



HUMAN
RIGHTS
WATCH

WHOSE DEVELOPMENT?

Human Rights Abuses in Sierra Leone's Mining Boom



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Summary

On April 16, 2012, workers at African Minerals Limited (AML), an iron ore mining firm headquartered in London, went on strike in Bumbuna, a small town in northern Sierra Leone. The workers, frustrated by what they alleged to be discrimination and mistreatment on the job and the inability to form a union of their own choosing, refused to go to work and persuaded employees working for AML contractors to join the strike. The workers tried to prevent AML vehicles from refueling for the uphill drive to the mine to extract the iron ore.

Officers at Bumbuna's small and poorly equipped police station, alarmed by the protest, called for reinforcements from the district and regional police headquarters; an estimated 200 police officers descended upon the town the next day. Protesters, some armed with rocks, marched in the street, and in an apparent attempt to maintain order, the police opened fire on the market and town center, killing a 24-year-old woman and wounding eight others. Police arrested at least 29 people who were held for a day before being released without charge; many alleged they were beaten during their arrest. Three police officers were also injured. The situation, according to Sierra Leone's Human Rights Commission, which investigated the incident, resembled a "war zone."

African Minerals Limited is a significant player in Sierra Leone, an impoverished West African nation recovering from years of a disastrous civil war. The company, which began working in Sierra Leone in 1996, operates in the country's Tonkolili district, which has an estimated iron ore deposit of 12.8 billion tons, one of the largest deposits of magnetite in Africa. AML aims for Sierra Leone to be the largest exporter of iron ore in Africa, supplying the raw material for China's production of steel for its infrastructure and industry. It estimates it has made a US\$2 billion direct investment in Sierra Leone's economy. Some government officials said that the company's operations will soon double the gross domestic product (GDP) of Sierra Leone. AML is also the largest private employer in the country, with, as of November 2013, approximately 6,850 employees, of whom 80 percent are Sierra Leonean nationals.

This report focuses on the human rights impact of the mining activity of African Minerals Limited in Sierra Leone. It examines not only why the April 2012 protest in Bumbuna

happened, but how the Sierra Leonean government, while promoting the company's operations as essential to Sierra Leone's economic development, permitted company actions that violated the rights of Tonkolili's residents.

The report also details the government's failure to provide adequate oversight of AML's consultations with local communities, relocation process, response to complaints, and operations. The government failed to adequately or accurately inform residents of plans that directly affected their livelihoods, and did not investigate alleged abuses by the police. Key Sierra Leone institutions have shown either a lack of will, interest, or ability to ensure residents' rights are respected – crucial for them to benefit from Sierra Leone's rapid economic growth.

As a result of the company's efforts to mine iron ore near Bumbuna, the rights of local villagers' to land, water, and livelihood were impeded. The company in 2010 formally leased land from the government for mining, and worked through the relevant paramount chief, a local customary official, to evict hundreds of families, relocating their households to an arid location near the town's quarry. The paramount chief did not appear to have engaged in meaningful consultations with the affected residents.

The relocation has had a major negative impact on the residents' food security and livelihoods. Without land to farm, the relocated villagers cannot grow crops. They cannot pan for gold as the women once did on the mineral-rich and well-watered slopes of their former home. While those moved received financial compensation from AML for the short-term value of their crops and the disruption to their lives, as well as a minimal amount of food and financial assistance during the transition, they now find it significantly more difficult to feed or support themselves than at their previous location. They have repeatedly appealed to the paramount chief and to the company itself to remedy this situation, with little success.

The labor rights of workers employed by African Minerals were violated by the company's alleged failure to abide by Sierra Leone's labor law regarding terms of employment, termination, and benefits. The government, meanwhile, through both overly narrow interpretations of Sierra Leone's labor legislation as well as political maneuvering to protect the United Mineworkers Union (UMU), a long-entrenched union, essentially denied

AML workers the ability to form a new union of their own choosing to contest company practices that employees alleged to be punitive, discriminatory, or otherwise unlawful.

To quell the April 2012 protest, police used excessive force against community members. In response to their concern that residents would harm local officials or damage valuable company property, police sprayed teargas in the town's central market, injuring bystanders, including women and children. Government officials and local chiefs, rather than respond to residents' concerns about the operations of the company, acted to quash dissent to protect AML's interests.

The government of Sierra Leone and international partners are working to rebuild the country's economy and manage the proceeds from its vast mineral wealth after a devastating civil armed conflict from 1991-2002, which saw horrific human rights abuses. The brutal war, underwritten in part by revenue from diamond mining, involved protagonists who sought to control Sierra Leone's vast natural resources, including diamonds, gold, and iron ore.

International investors are returning to a politically stable and economically expanding Sierra Leone. The government, as part of its development plan, is in the process of leasing to foreign investors one million hectares, some 19 percent of the country's arable land.

President Ernest Koroma, re-elected in November 2012, oversees a government that is aggressively pursuing an "Agenda for Prosperity," supported by bilateral donors, the World Bank, the International Monetary Fund (IMF), and corporations attracted by the country's mineral riches and fertile land. The strategy has yielded high rates of growth—in 2012 Sierra Leone's economy grew by 21 percent, the fastest in sub-Saharan Africa, according to the IMF. Mining companies, the Extractive Industries Transparency Initiative (EITI) estimates, contribute 30 percent of the country's GDP.

That growth, however, has not necessarily been matched by improved living conditions. Sierra Leone, with a population of six million, has ranked for many years as one of the poorest countries in the world, according to the United Nations Development Programme's Human Development Index. In 2012, it came in at 177 out of 187 nations, with more than 50 percent of the population living below the poverty line of \$1.25 per day. Youth unemployment in Sierra Leone stands at 60 percent, according to the World Bank. Multiple

indices show that the country has one of the world's 10 highest infant mortality rates. The Comprehensive Food Security and Vulnerability Analysis of Sierra Leone found in 2011 that 45 percent of households, or 2.5 million people, are classified as food-insecure during the lean season. Approximately 6 percent of children suffer from acute malnutrition, while 35 percent of children endure chronic malnutrition. Tonkolili district, where AML operates, is one of the three most food-insecure districts in the nation: 74 percent of the district's residents are considered to be food-insecure.

In February 2013, the EITI suspended Sierra Leone's bid for EITI membership after the government failed to sufficiently address discrepancies in the recording of revenue or payments by companies. One of the reasons for the suspension was that the Ministry of Mineral Resources could not show a receipt for \$1 million for the mining license from African Minerals in 2010. In addition, some district councils and chiefdom administrations received payments from companies as surface rent, but failed to indicate receipts provided in return for these payments.

A 2013 survey conducted by Transparency International suggested that Sierra Leone had one of the world's highest incidences of reported bribery, especially with respect to access to key social services, such as the health and education sectors. Given persistent corruption and weak accountability mechanisms in the country, translating investment and growth into tangible benefits for Sierra Leonean residents is a serious challenge. As Daniel Gbondo, a Sierra Leonean then working for a German development agency observed:

The IMF looks at Sierra Leone and says, "Look, the country is poised to grow by more than 30 percent next year." But economic growth does not automatically translate into economic development. Is the growth going to foster corruption and sow conflict? The whole point is to improve the lives of citizens. If that doesn't happen, then what's the point?

The government will need to adopt and implement significant reforms, otherwise it risks perpetuating the so-called resource curse—whereby mineral and oil wealth fuel abuses, rather than translate into lasting benefits for the broader population.

It will be up to companies such as African Minerals to facilitate such reforms by respecting the rights of the people directly affected by their investments. African Minerals, which has gone through several leadership changes since July 2012, had promised to remedy mistakes and chart a more positive and productive engagement with the surrounding community. But meaningful results of this effort are not yet apparent. And, in August 2013, slightly more than one year after taking office, the leadership team that made these commitments resigned, making unclear whether these promises would be fulfilled. (Human Rights Watch wrote to the new management in January 2014 asking about these commitments, but as of going to print received no reply). The company's executive chairman, Frank Timis, in announcing the management change, said he "shares the same view as the rest of the Board, that African Minerals must first focus on consistent production and lowering costs"¹ – which might suggest that the company is pursuing a different approach to rights and development going forward.

With so much money at stake in a country with relatively weak regulations and institutions and little transparency, many people in Sierra Leone with whom Human Rights Watch spoke expressed concern that political actors and foreign companies will profit from investment to the exclusion of the residents who bear much of the costs and risks. Whether that happens will depend in large part on how the government addresses the very issues that existed long before the civil war: corruption, opaque governance, politicized security forces, and the abuse of authority, including by powerful local chiefs.

To promote rights-respecting investments in the country's bountiful natural resources, the government of Sierra Leone should ensure that state land is allocated transparently and in accordance with the rights of its occupants, that all affected residents are treated in accordance with international standards, that workers have the ability to organize and join a union of their own choosing, and that the broader population may obtain information on and question the deployment of the country's resources without fear of reprisal.

Genuine accountability, as detailed in this report, is crucial for the inclusive growth to which the government and its donors say they aspire. Sierra Leoneans have a right to participate in the decisions about their country's economic and political future. Those

¹ "Directorate Change – Appointment of new Chief Executive Officer," Official statement from African Minerals Limited, August 14, 2013.

directly affected by investment projects should be meaningfully consulted on the impact of such projects both in the immediate and longer terms. This is not only a prudent political strategy, given Sierra Leone's long history of conflict, it is also important for sustainable development and for the realization of Sierra Leoneans' full array of rights.

Recommendations

Human Rights Watch makes the following recommendations to address the abuses detailed in this report.

To the Government of Sierra Leone

- Provide sufficient resources for the Ministry of Labour to oversee and inspect labor conditions throughout the country and allow multiple unions within the same industry.
- Strengthen and implement labor legislation to comply with core International Labour Organization (ILO) conventions, including on Freedom of Association and Protection of the Rights to Organize, Collective Bargaining, Discrimination, Fundamental Principles and Rights at Work.
- Allow multiple labor unions within the same industry.
- Publish government budgets and spending reports in a timely manner and provide for public participation in the budgeting process, in line with good international practice.
- Implement the new law on access to information and repeal the Public Order Act of 1965.
- Develop a transparent system and policy governing the payment of police by private firms.
- Provide police with the necessary equipment and supplies to do their jobs effectively, including transport and fuel, food, and water.

To the Inspector General of Police

- Publish the report of the internal investigation it conducted into the April 2012 events in Bumbuna.
- Take appropriate disciplinary action against police officers of all ranks responsible for abuses in the April 2012 events, and assist criminal investigations into the killing of Musu Conteh and other alleged crimes committed in Bumbuna.

- Train officers in proper policing of public assemblies, based on the United Nations Basic Principles on Use of Force and Firearms for Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.
- As recommended by both Sierra Leone’s Truth and Reconciliation Commission and Human Rights Commission, consider dismantling the armed wing of the police, the Operational Services Division, and at least ensure that the division complies with national and international standards on policing.

To the Ministry of Mines

- Take the necessary steps to comply with the Extractive Industries Transparency Initiative (EITI), from which Sierra Leone was suspended in early 2013 for failure to sufficiently document mining revenue and company payments.
- Make public all mining contracts, as recommended by the EITI, by, for example, making them easily accessible on the Internet.
- Disseminate, on a regular and timely basis, information about mining revenue and the use of that revenue. Consistent with the 2013 revision to the EITI Standard, the government should, at a minimum:
 - Provide a breakdown of extractive industry payments by company, project, government agency, and type of revenue;
 - Identify the owners of companies holding licenses;
 - Disclose any social expenditures by companies that are contractually required;
 - Ensure greater transparency about inter-government transfers and direct spending by state-owned enterprises, as well as any ownership by such enterprises of extractive companies in the country.

