMBIA

Zambia is endowed with a vast amount of natural resources: wildlife, arable land, forest reserves, rivers, lakes and – most importantly – minerals. Zambia is in fact the world’s second largest producer of copper and the world’s largest producer of high-grade emeralds. These resources have been a fundamental component of impressive economic growth achieved between 2004 and 2014. Yet Zambia still retains high levels of widespread poverty, especially in rural areas, meaning it has one of the world’s highest levels of inequality. In 2015, over 58% of Zambians earned less than US\$1.90 per day, the international poverty line.



## ACTIONAID IN ZAMBIA HAS BEEN PLANNING WITH CIVIL SOCIETY ORGANIZATIONS AND HUMAN RIGHTS DEFENDERS FOR PUSHBACK MECHANISMS IN SITUATIONS WHERE CIVIC SPACE IS SHRINKING.

Over the years Zambia has heavily exploited mineral extraction, which the government sees as a chance for further development. Effectively, this reliance on extractives means every other economic sector remains underdeveloped.

Following the privatisation of most mines and the arrival of foreign investors, there has been a decrease in socio-economic benefits for the population. Communities have suffered devastating impacts such as forced displacements, work exploitation, loss of arable land, environmental disruptions and water contamination. Importantly, the social costs of this disruption and degradation fall heavily on women, who bear the brunt of increased care work, a result of pollution by the mining companies.

Investment in Zambia is characterised by incentives, some of which are regressive. There are also gaps in laws governing our natural resources, which has exacerbated weak governance in the extractives industry. The mining tax regime is unstable; there can be gaps in customary laws around land administration, leaving traditional leaders to make decisions that may not always be in the best interests of local people. The resettlement policy is still not well developed, meaning some local communities have suffered displacement without consent and on unfair terms and conditions due to a lack of consultations. Largely, weak enforcement of the regulations, especially the Environmental Management Act, has resulted in several violations going unpunished. Moreover, the highly centralised system of governance, together with weak enforcement of legislative provisions, has meant that communities have no access to justice mechanisms or legal support from local authorities when they challenge big corporations.

Effectively, this means that improving corporate conduct is a necessary step towards inclusive and fair development. One of ActionAid’s focus areas has thus been strengthening the capacity of local communities, especially those hosting mines, to appreciate their rights and be able to challenge corporates for any abuse. We support local communities to mobilise and strengthen the capacity of human rights defenders so that they can hold duty bearers accountable, demand their rights and fight corporate abuse.

However, our work has been made more difficult over the last few years. Civil society faces a gradually shrinking civic space, which limits the scope of action and ability to mobilise and challenge power in all its forms. In the recent past, we have experienced sporadic arrests of activists and NGO staff on flimsy grounds; we have witnessed intimidation of the media and closure of private media houses in some cases. The state has blatantly demonstrated unfair application of the rule of law: those with opposing views are restricted whilst those in support of the government have space for their solidarity messages. This scenario calls for building resilience among CSOs and communities to be able to remain steadfast and defend rights even under very difficult circumstances. ActionAid in Zambia, for instance, has been planning with CSOs and human rights defenders for push back mechanisms in situations where space for engagement is shrinking; adopting alternative strategies of engagement and ensuring protection mechanisms are strengthened for activists and human rights defenders who are the ones at high risk.



## 8.1 FIRST QUANTUM MINERALS

© Kadir van Lohuizen/NOOR  
voor ActionAid

**The people of Musele and their advocacy efforts to claim their rights in the face of violations by a Canadian-owned mining company.**

### FACTS & FIGURES

- **Number affected:** 600 families
- **Impact:** forced displacements, loss of land, labour and livelihoods, decrease of women's socio-economic possibilities, widespread health issues caused by contamination
- **Type of company/sector:** copper mining company, extractive sector
- **Strategy applied:** engagement with local and national officials, engagement with the independent ZEMA, engagement with the company
- **Current status:** the situation is largely improved but is still being monitored by Musele Task Force, ActionAid and others

### WHAT HAPPENED AND WHY?

Zambia is Africa's second largest producer of copper, a mineral used in mobile phones, laptops and many other products worldwide. Despite its huge production rate, copper only contributes to 12% of Zambian GDP, meaning the country is losing large amounts of revenue – ultimately resulting in poor public services for citizens. Near the northwest city of Solwezi, one can find what is set to become the largest copper mine in Africa: the Kalumbila copper mine. The Kalumbila mine was established as part of the Trident project by the Canadian company First Quantum Minerals. In 2011, the company acquired 518km<sup>2</sup> of customary land for its mining activities, by signing a deal with the Senior Chief of Musele. As a result, over 600 families, most of them subsistence farmers, had to relocate to nearby Shinengene and to Northern Township, some 18km away. In addition to the mine, First Quantum also developed power lines and large water dams such as the Chisola dam, which caused further resettlement. Displaced families were resettled in two new housing schemes constructed from concrete blocks and roofed with iron tiles.

The resettlements mostly affected women who were already marginalised. The compensation land they were awarded was not sufficient for food production, nor did they receive legally registered rights to it, to be protected from future displacements. This prevented many women from growing their own food, and the fencing that First Quantum put up around the mining area barred them from access to natural resources such as forests and rivers.

In Zambia, customary land is regulated by traditional leadership and ownership is usually informal – and therefore remains susceptible to manipulation. This means that traditional leaders have full authority to decide what happens with customary land. In this instance, as the deal was signed between First Quantum Minerals and the Senior Chief of Musele, the community had little room to negotiate a compensation package. Furthermore, they received very little information about the compensation and were misled as to which benefits they would receive. Many women, some of them illiterate, did not realise that once they signed the mining acquisition document it meant they could not claim compensation. Other women did not know the compensation details or whether the new parcels of land provided by the mine were registered in their names jointly with their husbands'.

ActionAid and its partner Musele Nkisu Taskforce have supported families in their demands towards First Quantum Minerals to alleviate the issues experienced by the residents.

### IMPACT ON THE COMMUNITY

The relocated families suffered many negative impacts due to the resettlement and mining activities in the area.

- Women, traditionally responsible for tasks such as fetching water and growing food, struggled to feed their families. As they are not able to farm the small plots around their house, they now must walk a kilometre to land set aside by the mine for food production.
- Women could no longer grow enough to feed their families. This meant paying up to four times more for food, partly because transport costs have risen as a result of being relocated further from the main market. This is despite having a supermarket within Kalumbila – which people living in poverty cannot afford due to the exorbitant prices.
- As the mining company has fenced off a large area of land, women were barred from accessing forest resources, such as mushrooms, caterpillars and firewood, further impacting on their livelihoods. They also lost access to the surface water they needed to process cassava, a staple food.
- Women who were no longer engaged in subsistence farming started to informally trade goods such as secondhand clothes, agricultural products and other assorted merchandise. However, income levels remain



low. Despite the Kalumbila mine promising jobs to people from the community, most employees are from outside the area, creating further discomfort among the community. While some improvements have been made over the years in terms of employment for people from the community, these jobs are peripheral and insecure.

The situation is even worse for women, as according to the mine operators they lack the education and skills required to work there. Women also indicated they did not have the financial means to bribe their way into a job in the mine, and that they were subject to various forms of abuse in their search for employment in the mines.

- The arrival of the Kalumbila mine also had an impact on families' access to water. Surrounding water streams, a vital resource for the community, saw an increase of aluminum particle contamination as well as increased levels of acidity. Even though the company sunk boreholes, they were insufficient as many people had to make use of them. This number increased due to the arrival of many more people in the area, attracted by the employment the mine offered. The quality of the water in the boreholes was worse than the water the families had access to before, as this water was highly mineralised and had impurities, which caused health problems. Women now had to walk further for alternative, cleaner water sources, which left them with less time for other activities.
- The quality of the houses that people were relocated to is also dire. The area is still being developed, meaning there are no power lines to access electricity and the roads are mainly dust roads. The mining companies have carried out some projects under a CSR initiative, but community members feel inadequate consultations about the community's priorities sometimes lead to CSR projects that are not responsive to community needs.

### STRATEGY AND RESULTS

As in many other mining areas, the people of Musele started to experience impacts on their health and they decided to engage with First Quantum Minerals. The company, however, defended its position by arguing that its emissions were well within allowable levels. This raised many concerns among community members and through our partner Musele Nkisu Task Force, ActionAid was invited to support with alternative engagement strategies to deal with the standoff with the mining company.

- Together with Musele Nkisu Task Force, ActionAid engaged the Zambia Environmental Management Agency (ZEMA), the health department and the local council to ascertain the level of contamination, and whether it was within allowable limits.

- After the investigation it was discovered that emissions were beyond allowable levels, posing a health hazard to local people.

With the findings, ActionAid in Zambia and other actors then facilitated a meeting between First Quantum Minerals, Musele Nkisu Task Force, ZEMA, the health department, the local council and community representatives to discuss the way forward. An appeal was made to ZEMA to take measures against the mining company for its poor corporate conduct.

The meeting established the poor conduct by the mining company and the potential impact it could have on people. Stakeholders came up with a solution for First Quantum Minerals to sink small boreholes to improve community access to clean and safe water sources. Given the temporary nature of the solution, the company was also urged to commit to constructing even deeper boreholes, to completely avoid possible contamination. The mining company committed to these initiatives.

ActionAid fostered dialogue and supported Musele Nkisu Task Force and the community in developing advocacy strategies to ensure effective engagement of all key stakeholders. These included alliance-building with like-minded CSOs and key governmental stakeholders to increase impact, and to strengthen the community's demands for clean water and emissions' reduction. Supported by a CSO alliance, the community demanded that First Quantum begin to respect human rights by regulating their activities. The Ministries of Mines, Water and Sanitation, Gender and Community Development and ZEMA, together with the community chief, were also engaged in the process. First Quantum has finally dug deeper boreholes in one of the settlements and purchased water tanks to be installed around the area. Under constant pressure, the company recommitted to implementing the water project. This brings new hope to the communities that they can obtain clean drinking water. Six boreholes of 150-metres deep have been sunk so far. Piped water is now expected to avert the calamity faced by the people of Musele. Importantly, First Quantum has agreed to allow the community to monitor project implementation. Once complete, to ensure its long-term sustainability, the water project will be handed over to the government-owned utility company.

Even though not all health risks have been mitigated, the company, in partnership with Musele Nkisu Task Force, has promised the community it will participate in the identification of further corporate social responsibility projects. ActionAid will keep monitoring the situation in the Musele chiefdom.

# TIMELINE

**2010**

Canadian-owned **First Quantum Minerals** arrives in town (contracts stage).

**2012**

First Quantum Minerals **starts to construct** the mine in Kalumbila.

**2016**

Community's first engagement with the **mine on water pollution**.

**2018**

First Quantum Minerals announces a **US\$700,000** water project.

**2011**

**Land acquisition** process starts.

**2015**

First Quantum Minerals **starts full operations and production**.

**2016**

The Zambia Environmental Management Agency (ZEMA) conducts **water tests** in Musele chiefdom.



## HER STORY



Queen Kakeza lives in Musele chiefdom and is a member of the women's movement formed to fight injustices in the host mining community of Kalumbila. She is also one of many who have suffered the impact of First Quantum's pollution. The contamination of the Musangezhi river has caused her health complications as well as the poisoning of her cassava field. She tells us the state of things has caused considerable concern among the community, which fears people's health might deteriorate quickly and may suffer permanent damage.

Queen recalled the situation prior to ActionAid's intervention: "We were unable to stand and speak for ourselves when we realised that our rights were violated." ActionAid's capacity-building training supported Queen into becoming an important community activist, despite patriarchal restrictions that do not allow women to take part in public decision-making. "ActionAid helped us to understand the importance of women's voices on human rights issues, and they made us understand the importance of engaging with the duty bearers and the corporations."

Expressing happiness for her community's achievement, Queen is hopeful that ActionAid will continue to be supportive of marginalised communities as well as oppressed women.



## 8.2 ZAMBIAN SUBSIDIARY OF BRITISH MINING CONGLOMERATE

For the first time ever, a community is granted the right to hold a European mother company to account for rights violations perpetrated by a subsidiary in Zambia.

### FACTS & FIGURES

- **Number affected:** 1,826 people
- **Impact:** decrease in women's socio-economic possibilities, loss of livelihoods and labour, widespread health issues caused by pollution
- **Type of company/sector:** copper mining company, extractive sector
- **Strategy applied:** community capacity-strengthening, alliance building, advocacy towards the company, public litigation cases
- **Current status:** the situation has largely improved, but is still being monitored by ActionAid

### WHAT HAPPENED AND WHY?

In northwest Zambia, near the border with the Democratic Republic of Congo, one can find the Zambian copper belt. This area, home to the districts of Ndola, Kitwe, Chingola, Luanshya and Mufulira, hosts many of the country's copper mines. In Chingola district lives the Shimulala community, of about 1,500 people. This community lives in direct vicinity (10kms) of a copper mine operated by the Zambian subsidiary of a British mining conglomerate.<sup>35</sup> Living in such proximity to a copper mine, the community has dealt with acid spills polluting their farmlands and their water, with ensuing impacts on their health and livelihoods. Despite turning a huge profit from the mine (£320 million in 2014 alone), engineers indicate that the mine is working with 40-year-old leaking equipment, power failures and deficient pumps, all of which give rise to excessive acid spillages into the Mushishima stream and Kaffue river.

Under the Fair, Green and Global programme, ActionAid has been working closely with the Shimulala community. A key partnership was established with the Catholic Diocese of Ndola.

“  
ACTIONAID HELPED US TO UNDERSTAND THE IMPORTANCE OF WOMEN'S VOICES ON HUMAN RIGHTS ISSUES, AND THEY MADE US UNDERSTAND THE IMPORTANCE OF ENGAGING WITH THE DUTY BEARERS AND THE CORPORATIONS.”