To the Ministry of Lands

- Develop and implement a land-use policy that permits the allocation of state-owned land to investors after due diligence to avoid contributing to or exacerbating human rights violations, and recognizes the rights of traditional occupants.
- Ensure regular, broad, and meaningful public consultation with, and participation of affected communities with respect to large investment projects.

- Clarify the role of paramount chiefs in questions of land administration.
- Approve proposed projects only after duly assessing human rights and environmental risks, particularly in areas such as land and labor rights;
 - Identify measures to avoid or mitigate risks of adverse impacts
 - Implementing mechanisms that enable continual analysis of developing human rights and environmental risks and adequate supervision.
- Promote women's equal access to and legal ownership of land in rural areas.

To the Ministry of Labour

- Ensure adequate staffing, training, and resources to monitor labor conditions at major mining projects, including the mine, rail, and port developed by AML.
- Support the reform of the 1971 Regulation of Wages Act to protect workers' rights to association by clarifying the legality of multiple unions within each industrial sector.
- Enforce respect for workers' human rights contained in core ILO conventions, including on Freedom of Association and Protection of the Rights to Organize, Collective Bargaining, Discrimination, Fundamental Principles and Rights at Work.
- Strengthen and enforce Sierra Leonean labor law, particularly concerning unionization, termination, benefits and non-discrimination at the workplace.

To the Ministry of Justice

- Conduct a criminal investigation into the April 2012 events in Bumbuna and bring prosecutions as appropriate.
- Undertake an investigation into the May 2013 death of Sallu Conteh.

To the Ministry of Education

- Ensure primary education is available and free in areas where communities are relocated as a result of investments by businesses, including the new Ferengbeya, Wondugu, and Foria villages.
- Publicly denounce the practice of, and take disciplinary or legal action against, teachers demanding bribes from students to attend school.

To African Minerals Limited and Other Companies

- Abide by Sierra Leone labor law, particularly concerning termination, benefits, and non-discrimination at the workplace.
- Take all necessary measures to prevent discriminatory practices against Sierra Leonean workers and provide these employees with potable water and adequate nutrition at the mine site.
- Ensure equality of opportunity for both women and men during recruitment and training for employment opportunities.
- Address adverse human rights impacts in line with the UN Guiding Principles on Business and Human Rights and avoid human rights violations against those affected by corporate operations.
- Comply with European Union accounting and transparency directives requiring country- and project-level disclosure of payments to governments by companies in the extractive and forestry industries.
- Conduct human rights impact assessments for all operations.

To the Government of Sierra Leone and African Minerals Limited

- Adopt and fully implement the standards of the Voluntary Principles on Security and Human Rights, a multi-stakeholder effort to address human rights abuses arising from security arrangements in the oil, gas, and mining industries.
- Implement the recommendations contained in the report of the Human Rights Commission of Sierra Leone regarding the April 2012 events in Bumbuna, particularly concerning the right of workers to join a union of their choice.
- Provide immediate relief and implement long-term measures to remedy negative human rights impacts of relocation. Ensure regular, broad, and meaningful public consultation and participation when determining these measures:
 - Identify arable land for growing crops, provide assistance in clearing and accessing the land, and enable residents to re-establish their livelihoods.
 - Ensure that each woman in polygynous households is compensated.
 - Distribute regular food assistance and other forms of support so that relocated communities are able to meet their immediate needs until conditions for self-sufficiency are restored.

- Install potable and piped water in the new villages at no cost to residents.
- Work with civil society groups to provide grants and issue microcredit loans to women, in particular, to enable them to restart their livelihoods.
- Support new schools in relocation areas.

To Sierra Leone’s International Partners, including the World Bank and International Monetary Fund, and Bilateral Donors, such as the United Kingdom

- Undertake human rights due diligence for proposed development projects. To avoid contributing to or exacerbating human rights violations, approve projects only after:
 - Assessing human rights risks, including concerning land and labor rights;
 - Identifying measures to avoid or mitigate risks of adverse impacts;
 - Implementing mechanisms, including supervision, that enable continual analysis of developing human rights issues.
- Raise concerns, publicly and privately, regarding land policies that infringe on the human rights of those affected and finance projects that involve relocation only after ensuring compliance with the UN basic principles and guidelines on development-based evictions and displacement.
- Support reforms to advance fiscal transparency to bring Sierra Leone into compliance with the IMF’s Code of Good Practices on Fiscal Transparency, improve accountability, and implement anti-corruption measures.
- Provide financial and political support for the Anti-Corruption Commission’s efforts to investigate and prosecute financial malfeasance.
- Support governmental and nongovernmental institutions and initiatives that promote transparency, good governance, and accountability, as well as land, labor, and environmental rights.
- Provide technical assistance to the Sierra Leonean government to revise and implement its labor, mining, environmental, and other relevant laws and regulations to meet human rights standards as outlined in the UN basic principles and guidelines on development-based evictions and displacement.

Methodology

Based on three weeks of field-based research, more than 96 in-person interviews in July and September 2012 and in October 2013, and the review of numerous documents, this report focuses on the human rights impact of the mining activity of African Minerals Limited (AML). It examines the factors behind the April 2012 protest in Bumbuna and discusses how the Sierra Leonean government, while promoting the company's operations as essential to Sierra Leone's economic development, permitted company actions that violated the rights of Tonkolili's residents. The report details the government's failure to provide adequate oversight of AML's consultations with local communities, relocation process, response to complaints, and operations.

Human Rights Watch chose to focus on Sierra Leone because of the recent rapid acquisition by foreign companies of agricultural land and mining concessions and on African Minerals Limited because of its significant investment in the country.

Human Rights Watch visited Freetown, the capital of Sierra Leone, and Tonkolili District, where the (AML) mine is located. We also met with high-level representatives of AML in New York and London, and corresponded with officials by email and phone prior and subsequent to those meetings. Human Rights Watch wrote to the new leadership of African Minerals Limited in January 2014, requesting an update on corporate initiatives undertaken to engage with local communities. Human Rights Watch did not receive a reply from the company.

Interviews in Tonkolili District were conducted with the assistance of an English-Krio interpreter. Human Rights Watch spoke with residents of Bumbuna town, villagers who had been displaced, and workers at AML and its contractors. Human Rights Watch also spoke with government officials in Freetown, Bumbuna, Magburaka, and Makeni to compile as complete a picture as possible of recent events in the region.

Interviewees were selected randomly, based on their knowledge of specific events, and at the recommendation of local partners. Most interviews were conducted individually, but the interviews in the new villages of Ferengbeya, Wondugu, and Foria were also done in groups, sometimes with the village chief speaking on behalf of residents who were present at the meeting and who had an opportunity to express their own views. Where retribution

against sources was possible, Human Rights Watch conducted interviews in private locations. To protect workers from reprisal by their employers, the names of AML workers have been concealed, rendered in initials that bear no semblance to the workers' names.

Human Rights Watch did not provide financial compensation to any interviewees. All freely consented to the interview, and all were told that they could end the interview or refuse to answer questions at any point.

I. Development in a Post-conflict Country

Sierra Leone is still recovering from a notoriously brutal armed conflict from 1991 to 2002 that killed tens of thousands of civilians, displaced millions of others, and spawned widespread and systematic abuses, mainly perpetrated by two rebel groups, the Revolutionary United Front (RUF) and the Armed Forces Revolutionary Council (AFRC). The atrocities included numerous massacres, widespread sexual violence against women and girls, the recruitment and use of child combatants, and the war's signature atrocity: traumatic amputation. The Lomé Peace Accord of July 7, 1999 called for a total cessation of hostilities, committed the RUF to lay down its arms in exchange for representation in a new government, and included a controversial general amnesty for all crimes committed during the civil war. Abuses by the rebel groups and government continued through 2001.

A United Nations and Sierra Leonean hybrid war crimes court—the Special Court for Sierra Leone—was set up in 2002 to try those who bore the greatest responsibility for the most serious crimes committed in the war since 1996. The Special Court indicted 12 individuals from the RUF, AFRC, and pro-government militias, and found guilty former Liberian president Charles Taylor for his role in aiding, abetting, and financing the rebels.² The war destroyed the Sierra Leonean economy and severely damaged its infrastructure.

According to the Truth and Reconciliation Commission of Sierra Leone, which examined the conflict in detail, the main causes of the war were endemic greed, corruption, and nepotism, which reduced most of Sierra Leone's population to a state of poverty. Successive political elites, the commission found, plundered the nation's assets, including its mineral riches, at the expense of the national good. Government accountability for this depredation was non-existent, and institutions meant to uphold human rights, particularly the courts, were thoroughly co-opted by the executive branch of government. In this context, opportunists unleashed a wave of violence and mayhem and preyed on disenfranchised youths to wreak vengeance against those in power.³

² Taylor was found guilty in April 2012 of the war crimes of terrorizing civilians, murder, outrages on personal dignity, cruel treatment, looting, and recruiting and using child soldiers; and the crimes against humanity of murder, rape, sexual slavery, mutilating and beating, and enslavement. Human Rights Watch, "Even a 'Big Man' Must Face Justice: Lessons from the Trial of Charles Taylor," July 2012, <http://www.hrw.org/reports/2012/07/26/even-big-man-must-face-justice>, p. 1.

³ Truth and Reconciliation Commission of Sierra Leone, *Witness to Truth: Report of the TRCSL*, 2004, volume 2, pp. 27-32. The Truth and Reconciliation Commission (TRC), mandated under the 1999 Lomé Peace Accord, was established to provide an

Sierra Leone was settled by freed slaves brought to Sierra Leone by the British navy in 1787. The area around Freetown, the capital, became a British colony in 1808. The adjacent and larger region, inhabited by people indigenous to the area, was declared a protectorate in 1896. In 1961, the Colony and Protectorate together gained independence from Britain as a single nation, but maintained different sets of rules, particularly around land ownership.⁴ Like so many other nations in Africa, Sierra Leone has grappled with the economic and political impact of colonialism, the weakness of the new post-colonial state, the lack of a cohesive national identity, endemic poverty, authoritarianism, corruption, and the episodic eruption of violence.⁵

Under President Ernest Koroma, who was reelected for a second term in November 2012, Sierra Leone has been stable for 10 years and is trying to capitalize upon its mineral riches and lush land to provide for its population, particularly through the creation of employment and revenue-generating opportunities. The goal of the nation's development plan, a government spokesman said, is to create a "congenial economic environment" premised on maintaining stability and creating jobs.⁶

President Koroma has vowed to continue to "attract more investment, diversify the economy, and continue with the free health care, small-holder commercialization and infrastructural development." He announced in April 2010 the provision of free health care for pregnant women and children under the age of five. Koroma recently reaffirmed his commitment to focus on skills training acquisition and employment of youths as well as the restoration of discipline, law, and order in society.⁷

impartial historical record of the conflict, promote reconciliation and healing, and make recommendations aimed at preventing a repetition of the violations committed. Efforts to establish the TRC were spearheaded by the UN Mission in Sierra Leone and the Office of the United Nations High Commissioner for Human Rights.

⁴ Lansana Gberie, *A Dirty War in West Africa: The RUF and the Destruction of Sierra Leone* (Bloomington: Indiana University Press, 2005), pp. 4-6.

⁵ Report of the Truth and Reconciliation Commission of Sierra Leone, 2004, volume 2, pp. 27-32.

⁶ Human Rights Watch interview with Abdulai Bayraytay, National Publicity and Outreach Coordinator, Government of Sierra Leone, Freetown, September 18, 2012.

⁷ "We will do more in our Agenda for Prosperity," Government of Sierra Leone statement, December 22, 2012. <http://www.statehouse.gov.sl/index.php/component/content/article/34-news-articles/597-qwe-will-do-more-in-our-agenda-for-prosperityqpresident-koroma-assures-local-councils> (accessed May 16, 2013).

The Strategy: Running the Country like a Business

“Sierra Leone is in a funny place, trying to make a big leap from a traditional system to a modern one, but without the in-between,” said the head of the UK development agency, DFID, in Sierra Leone. But he said he believed the country was now going in the right direction, with the next few years being crucial.⁸

The International Monetary Fund (IMF), World Bank, and the United Kingdom’s Department for International Development (DFID) are the principal international entities assisting Sierra Leone in making this economic and political transition. The United Kingdom, for example, works to promote growth, prosperity, and investment in Sierra Leone.⁹ The IMF, which advises Sierra Leone on macroeconomic policy, has provided technical assistance on managing revenues from mineral and petroleum resources,¹⁰ helping it to create the necessary institutional and legal structures for the country’s impending oil production. The IMF’s goal is “inclusive growth,” achieved in part through job creation by the private sector to reduce social deprivation.¹¹

President Koroma, a well-respected businessman, has garnered the respect of donors by committing in his election campaigns to “run the country like a business.”¹² “The country doesn’t want aid,” one donor noted. “It is looking for trade and foreign investment.”¹³ Sierra Leone’s donors are mindful of rewriting their previous colonial relationship and are working with the newly reelected government in a way that assumes the equality of both nations and refrains from imposing onerous conditions that might be read as neocolonialist.¹⁴

⁸ Human Rights Watch interview with Phil Evans, DFID, head of Sierra Leone and Liberia, Freetown, July 13, 2012.

⁹ Human Rights Watch interview with Phil Evans, DFID, head of Sierra Leone and Liberia, Freetown, July 13, 2012. See also <https://www.gov.uk/government/world/organisations/dfid-sierra-leone> (accessed November 14, 2013) and https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209408/Sierra_Leone1.pdf. In its 2011-2015 Operational Plan for Sierra Leone, updated in June 2013, DFID said, “The UK remains one of Sierra Leone’s most significant development partners and DFID will be a key partner for the Government of Sierra Leone as it tries to accelerate the pace of development in the coming years following peaceful third elections, 10 years on from the end of the conflict. DFID will continue to work to its relative strengths in Sierra Leone which are in governance, human development and wealth creation.”

¹⁰ “The [IMF]-supported program seeks to advance the fiscal regime for extractive industries particularly with respect to the legislative framework and revenue mobilization and management.” IMF, “Sierra Leone: 2013 Article IV Consultation and Request for a 3-year Arrangement under the Extended Credit Facility” (IMF Country Report No. 13/330), November 2013, pp. 53-54, 65-66, at <http://www.imf.org/external/pubs/ft/scr/2013/cr13330.pdf> (accessed November 14, 2013).

¹¹ Human Rights Watch interview with Francis Kumah, Sierra Leone country representative, Freetown, September 25, 2012.

¹² Human Rights Watch interview with Joseph Rahall, Executive Director, Green Scenery, Freetown, July 17, 2012.

¹³ Human Rights Watch interviews with Phil Evans, Freetown, September 13, 2012, and Joseph Rahall, Freetown, July 17, 2012.

¹⁴ Human Rights Watch interview with Phil Evans, Freetown, September 13, 2012.

This sea change might be partly attributed to the increasing involvement of China in Sierra Leone. China is investing heavily in the country by paving its roads, rebuilding its airport, and constructing a new hospital in Freetown.¹⁵ Relevant in the AML case, Chinese companies built a 124-mile railway from Bumbuna to the coast to allow for the export of iron ore. Chinese firms now own more than one-third of AML's Tonkolili mine, and transport iron ore to China for the production of steel, to build skyscrapers and highways.¹⁶ JP Morgan Chase & Co. estimates that iron ore in Sierra Leone, Liberia, and Guinea could account for almost 40 percent of global iron ore exports within a decade.¹⁷

"The companies are racing against time and want to hit the ground running," the IMF representative in Freetown said. But he noted the obstacles. The investment is coming in faster than the country can build suitable infrastructure, such as roads, electricity, and sanitation.¹⁸ African Minerals has proposed to process bulk iron ore in Sierra Leone to garner a higher price on the global market, but there is not enough electricity in the country to do so, according to the company's former chief executive officer.¹⁹ Residents are not yet fully trained for jobs in the extractive sector or in related small- and medium-scale enterprises.

Still, given its resources, "Sierra Leone is doing well, focusing on infrastructure, the road network, hospitals, and the water supply," the IMF representative said.²⁰

¹⁵ According to Bloomberg, China is now Sierra Leone's largest trade partner, valued at \$2 billion, largely because of iron ore. Silas Gbandia and Pauline Bax, "China Trade with Sierra Leone to Climb on Iron Ore Demand," Bloomberg, January 20, 2014. In July 2013, President Koroma signed deals for construction projects totalling \$8bn during a recent visit to China. The business included a \$1.7bn deal with the Kingho Energy Group to build a port, mine, power plant and 250km railway and a \$300m deal with the Chinese Railway International Company to build a new international airport 60km from the capital Freetown. Agence France-Press, China, Sierra Leone sign \$8bn deal," July 6, 2013, accessed January 24, 2014. <http://www.news24.com/Africa/News/Sierra-Leone-China-sign-8bn-deal-20130705>

¹⁶ Neil Hume, "African Minerals boosted by China backing," Financial Times, September 26, 2013, <http://www.ft.com/intl/cms/s/0/cb504260-268b-11e3-bbeb-00144feab7de.html#axzz2mRpCAM90> (accessed December 3, 2013).

¹⁷ Cam Simpson, "Blood Spills as Iron Boom Stirs War's Ghosts," Bloomberg, December 12, 2012, <http://www.bloomberg.com/news/2012-12-13/sierra-leone-blood-spills-as-iron-boom-stirs-war-s-ghosts.html> (accessed May 16, 2013).

¹⁸ Human Rights Watch interview with Francis Kumah, Freetown, September 25, 2012. Only six percent of Sierra Leone residents get electricity from a grid. *Bumbuna Project Newsletter*, Vol.1, No. 2, March 2012, p 2-3.

¹⁹ Human Rights Watch interview with Keith Calder, New York, February 19, 2013.

²⁰ Human Rights Watch interview with Francis Kumah, Freetown, September 25, 2012.

Local Strife from International Investment

In the past four years, according to Green Scenery, a prominent national nongovernmental organization (NGO) that has studied land acquisition, Sierra Leone's government, as part of its development plan, has either leased to foreign investors or is negotiating the leasing of one million hectares, some 19 percent of the country's arable land. The country's strategy of inviting foreign investors to mine the country's abundant minerals or develop its well-watered land is "pauperizing the population and sowing the seeds of conflict," said one former government minister and presidential chief of staff.²¹

In recent years, there have been several instances in which conflict arose related to foreign mining operations:

- Since 2003, the diamond mining operations of Koidu Holdings Limited (KHL), now part of Israeli billionaire Beny Steinmetz's Octea Diamond Group, have led to episodic civil unrest. In December 2012, two people were killed in police violence at the mine in Kono District, eastern Sierra Leone, after workers went on strike over bonuses and work conditions, including alleged racist treatment and the inability to form a union of their own choosing. Steinmetz, who made his fortune in the diamond trade, has invested in mining throughout Africa and has recently been the subject of controversy over iron ore mining in neighboring Guinea.²²
- Throughout 2013, families from Malen Chiefdom in Pujehun District protested the operations of Socfin Agricultural Company, a large-scale investor in palm oil. The residents, in the southern region of Sierra Leone, disassociated themselves from the lease agreement signed by their chief and appealed to Sierra Leone's Human Rights Commission to intervene on their behalf. The families complained about ongoing harassment and intimidation, and the forceful seizure of their land by the company with the consent of the paramount chief. Socfin, a subsidiary of a Belgian concern with French investors, has a 50-year lease of over 6,500 hectares with a possible extension of 21 years to establish palm oil and rubber plantations. According to Green Scenery, residents have vociferously demonstrated against Socfin's presence

²¹ Human Rights Watch interview with Sheka Mansaray, Freetown, July 12, 2012; Christian Aid, *Who is Benefiting?: The Social and Economic Impact of three Large-scale Investments in Sierra Leone: a cost-benefit analysis*, July 2013.

²² "Sierra Leone Koidu Mine: Foreigners Holed Up After Clashes," BBC, December 12, 2012; Patrick Radden Keefe, "Buried Secrets: How an Israeli Billionaire Wrested Control of One of Africa's Biggest Prizes," *New Yorker*, July 8, 2013. The controversy concerns Steinmetz's acquisition of a significant iron ore deposit in Guinea.

since October 2011, when 39 people were arrested for protesting the lack of information about the deal and the chief's alleged collusion with Socfin.²³

- In October 2012, there was a peaceful strike by workers at Addax, a Swiss firm that grows sugarcane for the production of ethanol at a factory site in Mabilefu and the Rokel Estates in Malal Mara Chiefdom in Tonkolili District. Workers protested poor working conditions at the Estates. Addax, which has received European Union investment for the harnessing of alternative energy sources, has leased 14,300 hectares from landowners through local chiefdoms and planned to create 2000 jobs by the end of 2013. Addax's operations in Bombali and Tonkolili districts, which have been investigated by the Oakland Institute and Sierra Leone Network on the Right to Food (Silnorf), have raised concern among residents about the firm's impact on local food security.²⁴

While much has been written about “land grabs” in Africa, with the focus placed on the shoulders of those acquiring the land, there has been less attention on how the government makes land available. Private investors operate in a weak regulatory context, allowing them to exploit inadequate oversight of environmental and social impact, the lack of clarity around land title, and competing and underfunded government institutions vulnerable to corruption. These weaknesses create fertile ground for human rights abuses connected to development projects, as evidenced by the African Minerals Limited case.

Role of Chiefs in Land Deals

Complicating plans for rapid development in Sierra Leone, as in many other African countries, is the lack of clarity surrounding land ownership and administration.

Until independence from Britain in April 1961, Sierra Leone consisted of two different political entities, a British colony (along the coast in the west, since 1808) and an inland protectorate, over which the British gained jurisdiction in 1896. In the colony, by the mid-19th century, English property laws governed the acquisition and dispensation of land,

²³ “Sierra Leone: Land Deals Starting to Stir Discontent,” IRIN News, March 20, 2012. Mohamed Vandi, “Pujehun landowners decry Socfin ‘land grab,’” mysierraleoneonline.com, November 7, 2013.

²⁴ Bampia James Bundu, “Addax Bio-energy Under Fire in Sierra Leone,” Politico Sierra Leone, June 13, 2013. ActionAid, *Broken Promises: The Impacts of Addax Bioenergy in Sierra Leone on Hunger and Livelihoods*, September 2013.

allowing for private ownership and sale. But in the provinces, the 1927 Provinces Act declared that all lands in the protectorate were vested in the former tribal authorities (now referred to as chieftdom councils), which held the land for and on behalf of the native communities concerned.²⁵ This ordinance, which, in spirit, remains operative, also restricted the sale of the land, particularly to foreigners, by requiring them to negotiate land acquisition through the chieftaincy structure.²⁶

After the civil war ended in 2002, with extensive migration, conflicts over land grew in Sierra Leone. In Freetown, the absence of land registration and a land management system fueled land disputes, with multiple parties claiming the same property. Throughout the country, informal land occupation, encroachment on public land, increasing land grabs, and suspect land transactions created a chaotic situation around the use and administration of land, which led the Ministry of Lands, with support from the United Nations Development Programme (UNDP), to develop a new land policy that was designed to begin addressing these longtime concerns. (The land reform plan is expected to be rolled out in 2014). The policy is particularly necessary at this point to clarify who owns the land, who has the ability to lease it, who implements land decisions, and who benefits and how from those transactions.²⁷

A holdover from the pre-colonial and colonial eras, paramount chiefs, who have historically administered land outside of Freetown, play a critical role in land-use policy implementation. Sierra Leone is divided into three provinces, plus the western area around Freetown. The provinces are divided into 12 districts, and the districts are further divided into 149 chieftdoms, which are each headed by a paramount chief. The paramount chief is elected for a life term, and candidates for the position are limited to and appointed by members of local ruling houses.²⁸ Chiefs continue to play an important role in maintaining law and order, reconciling disputes, and translating government policy into a language that is understood by the people.²⁹

²⁵ William Reno, *Corruption and State Politics in Sierra Leone* (New York: Cambridge University Press, 1995), p. 29.