**THIS WAS A HISTORIC DECISION, THE FIRST-TIME VICTIMS OF HUMAN RIGHTS VIOLATIONS WERE ABLE TO TAKE A MOTHER COMPANY TO COURT IN THE HOME STATE OF THE MULTINATIONAL, FOR THE ACTIONS OF THE SUBSIDIARY.**

### **IMPACT ON THE COMMUNITY**

Copper extraction and processing are known to produce worrying health risks. As acid spills are frequent, the surrounding water sources and Mushishima stream have been contaminated. This contamination is so severe and widespread that it ended up affecting the entire area's water table. People reported that whenever a borehole is sunk, the water comes out with impurities and has an acidic scent. As such, people have no choice other than to use the polluted water.

The Shimulala people rely on water to bathe themselves, irrigate their farmland, feed their livestock and drink. After bathing in the water, drinking it or eating fish from the rivers and streams, people have suffered from allergic reactions on their skin and stomach aches. After visiting hospital, people were told they had ingested acid and that there was permanent damage to internal organs. The pollution, which has now been going on for years, has severely affected the fauna and flora of the rivers as well as the livelihoods of those who depend on them.

Of the whole community, women and children are most affected. As water sources become more and more distant, women and children must walk over four kilometres towards the Kafue river daily to fetch an essential resource on which the entire community depends. Those who are unable to walk long distances, such as the elderly or the physically challenged, have continued to use contaminated water from their shallow wells and polluted streams.

### **STRATEGY AND RESULTS**

Over the years, ActionAid strengthened the capacity of our partners as well as community gatekeepers. ActionAid focused extensively on human rights' understanding and the local, national and international instruments available to uphold and protect them.

Such instruments included but were not limited to the United Nations Guidelines on Business and Human Rights; the Human Rights Charter; OECD guidelines; gender agreements to which Zambia is a party, such as the CEDAW. These provided platforms and resources to advocate for their respect and support advocacy at policy level.

At the same time, ActionAid supported the Catholic Diocese of Ndola in their engagement with company management, aiming to mitigate the social and economic impact of mining activities. Following our pressure, the Zambian subsidiary built a bridge in Shimulala across the contaminated river and sank boreholes equipped with an in-built treatment facility to give people access to safe, clean drinking water for domestic use.

In 2011, the community decided to seek legal redress from the company for the health impacts suffered due to the pollution. The High Court in Lusaka ruled that the British conglomerate should pay £1.3 million in compensation to 2,000 people for the pollution of the Kafue river in 2006. The judgement claimed the company had been, "shielded from criminal prosecution by political connections and financial influence." However, after the British conglomerate appealed to the Supreme Court, stating it was not responsible for the pollution, the compensation was reduced to virtually nothing.

As their struggle for justice did not come to fruition in Zambia, in 2015, 1,826 Zambian community members decided to take the case to the British High Court. As the mother company owns 51% of the Zambian subsidiary's shares and is headquartered in the United Kingdom, it was assumed that it would be possible to hold the company to account in British courts. The Shimulala people accused the mining company of causing personal injury, damage to property and loss of income, amenity and enjoyment of land as a result of the pollution and environmental damage caused by activities carried out in company's mine. Furthermore, they accused the UK-based parent company of breaching its duty of care in relation to the Zambian subsidiary and their operations.

The British conglomerate challenged the case by claiming that the mine was owned by the subsidiary company and thus the case couldn't be handled in British courts. The judge disagreed, stating that mother company, "did not provide any evidence for not being responsible for the acid spillages". In 2016, the UK High Court rejected the conglomerate's argument that the farmers should not be permitted to bring their case in London. The judge found that, despite recent reforms to the Zambian justice system, the claimants would not obtain justice if they pursued a case against the mining company in Zambia. One month after the ruling, the Zambian government announced plans to liquidate the Zambian subsidiary and renationalise or redistribute its assets, claiming that the mother company had violated its mining license and failed to pay tax.

Two years later, following a further appeal from the British conglomerate, the court of appeal upheld the High Court ruling. This was a historic decision, the first-time victims of human rights violations were able to take a mother company to court in the home state of the multinational, for the actions of the subsidiary. Not only was this a breakthrough for this specific case, it also set the legal precedent for other cases against mother companies, such as against Shell and Unilever for human rights violations perpetrated by subsidiaries in Nigeria and Kenya. It also set the precedent for new legal thinking on mandatory human rights due diligence, which is being developed for example during negotiations for the UN Binding Treaty on Business and Human Rights.

Despite this being a landmark decision, it was only the beginning for the affected communities. The community was merely granted permission to pursue the case in the United Kingdom, however a decision on the case and possible redress is still years away. In the meantime, the Zambian subsidiary continues to pollute rivers and water streams in Chingola. During the already 15-year long legal battle to obtain justice for damages suffered, ActionAid Zambia and its partner have worked closely with communities in Chingola. ActionAid has been in contact with the lawyers of the Leigh Day firm who have aided the community in court. ActionAid also worked with other civil society organisations based in the UK to support the communities, for example by financial means.

The Zambian farmers' case will either be settled or will go to trial in the High Court at a date to be determined. In the event of the copper mining company's liquidation, the approval of the Zambian courts would be needed to allow the UK legal action to continue. As such, lawyers have started preparing communities on the ground to be ready for the different options that they may be given.

# TIMELINE

**2004**

A Zambian subsidiary company starts its **copper mining** operations.

**2011**

The Zambian Supreme Court **overturns** the case.

**2016**

The UK High Court **accepts jurisdiction** over the case.

**2018**

The Zambian government **liquidates the Zambian subsidiary** citing that the mother company has failed to uphold the contract's terms and has not been paying taxes.

**2011**

The community files a **lawsuit** against the company. The Zambian High Court adjudges that the company is liable for compensation of £1.3 million.

**2015**

As the mother company has its headquarters in London, **1,826 community members** decide to take the case to the British Courts.

**2018**

UK Court of Appeal maintains the UK High Court's judgement stating that conglomerate can be judged under **UK jurisdiction**.

**2019**

**April**  
**British Supreme Court** rules unequivocally that the mother company is liable on British soil. The case continues.



**HER  
STORY**



Brenda Siachipula recalls well the extent to which the mining company's pollution affected community life. As water streams became polluted, local farmers became dependent on seasonal rain, which fails to guarantee food security. Brenda also reports the health crisis following the contamination: **"The water from the stream has really affected the skins of people when used for bathing, many women have suffered allergic reactions around their genital areas as a result of using contaminated water. This was followed by numerous accusations of infidelity by their husbands, many of them threatening their wives with divorce."**

Brenda is thankful for the efforts of ActionAid in Zambia for providing an enabling environment for voices like hers to be heard: "After training conducted by ActionAid, we started to engage the mining company to be more responsible in the way they conducted their business." These engagements, facilitated by ActionAid and attended by likeminded CSOs, led the copper mining company to sink a borehole to assist with the water crisis they had created. As the water was still coming out contaminated, community members decided to seek legal redress. Brenda is now very optimistic that the judgement will finally bring due compensation.

**“  
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# LESSONS LEARNED

Zambia's population still faces high levels of inequality, where only a few reap the benefits of the extractives sector. When the government owned most mines in Zambia, communities living in the area were able to avoid contamination issues by relying on the social services provided by law. Following privatisation, however, mines stopped being accountable to the surrounding communities. Some mines, now private, have retained previously built infrastructure such as schools and medical centres only for their staff. Importantly, corporate social responsibility is not a legal requirement in Zambia and, as such, mining companies have no legal obligation to provide a better environment.