²⁶ Ade Renner-Thomas, Legal Consultant, "Revised Draft National Land Policy for Sierra Leone, Version 3," Ministry of Lands, Country Planning and the Environment (July 2012), pp. 11-13.

²⁷ Renner-Thomas, "Revised Draft National Land Policy," pp. 13-14. See also, International Monetary Fund, 2013 Article IV Consultation and Request for a three-year arrangement under the extended credit facility," November 2013, <http://www.imf.org/external/pubs/cat/longres.aspx?sk=41058.0> (accessed December 3, 2013), p. 53.

²⁸ Daron Acemoglu, Tristan Reed, James A. Robinson, "The Chieftdoms of Sierra Leone," June 28, 2013, pp. 6-7 (accessed July 9, 2013).

²⁹ Human Rights Watch interview with Haroun Touray, Assistant District Officer, Magburaka, September 24, 2012.

The extent of the chiefs' power to control and benefit from the leasing of land has become a fraught issue in Sierra Leone's development. Sierra Leone's 1960 land law reaffirms that land is held in trust by the chiefs for the community; chiefs serve as caretakers of the land. But questions remain as to whether the chiefs are truly representing residents in facilitating the leasing of land.

"The paramount chiefs have a role in the community to listen and advise, but the land doesn't actually belong to the chiefs," said Sahid Abu-Dingie, a Sierra Leonean development expert coordinating the land reform process in Sierra Leone for UNDP. The chiefs are responsible for consulting with local government and area residents on any land-use decisions.³⁰ In recent years, however, numerous conflicts over land have arisen because chiefs, directed by government, appear to have participated in the leasing of land without fully consulting with local residents or gaining their consent.

The chiefs' relationships with government also remain unclear. In 2004, Sierra Leone's government passed a Local Government Act, which created local councils in all 12 districts and sought to decentralize political power, especially around questions of development. The act states that the local councils:

shall be the highest political authority in the locality and shall have legislative and executive powers to be exercised in accordance with this Act or any other enactment, and shall be responsible, generally for promoting the development of the locality and the welfare of the people in the locality with the resources at its disposal and with such resources and capacity as it can mobilise from the central government and its agencies, national and international organisations, and the private sector.³¹

Under the act, the chiefdoms should cooperate with the council in "holding land in trust for the people of the Chiefdoms." But, in practice, at least in Tonkolili, the chiefs appear to

³⁰ Human Rights Watch interviews with Sahid Abu-Dingie, National Field Officer, United Nations Development Programme, Freetown, July 18, 2012, and with Amb. Dauda S. Kamara, Minister of Local Government and Rural Development, Freetown, September 18, 2012; US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2012: Sierra Leone," April 19, 2013. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204163#wrapper> (accessed May 16, 2013), p. 16.

³¹ Local Government Act of Sierra Leone, 2004, articles 20-28.

have played a pivotal role in enforcing land-use decisions, performing a political and economic function, as much as a customary one.

Ambassador Dauda Kamara, the former minister of local government and rural development who now serves as a special advisor to President Koroma, developed a chieftdom administration policy and training program to provide direction to the chief and clarify their powers and governance roles. The idea, Kamara said, was to “get them to move from tendencies of authoritarianism to being agents of good governance.” The training had previously been lacking, he added, particularly with regard to land.³² On November 26, 2013, the Ministry of Local Government & Rural Development launched a Code of Ethics and Service Standards for chiefs in Sierra Leone.³³

Although Sierra Leone's land is owned collectively by families and communities, chiefs increasingly act as if they control the surface of the land, while the minerals beneath belong to the state. “This is a new idea—that the chief owns the land, but the minerals belong to the state,” Kamara said. “The chiefs need to be educated about the limits of their role.”³⁴

Arrival of African Minerals Limited to Tonkolili

African Minerals Limited has been active in Sierra Leone since 1996. Formerly known as the Sierra Leone Diamond Company, it changed its focus from alluvial diamonds to iron ore after the discovery in 2005 of the Tonkolili deposit. As the paramount chief of Kalansongoia, the affected area, recalled:

African Minerals came to Bumbuna in 2005 as a prospecting mining company. The usual procedure is that the government—the minister of mines—issues an exploration license. We as chiefs are copied as authorities. We control the surface, but the government controls the land below. Exploration started in 2005 and continued to 2009. By 2010, the company was given a mining license, and preparation to mine started. Activity began with the construction

³² Human Rights Watch interview with Dauda Kamara, Freetown, September 18, 2012.

³³ Keifa M. Jaward, “Ethical Standards Set for Chiefs,” *Awoko*, November 27, 2013. <http://awoko.org/2013/11/27/sierra-leone-news-ethical-standards-set-for-chiefs/> (Accessed February 4, 2014).

³⁴ Human Rights Watch interview with Dauda Kamara, Freetown, September 18, 2012.

of the rail line in 2011. It took about one year. Toward the end of 2011, active mining started, and continues to this day.³⁵

After African Minerals in 2008 discovered magnetite, a key component of iron ore, it moved from exploration to active mining and the transport of iron ore. The contract signed by Frank Timis, the executive chairman of African Minerals, and Alpha Kanu, the minister of mines in August 2010 declared that the company, over the 25-year duration of the contract, would pay to the government of Sierra Leone an annual lease fee of \$1 million, as well as an annual surface rent, as stipulated in the 2009 Mines and Minerals Act. The rent, according to the contract, would be delivered through the “appropriate local authority.” The amount would be determined by mutual consent – but precisely whose consent, or how it would be achieved, is not clear.³⁶

The 2009 Mines and Minerals Act allocates rent payment as follows:

- 50 percent to the landowners
- 15 percent to the local district council
- 15 percent to the paramount chiefs
- 10 percent to the chiefdom administration
- 10 percent for constituency development³⁷

The Act also requires the holder of a mineral right, upon demand by the owner or lawful occupier of the land, to pay “fair and reasonable compensation for any disturbance of the rights of such owner or occupier.”³⁸ A copy of the mining lease agreement, issued one year later, similarly affirms: “The Company shall endeavor to pay fair and reasonable compensation depending on a certified valuation carried out by a Government-appointed

³⁵ Human Rights Watch interview with Paramount Chief Alimany Bockarie Yenllan Koroma III of Kalansongoia Chiefdom, Bumbuna, July 14, 2012.

³⁶ Mining Lease Agreement Between Government of the Republic of Sierra Leone and African Minerals Limited Group of Companies, Freetown, signed August 6, 2010. Mines and Minerals Act 2009, *Sierra Leone Gazette*, <http://www.sierra-leone.org/Laws/2009-12.pdf>. In an independent reconciliation report by the accounting firm Moore Stephens LLP concerning revenue from Sierra Leone’s extractive industries in 2011, the firm found that the multiple payments and inconsistent payment procedures undermined the “traceability of the income flows paid by mining companies.” Sierra Leone Extractive Industries Transparency Initiative, “Reconciliation Report for the Year 2011,” December 2013, p. 34.

³⁷ Sierra Leone Mines and Minerals Act, 2009, article 34a.

³⁸ Sierra Leone Mines and Minerals Act, 2009, article 35.

valuator for any prospective damage to crops, trees, buildings or works during the course of their mining operations.”³⁹

The 2009 Act further requires the minister of mines and mineral resources to ensure that all owners or lawful occupiers of land who are relocated as a result of a proposed mining operation “are resettled on suitable alternate land, with due regard to their economic well-being and social and cultural value so that their circumstances are similar to or improved when compared to their circumstances before resettlement.”⁴⁰

³⁹ Mining Lease Agreement between the Government of Sierra Leone and African Minerals Ltd., August 6, 2010, p. 8.

⁴⁰ Sierra Leone Mines and Minerals Act, 2009, article 38.

II. Displacement to Permit Mining

Beginning in late 2011, African Minerals Limited, with the backing of the government, relocated hundreds of families from the Tonkolili mine area to parcels of land five kilometers from Bumbuna town, on a flat, arid, and rocky area near a quarry. Family members told Human Rights Watch that the company, working through the paramount chiefs, promised them housing, land, jobs, schools, and other assets. However, they have very little now, even less than their prior modest subsistence.

Before the families were relocated, they lived where the mine currently exists, at the top of a well-watered and lush hill, 10 kilometers from Bumbuna town. There, residents were able to pan for gold in a local stream and to grow the food they needed. They could afford to send their children to school.

Now, many lack food, water, and livelihoods, as well as the income needed to educate their children. African Minerals Limited, which built houses for the relocated residents, has tried to provide them with water and food rations, consisting of one bag of rice per household, but these are insufficient for the villagers' short- and long-term needs. Unable to pan for gold, as they once did, they cannot afford to pay the bribes often solicited by underpaid teachers.

African Minerals is in the process of acquiring land for relocated residents to cultivate, but that parcel is several kilometers from where the villagers live. They lack transportation to the farming site and money to hire motorbikes, the cheapest and most common way to travel, other than by foot.

While the company and paramount chief maintained that they consulted with residents before relocating them, villagers complained that they felt they had no say in the matter. Almost all of the people interviewed by Human Rights Watch who had been moved said they intensely regretted their relocation, as they are now no longer able to provide for themselves. A village elder told Human Rights Watch:

The company went to the paramount chief, and the paramount chief told us what to do. We asked so many questions. What they told us they would do,

they have not done.... It was a trap. They said, “It will be paradise for you,” but it’s completely different.⁴¹

“It Was Not Our Wish to Come Here”

When African Minerals began its exploration, the paramount chief of Kalansongoia and the company identified nine villages that would be affected by the company's operations. He helped broker the relocation of the families in three villages, which he did, he said, with their consent.⁴²

AML officials told Human Rights Watch that the company negotiated directly with the host communities, with the active involvement of the paramount chief. The land was assessed according to Sierra Leone government guidelines on land pricing in the province as well as traditional valuation practices that formed part of the negotiations. The Tonkolili District Council, the company said, assessed the value of all dwellings and structures, discussed these during consultation meetings prior to relocation, and provided families a one-time payment on the basis of the assessed value, plus 10 percent, a disturbance allowance, and vehicle transport to move their belongings to locations of their choice within the chiefdom, African Minerals told Human Rights Watch.⁴³

Local residents, however, described their interaction as one in which they had no ability to contest their removal from their homes. In the new villages of Ferengbeya, Wondugu, and Foria, villagers asserted that they were moved against their will. As the village chief of Ferengbeya said:

It was not our wish to come here. We were in an area visited by people sent by the chief. When they first came in 2005, they were doing prospecting for the Sierra Leone Diamond Company. They did exploration for three years.

⁴¹ Human Rights Watch interview with Mohamed Daboh, Foria 2, September 22, 2012.

⁴² Human Rights Watch interview with Alimamy Bockarie Yellan Koroma III, Paramount Chief of Kalansongoia, Bumbuna, July 14, 2012.

⁴³ Letter from Graham Foyle-Twining, Global Head of Human Resources and Sustainable Development, African Minerals Engineering Ltd. To Human Rights Watch, March 11, 2012, p. 9. Foyle-Twining told Human Rights Watch in October 2013, after he had left the company, that most of the negotiations with the community happened orally, rather than through formal written contracts. Payments were made in cash, making them and the deals hard to trace. Human Rights Watch interview with Foyle-Twining, London, October 21, 2013.

Then, the paramount chief visited Ferengbeya in 2009 and told us that we would be relocated. The chief said we should not ask any questions.⁴⁴

In January 2010, President Koroma visited the original Ferengbeya village where the mine was to be located. A statement released by his office said:

To the people of Sierra Leone, especially those at Ferengbeya, the president said there should be calm and understanding, even as he had started hearing about disputes over ownership of the land where the company is operating. He warned against undermining the operations of the mine, and to always find legal and amicable solutions to differences: this country will not develop without discipline. Anyone caught trying to deliberately under[mine] the company's activities will face the full force of the law. This is an opportunity for all of us in Sierra Leone, this is an opportunity to change this country and ensure that everyone benefits from our God-given resources. Tonkolili is at the centre of Sierra Leone... but it is not only Tonkolili that should benefit from this. This is not only a Tonkolili affair. It is a national asset.⁴⁵

Shortly thereafter, officials from the company began marking the houses, without the prior knowledge or approval of the village chief, who had been away at the time. Alarmed at the marking, youth from the village went into Bumbuna town to speak with AML's community liaison officer about what the company was doing. They got into a quarrel, and the community liaison officer, community members said, accused the young men of hitting him, an accusation the youth denied in a group interview with Human Rights Watch.⁴⁶ Community members said the police then showed up in the village in March 2010 and arrested four youths who had been asking questions about the marking of the houses. According to the village chief, the young men were detained without charge for three days and three nights and were not given any food. The village mobilized and collected money to provide bail and get the young men released.⁴⁷

⁴⁴ Human Rights Watch interview with Demba Jawara, village chief of Ferengbeya 2, July 15, 2012.

⁴⁵ Statement by President Ernest Koroma, "President Koroma Upbeat about African Minerals Prospects," January 23, 2010 (accessed July 9, 2013).

⁴⁶ Human Rights Watch group interview with residents of Ferengbeya2, July 15, 2012. Three of the four youths involved in the dispute were present at the village meeting on July 15, 2012.

⁴⁷ Human Rights Watch group interview with residents of Ferengbeya 2, July 15, 2012. Human Rights Watch was unable to confirm this incident with the police.

The company then initiated a survey of how many people were in each house, and went to survey the land, with the assistance of the community liaison officer. One villager recalled:

A guy working for the company told us how much each plant was worth and how much we should get. The paramount chief came during the surveying. A young man asked if the company was moving us, and, if so, will we get the same thing? The company official said, “Where we move you will be better than here. You are suffering here.” We were told, “Where you are is hell and where you are going is heaven.”⁴⁸

Some residents of Tonkolili actively resisted the takeover of their land. In Kemedugu, for example, a village next to the original Ferengbeya, the Sierra Leone Network on the Right to Food, known as Silnorf, received an emergency call in November 2010 from its contact in Tonkolili district regarding a violent police operation near the proposed mining site. The contact reported that the paramount chief made a planned visit, along with some AML officials, to the contact’s village. The chief explained to residents that AML required a piece of land to construct a dam. Villagers opposed the chief’s request to use the land, because of its importance as the community’s only source of drinking water. The land was also used as a burial ground. Despite the paramount chief’s attempts to persuade them to cede the land, residents rejected the offer.⁴⁹

Six days later, AML bulldozers began working on this parcel, destroying local crops, according to witness accounts provided to Silnorf. Residents protested when the bulldozers returned the next day and blocked the AML workers from leaving the area. AML staff and two police came to negotiate, but were unsuccessful and left. Afterward, a truckload of police arrived at the scene and started shooting teargas into the village and at people not involved in the dispute. A couple of residents were injured, and dozens were arrested. The paramount chief alleged that residents had burned a rig, but Silnorf, despite trying, could find no evidence of the act.⁵⁰

⁴⁸ Human Rights Watch interview with Demba Jawara, Ferengbeya 2, July 15, 2012.

⁴⁹ Sierra Leone Network on the Right to Food (Silnorf), “Monitoring Report on the incident at Ferengbeya and Kemedugu I&II between African Mineral Limited (AML) and the residents of the affected villages, November 30, 2010. Human Rights Watch interview with Pa Brima Koroma, Kemedugu section chief, September 22, 2012.

⁵⁰ Sierra Leone Network on the Right to Food (Silnorf), “Monitoring Report on the incident at Ferengbeya and Kemedugu I&II between African Mineral Limited (AML) and the residents of the affected villages, November 30, 2010.

Relocation of Ferengbeya, Wondugu, and Foria

By the end of November 2010, the paramount chief disbursed payment to the affected villagers in these three communities for the ostensible value of their crops, houses, and sacred sites, and then asked the community to move as soon as possible to a temporary location to make the parcel of land available for AML's mining operations. Village elders appealed to the paramount chief and asked him to intervene on their behalf, because they did not want to move. "He refused and said, 'It's not my problem,'" one longtime community resident recalled.⁵¹

One year later, in November 2011, the families of Ferengbeya had no choice but to be transported to their new, permanent homes to make way for the mine. (There are approximately 115 houses in the village). They said they received one-time payments of between 25,000 and 200,000 leones (\$5-\$40) for their crops and 600,000 (\$120) per family for the disturbance of moving.⁵² The smaller payments lasted one week. The larger payments were made over three months.⁵³ "We were underpaid and we weren't able to negotiate," the Ferengbeya village chief said.⁵⁴

In the second village, Wondugu, with 250 families, residents were told in 2011 that they needed to move, as they were too close to the mine. As one resident noted:

We accepted the deal, because they told us they would build new houses for us and that we would get food and 50,000 leones (\$10) per month [for six months]. Then we were told we would be given compensation for our crops. But it wasn't enough. We told them what we thought was the value of our plantations and the company said, "It's not what you want, it's what we offer." The land could have fed our families for 100 years. We had no alternative but to leave. We saw that Ferengbeya had already gone. We are powerless against the PC [paramount chief] and the government.⁵⁵

⁵¹ Human Rights Watch interview with Fatima Sesay, Ferengbeya 2, July 15, 2012.

⁵² Human Rights Watch interview with Demba Jawara, Ferengbeya 2, July 15, 2012.

⁵³ Human Rights Watch interview with Ibrahim Kargbo, Foria 2, September 22, 2012.

⁵⁴ Human Rights Watch interview with Demba Jawara, Ferengbeya 2, July 15, 2012.

⁵⁵ Human Rights Watch interview with Kalie Conteh, village chief of New Wondugu, September 22, 2012.

A third village, Foria, with 250 people, was the latest to be relocated; families moved there in June 2012. One resident, a married, 46-year-old mother of three, said that the people in the village were told that they would be moving to a new location. They were given no details, she said. The resident refused initially, but “the Paramount Chief [Alimamy] promised that the family would have land for farming, access to skills training, and so many things. We haven’t seen anything but the food rations.”⁵⁶

The father of the Foria village chief added that, initially, the community refused to move, for about two months. The company started to blast away at the rock near their village, creating enough dust and noise to force everyone to leave. The actual move then happened very quickly, with little time to pack. Many people left belongings behind. The company soon after bulldozed the property. As this Foria village elder recalled:

We were told, “Rather than suffer, why don’t you move?” But now, we are in darkness. We don’t know what our fate will be tomorrow and the company has lied to us. We don’t know how long our rations will last. We were cajoled to leave and our money is exhausted. At first we believed them, but now we have changed.⁵⁷

The paramount chief rejected the notion that the villagers were forcibly relocated: “We met with the communities to discuss, minutes were taken, and we arrived at a conclusion. No one was forced. The communities agreed. There was no resistance.”⁵⁸

African Minerals shared the paramount chief’s assessment: “Consultation was carried out extensively with the affected communities near the Tonkolili mine site, and the need for surveying and land acquisition was fully explained to community members and leadership.”⁵⁹ A resettlement committee, comprising local and regional leaders, addressed issues raised by the community. The company claimed that the community had an opportunity to identify choices of new locations.⁶⁰ Payments were made to families on the basis of the assessed value, plus 10 percent, plus a disturbance allowance, plus vehicle

⁵⁶ Human Rights Watch interview with Hawa Kalloko, Foria 2, September 22, 2012.

⁵⁷ Human Rights Watch interview with Mohamed Daboh, father of the village chief, Foria 2, September 22, 2012.

⁵⁸ Human Rights Watch interview with the Paramount Chief of Kalansongoia, Bumbuna, September 23, 2012.

⁵⁹ Letter from African Minerals Limited to Human Rights Watch, March 11, 2013, pp. 9-10.

⁶⁰ Ibid.

transport to move their belongings to locations of their choice within the chiefdom.⁶¹ Two families attempted to contest their relocation, but the paramount chief “intervened and ruled as traditional leader on the matter,” the company reported.⁶²

Regardless of the process of consultation, residents told Human Rights Watch that they now believe they were misled by false promises that their compensation and alternative arrangements would be superior to their previous living conditions. As one resident noted, President Koroma told villagers that they were making a sacrifice for the whole nation, “but what was promised was not done.”⁶³

Empty Promises

Prior to their removal, residents of Ferengbeya, Wondugu, and Foria villages said they were told by AML and government representatives that they would be allocated new modern homes, land to cultivate, and jobs with the company. Residents did receive new homes, built by TS and Company, Ltd., a private firm where the president’s brother Thomas Koroma is managing director.⁶⁴ Enduring hunger, they have still been waiting for land to cultivate. Villagers in the three communities told Human Rights Watch that among the 250 or so households, 24 people are employed by African Minerals or its contractors.⁶⁵ In these newly built communities, there are numerous structures—a market, an Islamic school, a community center, and a medical center—but they are largely empty.

“If they don’t rectify the situation soon,” said the Ferengbeya 2 village chief, “we will go back to our land, because here we will perish and die.”⁶⁶

Availability of Food

In the original Ferengbeya village, residents were able to cultivate numerous crops of fruits and vegetables, in addition to having access to bush meat and fish. In their new location, which is much drier, and where they do not yet have land to cultivate, the

⁶¹ Ibid., p. 10.

⁶² Ibid.

⁶³ Human Rights Watch interview with Sheku Thorley, Ferengbeya 2, July 15, 2012.

⁶⁴ Human Rights Watch interview with Graham Foyle-Twining, London, October 21, 2013. Letter from African Minerals Limited to Human Rights Watch, March 11, 2013. Residents said they spoke with Thomas Koroma when he came to the relocated villages.

⁶⁵ Human Rights Watch interview with AA, Ferengbeya 2, October 26, 2013.

⁶⁶ Human Rights Watch interview with Demba Jawara, Ferengbeya 2, September 22, 2012.

residents said their diets have diminished greatly. “Before, we ate three or more meals per day. Now it’s one,” said a village elder. “We have to buy things now that we used to get for free.”⁶⁷

Prior to their relocation, in recognition of the many households in Sierra Leone that practice polygyny, the residents of Ferengbeya, Wondugu, and Foria were told that each woman in the household would have her own house, a pot, a bag of rice, and three basins. Instead, most families with multiple wives share one basin, one house, one bag of rice, and receive 150,000 leones per month. (The amount was 50,000, but was increased in early 2013).⁶⁸ The bag of rice lasts less than half of one month, and the smaller amount of money is often gone in less than one week, residents said. The rations were initially given for six months, but after they ended, villagers threatened to leave, and the company extended its compensation for another six months. The new rice ration ended in December 2012 for many of the relocated villagers, and was again extended.

“We were told everything would be fine, but it’s the opposite,” said the village chief. “We are completely idle now, and our stomachs are empty.” He shared with his extended family that day a large salted cucumber and bowl of rice.⁶⁹

Many of the relocated villagers have left, looking for food, residents reported. Others tried to create gardens on nearby land, but found their plants uprooted by the owners of that property.⁷⁰

Access to Water

The relocated Sierra Leoneans have also experienced a decline in their living standards because water is less abundant in their new location than when they lived on the mountain. Residents, accustomed to have water flow through their community, said they were promised houses with piped water upon relocation, but, so far, they have received water from trucks or had to pump water from boreholes.