**O**n paper, the Zambian government is supposedly committed to respecting human rights in all developmental endeavours. At the same time, at least politically, the country's economic development is thought to be tightly bound to the mining sector. The two cases analysed above provide an insight into the current situation in Zambia regarding corporate abuse and accountability. The successes as well as the challenges will serve at a starting point for our next battles.

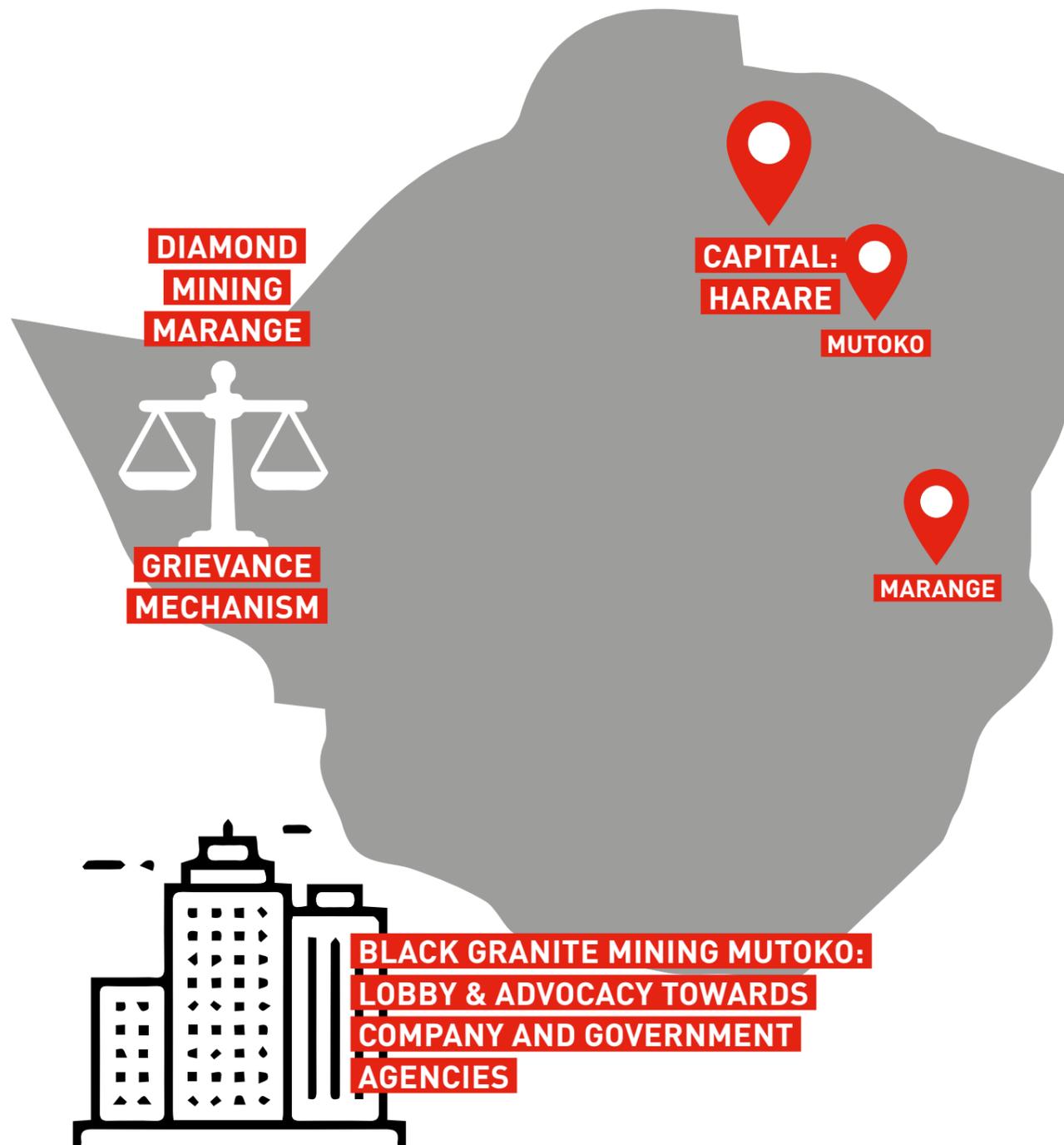
During our support to communities, direct engagement with the companies proved rather difficult. For instance, First Quantum Minerals first did not acknowledge the level of contamination caused by its operation, and then refused to include the community in the decision-making process regarding the resolution.

In both cases, ActionAid's support to the community as well as its broader engagement with like-minded CSOs, government ministries, relevant departments and independent agencies was key to building stronger voices, which made the company rescind its decision and listen to the demands of communities.

In Zambia, ActionAid will keep advocating for development that is sustainable and fair. As such, ActionAid will keep lobbying policymakers for mining companies in the country to be held accountable for the increasingly worrying levels of pollution that cause great harm to rural and urban communities. ActionAid will also keep supporting affected communities in their lobbying efforts.

# ZIMBABWE

Zimbabwe is a country rich in natural resources. The vast presence of various minerals makes it an attractive destination for foreign investment – an attractiveness made even more explicit by the government’s mantra *Zimbabwe is open for business*.<sup>36</sup> The underlying belief is that the country’s quick economic recovery can only be attained by heavily depending on the mining sector, financed mostly by foreign investment.



OVER THE PAST FEW YEARS, THE LACK OF BENEFITS FROM MINING HAS PROMPTED THOSE WHO ARE MOST AFFECTED TO STAND UP.

While being open for business, an inflow of investment and thus economic development should advance society. However, there is evidence that mining activities in rural areas of Zimbabwe have failed to benefit ordinary citizens, and gravely affected the human rights and livelihoods of communities. These include, but are not limited to, water pollution, land degradation, arbitrary evictions and forced relocations.

The government institutions are largely responsible for the lack of effective measures and enforcement to hold corporates accountable. This dire situation is further aggravated by a lack of transparency and accountability as well as widespread corruption, enabling foreign companies, protected by the government, to act undisturbed and completely disregard responsible investment principles, workers’ rights, communities’ wellbeing and environmental integrity.

Over the past few years, the lack of benefits from mining has prompted those who are most affected to stand up. This emergence of human rights defenders all over the country has been, however, met by the government with intimidation, abuse and arbitrary detentions. The existence of draconian legislation, such as the Public Order Security Act, greatly restricts the rights of community groups to organise and express their opinions freely. Furthermore, the politicization of the extractive sector due to vested interests by the political and economic elites makes the issue even more pressing.

Within the country, ActionAid actively supports grassroots community-based organisations. By working together and combining our strengths, women and rural communities have demanded public participation in the mineral value chain. Our joint lobby and advocacy work has challenged the Zimbabwean government to respect human rights, women’s rights and land rights in all decision-making, including natural resource governance, fair trade, taxation and public finance policies.



## 9.1 BLACK GRANITE MINING IN MUTOKO

Community monitors address environmental pollution by granite mining company and stop pollution by the company.