⁶⁷ Human Rights Watch interview with Mohamed Daboh, Foria 2, September 22, 2012.

⁶⁸ Letter from African Minerals Limited to Human Rights Watch, March 11, 2013.

⁶⁹ Human Rights Watch interview with Demba Jawara, Ferengbeya 2, July 15, 2012.

⁷⁰ Human Rights Watch interview with AA, Ferengbeya 2, October 26, 2013.

There is not enough water for consumption or sanitation, the villagers said. The toilets, while modern looking, do not flush, because of the inadequacy of water. Lacking functioning toilets, the residents have resorted to outhouses, but these often overflow and contaminate the homes. In these unhealthy conditions, many people have fallen ill, the father of the chief noted.⁷¹

“The greatest problem is water,” said the chief of new Ferengbeya village. “The 10 boreholes here are not producing enough; only two work, and, of those, the water in one is impure.”⁷² In Foria, a resident reported, there are six hand pumps in the village, but five do not work.

The company has begun to bring water every day by truck to supply the new Ferengbeya village’s four large water tanks. The water tankers are supposed to come every day, but sometimes they are delayed or break down for days.

As a result of a long delay in September in receiving a water shipment, women from the three relocated communities, in protest, blocked the nearby rail line, which transports iron ore to the port for shipment. The police came and talked to the protesters, who were peaceful, and said that their concerns would be addressed. “I don’t feel comfortable with strikes, but we’re hungry and need water,” said Fatima Sesay, the chairlady of Ferengbeya 2. “We’re being treated like refugees in our own home.”⁷³

Right to Livelihood

In their original village, residents said, everyone farmed, and women panned for gold to supplement family income. They could sell one karat of gold in town for 25,000 leones (about \$5) to help support their families and send their children to school. “When the women were digging gold, they were making 200,000-300,000 leones (\$40-\$60) per day and had an independent source of income,” said the village chief of Wondugu.⁷⁴

⁷¹ Human Rights Watch interview with Mohamed Daboh, Foria 2, September 22, 2012.

⁷² Human Rights Watch interview with Demba Jawara, Ferengbeya 2, July 15, 2012.

⁷³ Human Rights Watch interview with Fatima Sesay, chairlady of Ferengbeya 2, October 26, 2013.

⁷⁴ Human Rights Watch interview with Kalie Conteh, New Wondugu, September 22, 2012.

These residents of Ferengbeya, Wondugu, and Foria no longer have that option, nor can they farm, or sell produce or wares. When Human Rights Watch visited the market in October 2013, it was empty. The women of the three communities went to see the paramount chief and appealed for a microcredit scheme that would enable them to launch small businesses. He was able to secure the loans, they said, and told them to open bank accounts. The money (an estimated \$400 per woman) never came, the women said, and that a senior AML official visiting the villages told them they were unlikely to get this funding.

“This money could change our lives,” said Sesay. “If we don’t get it, we will start another protest blocking the rail line.”⁷⁵

Ability to Afford Education

The decline in the families’ living standards has also had a deleterious effect on children’s schooling. According to residents in each of the three new villages, owing to financial challenges, many fewer children are going to school now than in their ancestral homes. “The women were previously able to make enough money for school fees [bribes], but now the kids can’t go to school because of lack of money,” said Demba Jawara, the chief of the new Ferengbeya village.⁷⁶

Although primary education in Sierra Leone is technically free, as required by international law,⁷⁷ many people reported that teachers would not accept students unless the parents paid bribes to have their children educated. “If you don’t pay, they drive your kids out of the school,” said a village elder in new Wondugu. “Their future is bleak. They will have to drop out.”⁷⁸

In their former homes, however, paying school fees was much less of a problem, given the income that both men and women earned. As the Ferengbeya 2 chairlady noted:

⁷⁵ Human Rights Watch interview with Fatima Sesay, chairlady of Ferengbeya 2, October 26, 2013.

⁷⁶ Human Rights Watch interview with Demba Jawara, Ferengbeya 2, September 22, 2012.

⁷⁷ Convention on the Rights of the Child (CRC), G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, article 28(1)(a).

⁷⁸ Human Rights Watch interview with Mohamed Daboh, Foria, September 22, 2012.

People used to get money, but everything here is closed. We can't provide for our children and give them clothes or pay their school fees. We were told there would be scholarships for our kids, but those don't exist.⁷⁹

In the new villages, residents were told to send their children to a nearby government school, but they complained that it was too far for their children, who would need to walk along a road with car traffic to reach the secular school. Last year, Ferengbeya residents joined together to create their own Islamic school, the Sierra Leone Muslim Brotherhood. The school was built from a combination of “begging within the community and contributions outside of it.”⁸⁰ Open for one year, the school serves 250 students. “It was a self-help project,” said Musa Koroma, chair of the School Management Committee. “Everyone contributed, providing money from the stipend they were given.”⁸¹ Villagers from the three communities built the structure out of mud, but it collapsed.

Neither the government nor AML formally supported this effort. Rather, the community had to rely on charitable donations. When Thomas Koroma, the president's brother, visited the community, he provided 100 bags of cement. A Ghanaian man who works at AML contractor BCM and prays at the community mosque, also provided supplies, including plaster, desks, and chairs.⁸² The school was then rebuilt.

Seeking Compensation

In 2012, residents and village elders from Ferengbeya, Wondugu, and Foria told Human Rights Watch that, despite repeatedly taking their concerns to the paramount chief, they saw little improvement in their living conditions. “Even today,” Jawara told Human Rights Watch on one of the days a group went to the chief, “a delegation of elders from the three villages has gone to the chief. They've gone before, but there's been no response.”⁸³ “We want to pack and go back, but we are also afraid to have an open confrontation with the government,” one elder said.⁸⁴

⁷⁹ Human Rights Watch interview with Fatima Sesay, Ferengbeya 2 chairlady, October 26, 2013.

⁸⁰ Human Rights Watch interview with Mumuru Kulie Koroma, head teacher, Ferengbeya 2, October 26, 2013.

⁸¹ Human Rights Watch interview with Musa Koroma, chair, School Management Committee, Ferengbeya 2, October 26, 2013.

⁸² Ibid.

⁸³ Human Rights Watch interview with Demba Jawara, Ferengbeya 2, September 22, 2012.

⁸⁴ Human Rights Watch interview with Mohamed Daboh, Foria 2, September 22, 2012.

The paramount chief told the villagers to be patient, that he would approach the company on their behalf, but he acknowledged to Human Rights Watch that the plight of those who were relocated is a serious issue:

One major disappointment has been the quarry [where the relocated villagers now live]. We were asking [African Minerals] for an abattoir, store, and rice mill. We were told that these would be built four months from inception and it's now the second year. I had to write them a strong letter asking for these things.⁸⁵

The paramount chief said he visited the relocated villages “very reluctantly. I feel so bad. If the government doesn’t deal with these issues, the people will rise up. They are so constrained,” he said.

By October 2013, community members acknowledged the chief’s attempts to assist them, but expressed continuing frustration with the company’s lack of interest in their plight. “The company responds only when there is a strike,” said a Ferengbeya resident and AML employee.⁸⁶

The paramount chief told Human Rights Watch in October 2013 that the company was creating a dam to provide residents with a permanent water source, and that there were plans afoot to hire local people from the community and to provide them with training in livelihoods and markets. “I got very angry last year and said that if this treatment continued, it would be difficult for the company to continue production,” the chief said.⁸⁷

African Minerals told Human Rights Watch in March 2013 that it had secured 180 acres of land: 150 acres for intensive agricultural activities and the remaining 30 acres for individual family growing plots. The dam, eight kilometers from the relocation site, would permit the irrigation of this land for farming, the company noted.⁸⁸ AML’s development projects were “not systematic,” but were “cleaning up” past mistakes, Calder, the former

⁸⁵ Human Rights Watch interview with Paramount Chief of Kalansongoia, Bumbuna, July 14, 2012.

⁸⁶ Human Rights Watch interview with AA, Ferengbeya 2, October 26, 2013.

⁸⁷ Human Rights Watch interview with Paramount Chief, Bumbuna, October 26, 2013.

⁸⁸ Letter from African Minerals Limited, March 11, 2013, p. 10-11.

Chief Executive Officer, told Human Rights Watch.⁸⁹ The company noted it had a “steep learning curve” concerning projects of corporate social responsibility.⁹⁰

“This is very different from what we expected,” said Kalie Conteh, the village chief of Wondugu. “The company ... failed to understand our need for land. They just wanted us out of the way.”⁹¹

⁸⁹ Human Rights Watch interview with Keith Calder, CEO of African Minerals Ltd., New York, February 19, 2013.

⁹⁰ Letter from African Minerals Limited to Human Rights Watch, March 11, 2013.

⁹¹ Human Rights Watch interview with Kalie Conteh, New Wondugu, September 22, 2012.

III. Labor Rights Violations at the AML Tonkolili Mine

As of November 2013, African Minerals Limited employed 6,850 people, of whom 80 percent were Sierra Leonean nationals.⁹² Although privileged with gainful employment in a country of great poverty and joblessness, the Sierra Leonean workers at African Minerals and its contractors were so disenchanted by recurring labor violations that they went on strike in Bumbuna in April 2012.⁹³ The issues of greatest concern to the workers were their inability to join a union of their own choosing, the lack of due process in job dismissals, the disparate amenities and salaries for expatriate versus local workers, and the lack of accountability for alleged racist treatment by a few expatriate supervisors.

Workers said they tried for years to get the company to respond to these concerns, but saw few improvements. Because many had experience in other firms—this was likely how they got jobs at AML or its contractors in the first place—they also had a basis of comparison, and found that the conditions at Bumbuna did not measure up to those of their previous posts, in terms of salary, work environment, and responsiveness of management. The problems occurred within AML and its contractors, including CCECC from China; BCM from Australia/Ghana; Group Five from South Africa; and the Hawk Group and Dawnus from the United Kingdom. Sierra Leone’s senior labor officer said AML has direct responsibility for the treatment of employees whose salaries it pays, and indirect responsibility for employees whose salaries are paid by the company’s contractors.⁹⁴

Prior to his departure from AML in August 2013, Graham Foyle-Twining, the company’s former global head of human resources and sustainable development, was developing personnel policies and procedures to govern and unify AML and its contractors.⁹⁵ In early 2013, the company laid-off 400 expatriate workers, and contractors laid off another 500, to create more jobs for Sierra Leonean workers.⁹⁶ Moving forward, the company said in March

⁹² AML Corporate Presentation, November 2013, <http://www.african-minerals.com/system/files/uploads/financialdocs/Corporate%20Presentation%20Nov%202013%20updated.pdf>.

⁹³ Human Rights Watch interview with A.B., employee of AML contractor, Bumbuna, September 23, 2012.

⁹⁴ Human Rights Watch interview with Mohamed L. Momoh, senior labor officer, Freetown, October 25, 2013.

⁹⁵ Human Rights Watch interview with Foyle-Twining, Global Head of Human Resources and Sustainable Development, New York, February 19, 2013.

⁹⁶ Human Rights Watch interview with Calder, February 19, 2013.

2013 that it intended to align the policies of its contractors with AML's standards, and would monitor its contractors' employee relations performance.⁹⁷

Burgeoning Discontent

Sallu Conteh, a Sierra Leonean air conditioning technician and shop steward, explained to Human Rights Watch how the workers at AML first came together to share their grievances. Conteh had served in the military for 12 years prior to starting at African Minerals in 2006 as a casual worker then making 350,000 leones (US\$70) per month. He worked for 21 months at AML before being made permanent:

That's when the problems started. The vast majority of workers were casual. The salary was uneven and not consistent. It would go up and down. I called a meeting of the workforce to discuss this in 2007.... We explained our concerns to the Freetown General Manager.... He called the senior management to look into this welfare issue, saying that these are our brothers and we should look into their concerns so as to prevent problems with the operation of the mine.... The salary for permanent workers then increased.⁹⁸

As the workers kept talking, they realized they had other grievances, Conteh said. Comparing pay stubs, for example, they noticed that their salaries, even within the same department, were inconsistent. Some employees, they also learned, were forced to work overtime, but were not paid for it. The general manager encouraged the workers to form a body to resolve disputes between workers and managers and to represent employee interests. In response, company managers promised greater consistency in salaries and the same pay for the same job, except where experience dictated that there be a difference.⁹⁹ But, despite these commitments, workers said nothing changed.

"After the exploration period was over, the company went into mining and production [in 2009-2010] and told the workers that they would get more and that everything would change for the better," said one worker. "We came into mining and it was no better."¹⁰⁰

⁹⁷ Letter from African Minerals Limited, March 11, 2013.

⁹⁸ Human Rights Watch interview with Sallu Conteh, shop steward, Bumbuna, July 16, 2012.

⁹⁹ Human Rights Watch interview with C.D., AML worker, Bumbuna, July 16, 2012.

¹⁰⁰ Human Rights Watch interviews in Bumbuna with C.D., AML worker, July 16, 2012, and E.F., AML worker, July 14, 2012.

Representation by a Union of their Choosing

AML workers were represented by the United Mineworkers Union (UMU), an affiliate of the International Federation of Chemical, Energy, Mine, and General Workers Union headquartered in Geneva. UMU, which represented workers during AML's former incarnation as the Sierra Leone Diamond Company, has historically maintained a close relationship with both the company's leadership and government officials.¹⁰¹

By law and custom, Sierra Leone's government has traditionally recognized one trade union for each of the 21 identified occupational sectors. There have recently been a few cases, however, where employees have sought to form new unions to challenge the traditional groups, whom they regard as insufficiently assertive in addressing worker demands. The "orthodox" unions, including UMU, have fought against these upstarts, often with the support of the Sierra Leone Labour Congress (which represents the orthodox unions), as well as government and corporate officials, who prefer the orthodox groups.

This is what happened in the AML case. By 2011, workers had grown frustrated with UMU, which they said had failed to vigorously and effectively convey their concerns to management.¹⁰² The workers then formally sought to change their representation to the Mining and Allied Services Employees Union (MASEU). They registered with MASEU, and, as required under Sierra Leone's 1971 labor law, formally submitted their check-off forms to the Ministry of Labour. A senior labor officer conducted an on-site visit and verified that registration with this union was not coerced, and that MASEU had garnered the support of the majority of AML's Sierra Leonean workers. MASEU organized some 2,000 workers at AML, while only 200 voted for UMU.¹⁰³ The ministry wrote to AML affirming MASEU's representation of the company's workers. AML workers, meanwhile, sent a formal letter to opt out of UMU.

The Ministry of Labour then received a complaint from UMU asserting that MASEU did not have a bargaining certificate. UMU asserted, following a narrow interpretation of Sierra

¹⁰¹ Human Rights Watch interviews with Ezekiel Dyke, secretary general, UMU, Freetown, October 25, 2013; Falla Ensa N'Dayma, Mining and Allied Services Employee Union (MASEU), Freetown, October 23, 2013; and Mohamed L. Momoh, senior labor officer, October 25, 2013.

¹⁰² Human Rights Watch interviews with Momoh, Freetown, September 19, 2012, and Ensa N'Dayma, Freetown, September 19, 2012. UMU had represented employees during AML's previous incarnation as the Sierra Leone Diamond Company.

¹⁰³ Ibid.

Leone's 1971 labor law, that there was only one recognized union for mining workers, and it was UMU.¹⁰⁴ The Minister for Labour and Social Security, Hindolo S. Trye, who initially said he would extend a bargaining certificate to MASEU to reflect the will of the workers, put the offer on hold. It remains unclear to Human Rights Watch why Trye, who shortly thereafter passed away, reversed his decision, but labor officials said he might have been pressured by UMU or persuaded that, by law, only UMU had the sole collective bargaining certificate to operate in the mining industry.¹⁰⁵

When the Ministry of Labour retracted permission in March 2012 for MASEU to represent AML workers, the workers reacted very strongly. They came from Bumbuna to see the Minister of Labour in Freetown, but the workers said he refused to meet with them. They then wrote a letter giving 21 days' notice of their intention to strike. When it expired on April 16, the workers, frustrated with their existing union and blocked by the government from forming a new one, went on strike against AML and its contractors.¹⁰⁶

Arbitrary Termination and Inability to Appeal

Another of the workers' chief complaints prior to the strike was the companies' practice of firing people without cause, sometimes on the basis of unsubstantiated accusations and without the possibility of defense or appeal. At least three workers told Human Rights Watch that they had multiple colleagues who had been abruptly terminated.

"The company sacks and suspends people with no warning," said one worker. "I have had more than four colleagues dismissed." When asked why the staff members were terminated, he said that the workers asked to take a break, since their only rest period during the day is the one-hour lunch. The workers said they felt dizzy or weak, sat down, and were then let go.¹⁰⁷

¹⁰⁴ Human Rights Watch interview with Ezekiel Dyke, secretary general, UMU, Freetown, October 25, 2013.

¹⁰⁵ As described in greater detail below, Sierra Leone's legislation is somewhat unclear on this point. The Human Rights Commission concluded in its report on the protest in Bumbuna that the legislation was outdated and posed an unnecessary impediment to workers' rights to organize.

¹⁰⁶ The company noted in March 2013 that it was allowing both unions to operate unfettered at the mine. Letter from African Minerals Limited, March 11, 2013.

¹⁰⁷ Human Rights Watch interview with U.V., Bumbuna, September 23, 2012.

Workers also cited lateness as a cause of dismissal, a fear that prompted many to line up early – often by 4 a.m. – for the minibuses that would take them to the site by 6 a.m. “If you come to work late, because of the transport, you can be sacked or suspended,” said one worker, employed with an AML contractor. “This has happened to plenty of people I know.” This employee said he was sent home for four days without pay for being 30 minutes late one day.¹⁰⁸

Another worker, also with an AML contractor, said that he was threatened with being fired on his day off, when he was on his way back home to Freetown. His employer called and told the worker that, “if I didn’t come in, I would get sacked,” he said.¹⁰⁹

According to a collective bargaining agreement between mining companies and the United Mineworkers Union of Sierra Leone, an employee can be summarily dismissed for serious misconduct or can be terminated in the case of minor offenses. Termination applies to employees of more than one year, requires one month’s notice and the payment of specified benefits to the dismissed worker, and involves a protracted grievance procedure.¹¹⁰ Workers reported that these rules were not followed, and that the requisite benefits were not paid in situations of termination.¹¹¹

These problems appear to persist at African Minerals and its contractors. One worker at BCM, an AML contractor, told Human Rights Watch in October 2013 that employees are quickly sacked for minor offenses, often without warning. Being slightly late, failing to answer a phone call from a supervisor, workplace mishaps—three such offenses can trigger immediate dismissal. “The equipment is expensive and needs to be protected,” said this worker. “The staff, however, is expendable.”¹¹²

In mid-2013, BCM workers went on strike over poor conditions of service, particularly concerning the permanence of workers and the sacking of employees without benefits. The largely peaceful sit-down strike prompted salary raises, but working hours also increased,

¹⁰⁸ Human Rights Watch interview with S.T., employee of AML contractor, Bumbuna, September 23, 2012.

¹⁰⁹ Human Rights Watch interview with Q.R., employee of AML contractor, Bumbuna, September 19, 2012.

¹¹⁰ Human Rights Watch interview with Mohamed L. Momoh, senior labor officer, Freetown, September 19, 2012.

¹¹¹ Terms and Conditions of Service for Mine Workers Below Supervisory Level, Sierra Leone Gazette, September 28, 2012, articles 23-27.

¹¹² Human Rights Watch interview with YZ, Bumbuna, October 25, 2013.

diminishing the impact of the raise. The strike prompted the workers to join a union, but they have since become dissatisfied with UMU. They recently tore down a signboard at its offices to show their discontent. Such actions could have dangerous consequences for workplace organizers, including being fired.¹¹³

African Minerals told Human Rights Watch in March 2013 that it was working to strengthen “weak management controls over our contractors, some of whom have not behaved to an acceptable standard towards their employees.”¹¹⁴ The company’s previous management also said it complied fully with terminations and dismissals laws as prescribed in the industrial relations laws of Sierra Leone. The former management was setting up a committee and process to deal with termination cases and grievances for both AML and its contractors, but, after the leadership’s departure, it is unclear whether these planned reforms took effect.¹¹⁵

Alleged Discriminatory Treatment

Sierra Leonean workers at AML and its contractors also reported disparate treatment by their employers in the provision of food, water, and other amenities.

Sierra Leonean workers for AML and its contractors receive daily a one-hour lunch break during which the African workers are provided food that they uniformly described as inedible. By contrast, expatriate workers dine in an area that serves higher-quality food and more choices, in what Sierra Leonean workers said was a more sanitary environment. The Sierra Leonean workers are not permitted to eat in this area, they said, whereas expatriate workers living at the mine may dine where they please. One Sierra Leonean worker at an AML contractor told Human Rights Watch:

The food is of very poor quality and is not hygienically prepared. The chicken is ... boiled and undercooked with the blood still visible. There are flies in the food. The expats and locals eat separately, and the locals are not permitted to eat in the expat dining room... There is only one meal from 1-2 for the African workers, with no other opportunities to eat in a day that

¹¹³ Human Rights Watch interview with YZ, Bumbuna, October 25, 2013.

¹¹⁴ Letter from African Minerals Limited, March 11, 2013.

¹¹⁵ *Ibid.*

starts at 3 a.m. and doesn't end until 9 p.m. sometimes. There's no time to eat and nothing to eat for the Sierra Leoneans. The expats stay in a dormitory near the mine and have opportunities to eat during the day, but we do not.¹¹⁶

The lack of adequate nutrition is not simply a culinary misstep. These workers perform physical labor for hours on end. Their well-being and ability to perform their jobs depend on having adequate nourishment. In addition to being hungry, the workers recognize that they are essentially receiving inferior treatment in their own country. As one employee bitterly noted, "We go to work on an empty stomach. If we try to get a snack, we are told to get back to work."¹¹⁷

These workers also complained about the lack of bottled water for Sierra Leoneans at the mine, as expatriate workers receive. Sierra Leonean workers bring their own bottles and drink water from an unfiltered local tap. If the tap runs dry, they use the local stream. There was a cholera epidemic in Sierra Leone in mid-2012, and, according to Sierra Leone's Environmental Protection Agency (EPA), the water near the African Minerals site has high bacteria levels and was unfit for human consumption.¹¹⁸ Workers did complain that the inadequate food and water had, at times, caused them to become ill. But they were discouraged by supervisors from resting or taking time off when they needed it to recover. Defying that advice could lead to dismissal.

A former senior executive at AML said he saw a contractor dishing out water from a metal basin and cup to railway workers. He had received a report that a worker had collapsed at the railway from heat and fatigue. He was told to lie down, and didn't come to work the next day, feeling unwell. He was then fired.¹¹⁹

African Minerals told Human Rights Watch that it operates two canteens at the Tonkolili mine because the spaces are small and cannot accommodate all the workers at a time.

¹¹⁶ Human Rights Watch interview with I.J., worker at AML contractor, Bumbuna, September 23, 2012.

¹¹⁷ Human Rights Watch interview with A.B., worker at AML contractor, Bumbuna, September 23, 2012.