### FACTS & FIGURES

- **Number affected:** about 12,600 people
- **Impact:** environmental pollution, loss of labour, loss of livelihoods, loss of land
- **Type of company/sector:** black granite mining company, extractive sector
- **Strategy applied:** strengthening the capacity of community members, community monitoring, engagement with governmental agencies
- **Current status:** the company addressed some of the rights violations

### WHAT HAPPENED AND WHY?

Mutoko district in Mashonaland East province is home to quarries of black granite rock, a highly valued stone treasured for its shininess and easy crafting into artefacts such as tombstones, kitchen tables, multi-story building surfacing materials and other important uses.<sup>37</sup> Classified as a mineral by the Zimbabwean government, black granite's semi-precious nature makes its value on the market high.<sup>38</sup> Its extraction for export purposes has heightened the interest of several foreign investors, coming from China, Italy and Croatia mostly; their companies are present all over Mutoko district.

But decades after mining activities began in the 1970s, no tangible socio-economic benefits for the wider community have been seen. Mining, if anything, has posed a myriad of challenges to those who live in the surrounding areas. In Mutoko, the community has long felt anger due to the negative environmental impacts of black granite mining, something that the foreign companies have not mitigated. In response to these negative environmental impacts, the district has seen a growing sense of activism amongst residents, who are now demanding social, cultural, economic and environmental justice.

In 1980, Ilford Services Limited, a Zambian black granite mining company and subsidiary of an Italian mother

company, started operating in Mutoko. Since the 80s the company has been moving from one place to another in Mutoko, always looking for new quarries. Community members have for long complained about the Ilford's environmental violations, which came to the attention of ActionAid's partner Zimbabwe Environmental Law Association (ZELA) during interviews conducted in 2019.

As a result of these interviews, the community monitors trained by ZELA began to gather more information on the environmental damages and human rights violations. They told ActionAid and ZELA that the Mutoko community has repeatedly addressed its problems with the conduct of the Italian-owned mining company, Ilford Services Limited. They reported that Ilford had committed several human rights violations and that grave environmental impacts were noted in the area. Ilford, taking no precautions, had been dumping rubble in the water sources and failing to contain the dust produced by its operations.

### IMPACT ON THE COMMUNITY

Black granite mining has caused worrying socio-environmental impacts in Mutoko for decades.

From an environmental perspective, toxic materials produced by the extraction process are often left behind, without being cleaned up by the mining companies. As such, it is common to find open pits and silted rivers, which disrupt livelihoods and pose great dangers. Along with the deforestation carried out prior to the mining, communities suffer from heavy dust as well as noise pollution. Additionally, the rubbles dumped by Ilford has sometimes dried up sources of water crucial to the community's livelihood. This has disproportionately impacted the women, who have been forced to travel longer distance to fetch water, leaving them less time to undertake other activities, such as formal, paid work or education.

Black granite mining is also worrying from a social perspective. The pollution released by Ilford produced great health risks for the population, as they frequently come into contact with the toxic material left behind. Importantly, Mutoko's economy relies heavily on small-scale agriculture. People cultivate the surrounding land to obtain produce that is used for sustenance as well as trading. As such, the environmental pollution has had a great impact on the livelihoods of Mutoko communities and their economy.



Iford also carried out forced evictions and encroached on the community's land, without respecting their right to it. The complexity of these issues was further aggravated by the fact that many residents are employed by the company and are therefore reluctant to complain.

The situation, however, saw a U-turn when Iford announced its intention to halt operations in the area, in March 2019. There was great risk that all the damage caused by the company, such as open pits left behind and the contaminated water, would remain unaddressed, causing greater issues for the community.

### **STRATEGY AND RESULTS**

ActionAid and ZELA relied on several strategies to challenge the company and its unsustainable behaviour, including monitoring and documenting the state of the surrounding environment. Subsequently, our findings on the state of the environment and human rights violations were shared with the appropriate governmental agencies, including the Environmental Management Agency.

The key to success was the close collaboration that ActionAid and ZELA have established with community groups and state departments such as local authorities, district administrators and the Environmental Management Agency.

ActionAid's partner ZELA actively safeguarded people's interests by making training and workshops available. With these, people from the community learned how to independently carry out human rights monitoring, including civil, political, economic, environmental, social and cultural rights.

This enhanced the community's ability to raise their voice and hold both the government and Iford accountable for their violations. Importantly, it was the community that gathered and documented evidence of violations in their areas. And it was the proof they presented that was used to approach the relevant government institutions.

The human rights mobile clinics and the education provided to communities by ZELA and the Zimbabwe Human Rights Commission enabled people to take up unresolved human rights issues. Alternative dispute resolution and litigation were used to ensure that the company takes full responsibility for its operations.

ZELA and ActionAid conducted a mobile legal aid workshop in Mutoko, which was attended by representatives of the Rural District Council, Environmental Management Agency, a member of parliament from Mutoko North and community paralegal Evelyn Kutyaup. During this workshop, ZELA highlighted the issues experienced by the people in Mutoko. It was stressed that the great environmental damage caused by Iford risked being left unmitigated, as the company suddenly announced it was stopping activities.

Following this meeting, with the community's input, ZELA sent a letter of demands to both Iford and the Environmental Management Agency, which indicated that the conduct by the mining company was violating the environmental rights provisions upheld by the Zimbabwean constitution. The rubble dumped and left in the river, for instance, violated the right to water.

As a result of this letter, the Environmental Management Agency issued two environmental protection orders against the company, which forced them to close the open pits and remove dumped rubble from the Rungira River.

# TIMELINE

**1970**

Black granite mining starts in Mutoko district.

**1994**

Re-classification of granite as a mineral by the Zimbabwean government, hence increasing control over the revenues of black granite. Beforehand, the revenue was under the control of the local district.

**2019**

**April**  
A multi-stakeholder meeting is convened to address the decommissioning and outstanding issues.

**2019**

**June**  
Ilford addresses environmental issues.

**1980**

Italian-owned Ilford starts mining operations in Mutoko

**2019**

**March**  
News of Ilford Services Limited's intent to decommission reaches Mutoko Community. Mutoko North MP calls for a meeting with the company which bears no fruit. Mutoko North MP reaches out to ActionAid's partner ZELA.

**2019**

**June**  
Zimbabwe's Environmental Management Agency issues an order for removal of rubble from Rungira river.



## HER STORY



*Written by Evelyn Kutyauro, a Mutoko community paralegal*

“On 8<sup>th</sup> June 2019, Environmental Management Agency officials engaged with us as the community. I was the community paralegal who attended the scene. We visited all the people who were affected in our community and talked to some community members who were being paid and relocated to another area. The Environment Agency then charged one of the companies, Ilford, and asked the company to remove the rubble before 11<sup>th</sup> July 2019.

We then engaged the company to construct a bridge where they have deposited much rubble. This water was used by five villages to irrigate their crops. Here in Mutoko we are known as farmers and we are the ones who supply tomatoes to the Capital City Market of Mbare. We have faced a lot of challenges to win this case because there was a lot of interference from politicians and bribery also of local traditional leadership. Some of the councillors are also employed within the companies hence they are now neglecting their duties as community representatives.”



## 9.2 THE MARANGE DIAMONDS

Community mobilisation in Marange leads to a diamond mining company establishing a grievance mechanism where rights violations can be reported.

### FACTS & FIGURES

- **Number affected:** 20,000 people
- **Impact:** environmental pollution, loss of health, loss of livelihoods, loss of land, dire working conditions
- **Type of company/sector:** diamond mining, extractive sector
- **Strategy applied:** strengthening the capacity of community members, community monitoring, engagement with government agencies
- **Current status:** ongoing

### WHAT HAPPENED AND WHY?

The discovery in June 2006 of significant alluvial diamond deposits in Marange should have been a means of salvation, helping the country's economic recovery. In eastern Zimbabwe, from the Chiadzwa district of Marange to the Chimanimani Mountains (on the Mozambique border), there is a 70km belt of kimberlite diamonds. The discovery in June 2006 of significant alluvial diamond deposits in Marange should have been a means of salvation, helping the country's economic recovery. But following the discovery of the diamond deposits, there was a chaotic diamond rush that only stopped when then president Robert Mugabe announced that only the state would be allowed to mine diamonds through a state company, the Zimbabwe Mining Development Corporation (ZMDC), in 2009. The company had joint ventures with foreign investors from Dubai and China. After facing some problems, a new and 100% state-owned company, the Zimbabwe Consolidated Diamond Company (ZCDC), was formed in 2016. The influx of mining activity in Chiadzwa led to an upsurge of negative environmental and social impacts in surrounding communities. The mining companies polluted air and water with waste material and grabbed land, displacing communities. Even though some men from the communities found employment in the mines, it was under dire working conditions.



Under Zimbabwean law, specifically the Environmental Management Act, all large-scale mining operations are required to perform an Environmental Impact Assessment before commencing any mining activity. These assessments are important as they show the potential environmental, economic, social and cultural impacts of the scheduled mining operations. Environmental Impact Assessments

also require the mining operations to indicate mitigation measures for any identified possible negative impacts. ActionAid is aware, however, that in the Marange area many mining companies operate without an Environmental Impact Assessment and thus continue to violate the rights of communities to land, water and adequate housing. Therefore, under the Fair, Green and Global programme, ActionAid and its partner ZELA have been training communities on their rights and environmental monitoring, to enable them to hold these corporations to account.

### THE IMPACT ON THE COMMUNITY

- The pollution of water and air affected communities' health, for example people who bathed in the polluted river developed rashes and other skin ailments, and those who drank water from the river were later ill.
- The loss of land, coupled with pollution of available land, severely affected the community's self-reliance, as their main source of sustenance was agriculture.
- As some community members were employed in the mines, it made it very difficult to speak out, as they were threatened with being fired. In addition, mine labourers worked in dire conditions, subject to bad treatment by the management of the mines.

### STRATEGY AND RESULTS

Under stage II of the Fair, Green and Global Alliance, ActionAid, in partnership with the Zimbabwe Environmental Law Association (ZELA), has been implementing a five-year project in Manicaland Province. ActionAid focused on strengthening the capacity of community members to monitor the operations of mining companies, which have serious bearings on the environment and the livelihoods of affected communities.

To make the community monitors' impacts more valuable, ActionAid and ZELA fostered partnerships between community groups and government departments, such as the Environmental Management Agency. These partnerships focused on promoting the rule of Zimbabwean law, as well as pointing out the importance of local and national policy dialogue meetings. These dialogue platforms aimed to ensure that grievance redress mechanisms to demand corporate accountability from companies operating in Manicaland were established and easily accessible. This was a success, and an operational grievance redress mechanism was developed.



At the regional and international levels, the existence of platforms for communities and CSOs presents opportunities for learning and sharing advocacy and lobbying strategies. The participation of both CSOs and communities in these platforms, such as the Alternative Mining Indaba and the Global Forum on Business and Human Rights, was essential for success against instances of abuse in Marange. ActionAid and ZELA equipped the community groups with advocacy and lobbying techniques. Moreover, they were trained on the importance of prior and independent Environmental Impact Assessments, which enabled them to seek justice and stop ZCDC's mining operations, as it operated without an Environmental Impact Assessment document.<sup>99</sup>

After engaging with the Environmental Management Agency, the community monitors trained by ZELA found out, after sustained pressure, that the companies mining diamonds in Manicaland did not perform any kind of social or environmental impact assessments. ActionAid and ZELA knew that mining companies only carried out the much-needed Environmental Impact Assessment after community monitors started suspecting that the law was being violated and they confirmed that with Environmental Management Agency. With this information, the community monitors decided to challenge the companies and take them to court.

As a result, the company was ordered by the court to stop its operations until it acquired an Environmental Impact Assessment. In 2017, after conducting one, the company assumed operations again. Not only did the advocacy of the community and ZELA lead to an Environmental Impact Assessment, the company has also established a working relationship with the community, which led to an operational grievance mechanism being put in place at the end of 2019. This allows for the provision of a fair, effective and efficient mechanism that rectifies or eliminates policies, practice and actions that have negative impacts on the communities.

# TIMELINE

**2006**

Large deposits of **alluvial diamonds** are discovered.

**2008**

Outburst of violence against artisanal diggers that leads to an estimated **250 deaths** and sparks a two-year Kimberley Process ban that comes close to ripping the certification scheme apart.

**2011**

The Kimberley Process ban is lifted. But Zimbabwe diamonds' **reputation is ruined**. Market players trade them reluctantly and with a significant discount.

**2016**

Villagers take ZCDC to **court** over forced evictions; NGOs say mining company and government must respect human rights.

**2019**

Anjin returns to mine, Alrosa **signs a mining deal** with ZCDC.

**2007**

Former president Robert Mugabe publicly announces the government's intention to **take over the mining** of diamonds in Zimbabwe.

**2009**

The Kimberley Process bans trade of Marange diamonds. **Relocation of over 4,000 families** from Marange to Arda Transau, a government farm located about 40km north of Marange, to make way for mining.

**2016**

The government **evicts seven companies** that were mining in Marange and appoints a government-owned company, the Zimbabwe Consolidated Diamond Co. (ZCDC), to take over.

**2017**

Villagers successfully take ZCDC **to court** for mining without a valid Environmental Impact Assessment.



## HIS STORY



*Written by Malvin Mudiwa, a paralegal in Manicaland*

“Tinoengana is a communal village where diamond mining activities are taking place. The effects mostly felt in this community include land degradation, vandalism of community infrastructure such as cattle dipping tanks, pollution of community water sources and forced displacements. I represented Marange Development Trust (MDT), a CBO supported by ZELA and ActionAid, which was involved in a fact-finding mission in Tinoengana. We came to realise that ZCDC might be mining without going through the Environmental Impact Assessment process.

This led MDT to verify with the Environmental Management Agency whether they had an Impact Assessment. It turned out that they had not gone through the process. MDT related the information to ZELA for legal advice. We both agreed that there was need for litigation as it was the only available opportunity. I was cited as the Applicant representing the community, and ZELA provided the legal services. In that combination, we had a field day in court. We secured a sweet victory and ZCDC was ordered to stop mining operations. For this, I will give credit to ZELA for their legal support.”

# LESSONS LEARNED

Given its vast mineral resources, Zimbabwe’s further economic development is projected to be highly dependent on the future of its extractive sector. Ensuring there are no mineral governance gaps helps ensure that everyone in Zimbabwe benefits from the economic development. The cases analysed above show how the law can be used to successfully safeguard communities and their wellbeing. At the same time, the setbacks inform us how to achieve better, more successful strategies. In Mutoko, for instance, the company’s initial unresponsiveness to community demands, together with its sudden exit, posed a great challenge.

A fundamental role was played by the human rights training ActionAid implemented within the community. People from the community were able to become valuable environmental monitors, who approached the company and asserted their rights without fear. We learned the effectiveness of human rights education: when communities know their rights, they are much better equipped to spot and challenge corporate violations. Strengthening this capacity also means holding public officials accountable on mineral governance and public finance management in the mining sector.

Another critical challenge was the Environmental Management Agency’s laxity in carrying out due inspections on the mining sites. The community, as a result, had to endure a lot at the hands of the mining company before it could see any tangible improvement. This pushed ActionAid, together with ZELA and the community, to mount additional pressure, achieved by engaging in a multi-stake holder approach, thereby informing the companies, the Environmental Management Agency and local authorities as well as national policymakers.

ActionAid in Zimbabwe will keep working on two key issues: protecting and safeguarding host communities, their livelihoods and socio-economic rights, and ensuring that large mining companies contribute fairly and justly to the country’s budget to finance much-needed public services. To do so, ActionAid will continue to support communities affected by mining, provide them with advocacy and lobby skills, and use our knowledge to influence large mining corporations in Zimbabwe and, if necessary, the Global North.



## WHAT'S NEXT?

### What's next for communities affected by corporate human rights violations and ActionAid's partners worldwide?

Over a number of years working with communities affected by corporate human rights violations, ActionAid has found that when communities are informed, organised, mobilised and working together, they have the power to influence agendas in public debate and decision-making spaces, from media coverage to meeting rooms. When women are at the forefront of these interventions, they can improve their lives for the better.

People power through lobby and advocacy and mutual capacity development can make a real difference in restoring the power balance between communities and corporations in global value chains. In short: people power works! Yet people power by itself is not enough. As we have seen in the Kenyan cases, for example, community-based organisations are more effective when they work together. In countries with repressive governments and severely shrinking civic space, working together brings more safety. Working together with multiple different actors, such as government, media and INGOs, offers more pressure points for influencing. In this way, a struggle against a company violating land rights can for example be addressed with local and national authorities and media, or the international mother company of the subsidiary, as we have seen in the Zambian cases. ActionAid's way of working, where specific instances of

rights violations happening in communities are addressed and, at the same time, ActionAid and partners are advocating for better regulation on for example investment and land rights to prevent all rights violations nationally and worldwide, leads to more structural results.

By investing in mutual capacity development, offering financial and other support so that partners, movements and community-based organisations can follow their own mission and set their own priorities, ActionAid enables them to build longer term relationships with communities, invest in capacity development of the organisations, and adapt plans according to changing contexts, enabling them to respond to emerging lobby and advocacy opportunities. In the end, these organisations can plan for long-term processes and build stronger community capacity.

Governments play an important part in ActionAid's strategy because as the main duty bearers, they must create the preconditions to realise the Sustainable Development Goals and protect human rights. Governments must create a strong regulatory system that protects people and the environment to make sure trade, investment and corporate conduct is in line with the 2030 agenda. In order to do so, it is important that all people can be heard and to participate in decision-making processes that will influence their lives, specifically when it comes to financial and economic policies. **Nothing about us, without us.** Therefore, governments must protect civic space and make sure there are adequate protection mechanisms for those that are speaking out and standing up for their rights.

As many of the previous chapters show, the protection of human rights and responsible corporate conduct is no longer the business of just one country or government, as the world's supply chains are increasingly connected through global trade. Therefore governments, civil society and other actors need to work together to reshape global value chains in a way that is sustainable, gender-just and promotes human rights. ActionAid will continue to support communities in Africa, Asia and Latin America to do just that: to defend their human rights against powerful multinationals, to hold companies to account and to bring justice to people around the world.



**PEOPLE POWER THROUGH LOBBY AND ADVOCACY AND MUTUAL CAPACITY DEVELOPMENT CAN MAKE A REAL DIFFERENCE IN RESTORING THE POWER BALANCE.**

## **BOX 2: THE AFRICAN EXTRACTIVES WORKING GROUP (AEWG): A CASE STUDY IN MUTUAL CAPACITY DEVELOPMENT**

Supported by the Fair, Green and Global Alliance, the AEWG, founded in 2015, is a learning platform composed of several ActionAid offices (Kenya, Liberia, Sierra Leone, Zambia, Zimbabwe, Mozambique, Uganda, Tanzania, Malawi, Ghana, the Democratic Republic of Congo and the Netherlands, coordinated by South Africa). Members of the AEWG intentionally focus on the extractive industry in Africa by sharing knowledge and strategies on how to direct the work on mineral governance in their respective countries, how to lobby key stakeholders successfully and how to mobilise host mining communities effectively. The group's work has also been developing multi-country initiatives for research, policy and programmes. In what follows, we have collected interviews with members of the group, in which they talk about their learning experience within the AEWG and how the group's input has helped in their own work back home.

### **SOPHIE (ACTIONAID NETHERLANDS)**

I work at ActionAid in the Netherlands, focusing mostly on the extractive sectors in other parts of the world and their links to the Dutch context. Given the holistic nature of my work, the AEWG has been a valuable learning platform. Here, I can learn from other members the ways in which the current Dutch approach to extractives is failing people, and I can use this knowledge to give very specific inputs on how to make it better. For instance, in 2019, the group met in South Africa. There we addressed the national mining laws in each country, whether they are implemented, and what their implications are in the national context for the host mining communities. This exchange provided me with the opportunity to identify the gaps in our strategy, especially when dealing with Dutch companies operating in Africa. This meeting was also beneficial to us a group insofar as we developed a policy position paper, including refined strategies on how to achieve our collective and individual goals. Clearly, the more you can unite your strength, the more you can achieve.

### **BRIAN (ACTIONAID ZAMBIA)**

Our collaboration has helped me shape better policies and their implementation within my country. In particular, the AEWG became a valuable learning platform in several ways. First, it has been an opportunity to get together and crosscut the various instruments used by governments to address issues of sustainability, conflict, corporate accountability, environmental and social governance. This has been a new and progressive approach, which provided the opportunity to understand other countries' contexts and allowed ActionAid in Zambia to identify and cover the advocacy gaps identified in our strategy.

Second, during the AEWG's exchange visits, we shared the best practice ideas given the similarity of most issues we encounter. From these visits, ActionAid in Zambia came up with a movement building strategy and, as a result, we witnessed the birth of many women's movements in the host mining communities.

Lastly, the AEWG was valuable in yet another way: filling policy gaps. For instance, while sharing knowledge with other members, we highlighted how the extractive industry is often driven by patriarchal attitudes and narratives. As such, the engagement with other member countries within the AEWG pushed us to ensure that women and their struggle within the extractive industry are placed at the centre of our advocacy work. In this sense, the collaboration with the AEWG was essential to the development of Women's Mining Charter. This Charter, together with the African Mining Vision, are indeed two of the best results achieved by the group.

### **JAMES (ACTIONAID KENYA)**

I strongly believe that being part of the AEWG has enabled me to redefine and implement better our policy and advocacy work. This is because the exchanges have allowed me to enhance my knowledge regarding the extractive sector by learning from and with the other members in the group. I am now more well-informed about the rights of the host communities as well as taxation in the extractive sector, both of which



remain priority issue in Zimbabwe. The AEWG's financial reporting as well as the interaction with the finance department have also been very informative.

### **DIDAS (ACTIONAID UGANDA)**

Being part of the AEWG has indeed been positive for several reasons. Personally, I have been able to learn about social movements in extractive governance and management. The AEWG also provided capacity building opportunities for leaders of miners from Uganda, who were trained in South Africa on the significance of the Africa Mining Vision and the African Charter. Another worthy mention was the ability, as a team, to run joint advocacy processes like the Kampala Declaration. Lastly, the group provided a learning platform in which ideas and strategies are constantly shared and refined with the other members.

One of the AEWG's biggest successes has been the maintenance of cohesion and strong drive for a better management of the extractive sector, with a firm focus on ensuring that local communities are involved and participate in the decisions that impact their livelihood.



**ONE OF THE AEWG'S BIGGEST SUCCESSES HAS BEEN THE MAINTENANCE OF COHESION AND STRONG DRIVE FOR A BETTER MANAGEMENT OF THE EXTRACTIVE SECTOR, WITH A FIRM FOCUS ON ENSURING THAT LOCAL COMMUNITIES ARE INVOLVED AND PARTICIPATE IN THE DECISIONS THAT IMPACT THEIR LIVELIHOOD.**



## POLICY RECOMMENDATIONS



### BOX 3: 8 POWERFUL LESSONS WE HAVE LEARNED FROM THE COMMUNITIES ADVOCATING FOR HUMAN RIGHTS AROUND THE WORLD

1. Strategizing on building unified community momentum. Solidarity, in this sense, is understood as a key component to successful resolutions in instances of corporate abuse.
2. Collaborating with each other. Fostering the development of local and specific grassroots CBOs, whose members can better speak for themselves, their issues and their needs.
3. Engaging in capacity-building training, thereby informing the affected community about the instruments available to challenge and prevent abuse.
4. Building international alliances and fostering exchanges with like-minded CSOs and communities, especially if the (mother) companies have their headquarters in other countries.
5. Including the voices of women, youth, rural people and other marginalized communities in organizations. This, in turn, will make sure that grass-root organisations truly reflect the needs of those of who are most marginalised.
6. Collecting and documenting, consistently and systematically, instances of corporate abuses as well as their impacts on communities and women. These should then serve to create public awareness and seek justice when needed.
7. Finding willing international and governmental agencies to establish trustworthy relationships. Environmental agencies, national human rights commissions, etc. can be powerful allies when creating a dialogue with governments.
8. Establishing safety mechanism to shield (women) human rights defenders from likely threats and abuses. Knowledge on how to best safeguard activists should be provided with specific trainings.

#### GOVERNMENTS AND DECISION-MAKERS SHOULD COMMIT TO:

- Reforming land and environmental laws to protect communities and land rights, especially when legal gaps leave community members with no official property titles.
- Promoting national laws that enhance women's control of land and other natural resources.
- Making sure that mechanisms that oblige corporations to assess the impacts of investments and projects on women, communities and the environment are in place. These need to be conducted, prior to the start of the investment/project, by impartial, independent third parties and in consultation with (possibly) affected communities, experts and civil society
- Leasing community land if and only if informed community members democratically give their Free, Prior and Informed Consent, as recognised in the United Nations Declaration on the Rights of Indigenous Peoples.
- Ensuring that (women) human rights defenders and whistle blowers are adequately protected. For example, by establishing early warning systems and protection mechanisms, by preventing defamation and slander campaigns and publicly condemning them, and by terminating criminal investigations into human rights defenders – directing these instead at those perpetrating violence against them, including corporate actors and public authorities.
- Creating inclusive and participative decision-making processes, specifically when it comes to trade, macro-economic and financial matters, so that citizens, and women in particular, can decide on policies that will have an impact on their lives.
- Supporting and actively engaging in the process to come to a UN binding treaty on business and human rights.

#### COMPANIES SHOULD COMMIT TO:

- Implementing their human rights due diligence responsibilities under the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights;
- Conducting human rights, gender and environmental impact assessments before commencing operations or investments, in meaningful consultation with possibly affected communities, civil society and gender experts. The findings from this impact assessment should be integrated in all relevant processes, and businesses should take a range of gender responsive measures to prevent and mitigate these impacts. For example, modifying an ongoing project to prevent or minimise adverse impacts on women, or providing effective remedy when the adverse impacts have already occurred.
- Communicating adequate and easily accessible information to possible affected rightsholders, taking account of language and literacy levels. This should include information on gender discrimination and possible differentiated impacts for women.

- Offering remedies that are effective, timely and gender transformative, while considering the specific barriers women experience in accessing justice. Corporate grievance mechanisms must be accessible, efficient, safe and fair to women.
- Assessing, as part of wider due diligence processes, the risk posed to women's human rights through their tax strategies and structures, as corporate tax avoidance deprives governments of much needed resources to fund gender responsive public services. Businesses must better align their tax practices with responsible tax behaviour, including by reporting publicly about their tax payments, and aligning them with economic activities so that taxes are paid where the activity takes place.

#### WEALTHY COUNTRIES AND TRADING BLOCKS IN THE GLOBAL NORTH SHOULD COMMIT TO:

- Carrying out their responsibilities under the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights: oblige internationally operating countries to respect human rights and the environment in their supply chains by instituting mandatory human rights due diligence legislation
- Support and actively engage in the international process to come to an UN binding treaty on Business and Human Rights.
- Including strong human rights safeguards and a requirement for gender responsive impact assessments in all national and international instruments of promotion of the private sector, such as export credit agencies or other forms of subsidies to operate abroad, so that measures are put in place to ensure that women's rights are not harmed.
- Ensuring that their legal systems make remedies accessible, efficient, safe and fair to women and all affected communities. For example, by revising the high costs associated with court procedures, reversing the burden of proof or providing legal aid, as women are more likely to be financially dependent.
- Making sure that public, private and international grievance mechanisms are accessible, efficient, safe and fair to affected communities.
- Supporting, financially and diplomatically, Human Rights Defenders and their organisations and defend civic space.



**GOVERNMENTS, CIVIL SOCIETY AND OTHER ACTORS NEED TO WORK TOGETHER TO RESHAPE GLOBAL VALUE CHAINS IN A WAY THAT IS SUSTAINABLE, GENDER-JUST AND PROMOTES HUMAN RIGHTS. ACTIONAID WILL CONTINUE TO SUPPORT COMMUNITIES IN AFRICA, ASIA AND LATIN AMERICA TO DO JUST THAT: TO DEFEND THEIR HUMAN RIGHTS AGAINST POWERFUL MULTINATIONALS, TO HOLD COMPANIES TO ACCOUNT AND TO BRING JUSTICE TO PEOPLE AROUND THE WORLD.**

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