¹¹⁸ Human Rights Watch interview Haddijatou Jallow, Executive Chairperson, Environmental Protection Agency, Sierra Leone, Freetown, September 20, 2012.

¹¹⁹ Human Rights Watch interview with Foyle-Twining, London, October 20, 2013.

This arrangement is due to change because a bigger canteen that can cater to both site- and non-site-based employees will soon be ready, the company said.¹²⁰

African Minerals also told Human Rights Watch that the company had once provided bottled water to all workers on site. Previously, the company said, non-site workers did not drink the bottled water but rather took it out of site for sale. They then filled empty bottles with tap water. After persistent warnings not to sell the bottled water, the company decided to stop providing it. Non-site-based workers now fill empty bottles with clean tap water for drinking, but the company is “reviewing our water supply process” and is “looking into installing a water treatment plant which will provide water for all our employees.”¹²¹

Finally, workers described being subjected to verbal abuse by managers, including a few who used racial slurs. “There’s a white guy who uses invectives against us, like dog child, dog shit, and bush pig,” said one worker. “The work is not a threat to us, but the bosses are.”¹²² Another worker for a South African contractor noted that a South African employee said to him, “Move, you black monkey.”¹²³ In this case, the workers protested and the employee was asked to leave. In other cases, however, a few abusive managers remained at the firm, and continued to engage in discriminatory behavior, workers said.

A member of AML’s former senior management said there had been racist treatment by some high-level expatriates at the firm.¹²⁴ This mistreatment offended the Sierra Leonean workers and was one of the issues that led them to strike.

¹²⁰ Letter from African Minerals Limited, March 11, 2013. At BCM, one of AML’s contractors, Ghanaian expatriate workers, all senior staff, eat in the canteen. Sierra Leonean workers eat at the mine or in the workshop, where there is a small sitting area. Human Rights Watch interview with YZ, Bumbuna, October 25, 2013.

¹²¹ Letter from African Minerals Limited, March 11, 2013.

¹²² Human Rights Watch interview with W.X., Bumbuna, September 23, 2012.

¹²³ Human Rights Watch interview with M.N., Bumbuna, September 23, 2012.

¹²⁴ Human Rights Watch interview with Foyle-Twining, London, October 20, 2013.

IV: Excessive Use of Force by Bumbuna Police

By April 2012, Sierra Leonean workers had grown increasingly frustrated with working conditions and the inability to form a union that would effectively represent their concerns. They announced that they would strike if their demands, stated repeatedly in letters and meetings, were not met. Corporate, police, and district officials appear to have known about the prospect of the strike, but also appear to have been unprepared to deal with it. In the absence of a strategy for negotiating with the workers, and perhaps inclined to protect the company from harm or disruption, the police, many observers noted, overreacted, used excessive force, and then resisted accounting for the turmoil they caused.

On April 17 and 18, police in Bumbuna fired live ammunition at unarmed community members, used teargas to disperse protests, upended the town market, and threatened residents.¹²⁵ One woman, Musu Conteh, who worked for an AML contractor, was killed by police gunfire while singing and dancing alongside several dozen women demonstrators. Eight other residents of the town unaffiliated with the company sustained gunshot wounds by the police; three police officers were also injured in the melee.¹²⁶

The police have publicly stated that their use of force was a response to attempts by people in the community to burn down AML's fuel depot, the paramount chief's home, and the police station. Amnesty International and the Human Rights Commission of Sierra Leone, a governmental institution regarded as independent, found no evidence of such attempts, but did confirm that some members of the community resorted to violence, including by throwing sticks and stones in response to police use of tear gas and live ammunition. Protesters also set up roadblocks. None of the organizations investigating the protest was able to find evidence of other weapons – petrol bombs, knives, and cutlasses – which the police alleged were used by protesters. The paramount chief acknowledged that the police

¹²⁵ For a full account of the incident, see Amnesty International, "Sierra Leone: Briefing on the Events in Bumbuna, Tonkolili (April 2012)," September 2012. Both Amnesty International and the Human Rights Commission of Sierra Leone, which studied the incident, reached the conclusion that police engaged in indiscriminate shooting at and arbitrary abuse of residents.

¹²⁶ Human Rights Commission of Sierra Leone, *Bumbuna Inquiry Report 2012*, Freetown, September 2012, pp. 2-4.

overreacted to the threat in town; most Sierra Leoneans, he noted, were disarmed after the end of the civil war in 2002.¹²⁷

Lack of Corporate Response to Worker Concerns

Last October [2011], we started sending letters to the general manager, the Minister of Mines, the police, and the chief—all signed to acknowledge receipt—and said that we wanted them to address our concerns. When they didn't respond, we planned a peaceful, sit-down strike for April 16.

—AML employee, Bumbuna, July 14, 2012

In 2011, management promised that, “when we start exporting, that’s when things will change. We have to be patient; the investors don’t have profits yet.” All the workers were fed up with this game.... We wrote a letter and brought all of these concerns together and sent it to various people. We had one or two meetings with management. They kept promising they would ... address our concerns in the shortest possible time. They never did.

—AML employee, Bumbuna, July 16, 2012

On April 15, 2012 at 6 p.m., a group of AML workers announced to their five shop stewards that they would strike the next day. They would not allow anyone to go to work. The shop stewards had recommended that they try to negotiate further, but the workers had made up their minds. “I was not happy that they did this, but I knew it was also an important message for them,” said one of the stewards.¹²⁸ The workers talked about tactics and agreed that they would not damage any company property.¹²⁹

On April 15, 2012, the workers delivered a letter to the Bumbuna police station informing the police of the proposed strike action. The letter was addressed to the general manager of AML, and cited the workers’ concerns with poor working conditions, abuse by expatriate staff, short contract employment, arbitrary termination, inadequate meals, inconsistent salaries, and most importantly, the inability to join a union of their own choice. The police

¹²⁷ Human Rights Watch interview with paramount chief, Bumbuna, July 14, 2012 and Amnesty International, “Sierra Leone: Briefing on the Events in Bumbuna, Tonkolili (April 2012),” September 2012, page 9.

¹²⁸ Human Rights Watch interview with C.D., AML employee, Bumbuna, July 16, 2012.

¹²⁹ Human Rights Watch interview with E.F., Bumbuna, July 14, 2013.

regarded the strike as illegal, because, they alleged, the workers had not provided 21 days' notice, as required by law.¹³⁰ Sierra Leone's Public Order Act of 1965 affirms the right of workers to peacefully meet to discuss trade union activity, but also requires those who wish to hold a procession to receive written permission from the police, who may impose conditions on the procession to preserve public order or safety. Similarly, the law allows paramount chiefs to disallow or limit any public meeting in the provinces in the name of public order or safety.¹³¹

At about 4 a.m. on April 16, the workers went to the area in town where the employee buses line up—about 10 kilometers from the mine—and asked employees of AML's contractors to stay off the buses. The workers handed out leaflets, used megaphones, and talked to people. "One hundred percent of the workers at African Minerals supported the strike, but it was important to talk to the workers for the contractors," a shop steward told Human Rights Watch.¹³² The workers stayed off the buses. Some went home, others stayed on the street. The shop stewards told people not to be lawless, and the workers remained calm.

AML workers then blocked the road to the mine, making it impossible for trucks to get to the site. Alerted that AML supervisors and others could not make their way to the mine, the police got involved. Four police vans arrived. An officer told the workers that the police were going to take action if the workers did not remove the roadblock. The paramount chief, whose home is near the center of town, was also immediately notified of these events and described to Human Rights Watch what he knew:

On April 16, the police commander called me at around 3 a.m. to say that workers had blocked the road to the mine. Later that morning, we met the workers, along with the AIG [Assistant Inspector General of Police] from Makeni and the local police commander and tried to engage them. They said they were not treated well by the expatriate managers. We tried to calm

¹³⁰ *Bumbuna Inquiry Report 2012*, p. 24. The Paramount Chief of Kalansongoia and a government spokesperson in Freetown said they supported this conclusion.

¹³¹ The Public Order Act, 1965, articles 5, 17, and 24. Journalists and activists have long urged Parliament to overturn this antiquated act, which also criminalizes certain forms of public discourse and limits free speech. See, for example, Amnesty International, "Sierra Leone must drop charges against editors," October 24, 2013 (accessed January 6, 2014).

¹³² Human Rights Watch interview with C.D., AML employee, Bumbuna, July 16, 2012.

the workers down. The protest was peaceful, but the workers obstructed movement. We told them they must open the road.¹³³

Regional government officials traveled to Bumbuna on April 16 to try to assuage the workers, and the relevant parties agreed that, on the following day, there would be a meeting that included top government officials and key company management from Freetown who would address the workers' grievances. The paramount chief called for a peaceful meeting on April 17 with the district officer, AML senior management, the local unit commander of the police, and the workers themselves.

Dispute at the AML Fuel Depot Spills Over

On April 17, the people at the venue—the Court Barray, a type of open-air town hall or courthouse—waited calmly for officials “to address our concerns once and for all.”¹³⁴ Shop stewards were also at the Court Barray, preparing for the meeting.

African Minerals sent a vehicle to get fuel at the depot, and angry workers hastily rushed up to that point and asked the staff there not to supply fuel. The police told the workers to clear the barricade they had formed on the road around the fuel depot. The local police commander said, “This is a burning issue. If the workers don't give way, we will use force.”¹³⁵

The workers responded that this was a peaceful protest, and that they had been waiting to be addressed by the paramount chief at the Court Barray. The police chief and shop stewards went to speak with the paramount chief, who advised the labor leaders to talk to their colleagues and urged them to remain calm. He said the same thing to the police.¹³⁶

The shop stewards, wanting to save time, went in a police vehicle to the fuel depot to address the workers and persuaded them to leave the fuel farm and go to the nearby Court Barray for the meeting. The workers and police dispersed.¹³⁷ As one of the shop stewards later recalled:

¹³³ Human Rights Watch interview with Paramount Chief of Kalansongoia, July 14, 2012.

¹³⁴ Human Rights Watch interview with C.D., AML worker, Bumbuna, July 16, 2012.

¹³⁵ Human Rights Watch interview with shop stewards, Bumbuna, July 16, 2012.

¹³⁶ Ibid.

¹³⁷ Human Rights Watch interview with shop stewards, Bumbuna, July 16, 2012.

Five minutes later, [a vehicle] full of police officers came and sprayed teargas and then started firing live ammunition. The car was coming from the fuel farm into town and opened fire at the Court Barray, where people had gathered. Everyone dispersed. The police went straight to the market.¹³⁸

The Human Rights Commission stated in its September 2012 report:

On Tuesday the 17th of April 2012 the workers and other youths as well as community members went to the Court Barray to wait for dignitaries from Freetown. As they waited, they saw a truck full of police men and another car going up to the hill towards the AML mining site in Ferengbeya. This was about 11 a.m in the morning. The youth decided to disperse because the dignitaries they had been waiting for had just passed them by at the Court Barray. Some youths were walking up towards the Fuel Farm of AML when they met police officers who started shooting. The community people heard the shooting and began to run away for safety.¹³⁹

The police alleged that youths, marching aggressively, had gone to set afire the AML fuel farm. The workers denied this allegation.¹⁴⁰ They said they were only trying to ensure that AML was unable to access fuel and had resolved not to burn the fuel depot or damage the property of AML, for fear of the impact of such action on the entire Bumbuna community. The Human Rights Commission concluded from its study that the need to protect the AML fuel farm did not explain why the police began shooting around Bumbuna town, especially near the market. The police, the Commission noted, had the option of cordoning off the fuel depot without escalating the situation in Bumbuna, but did not exercise that option.¹⁴¹

The police further alleged that on April 17-18, the youths continued to set up roadblocks and attempted to set ablaze the Fuel Farm belonging to AML, the residence of the paramount chief, and the police station, and that the youths had surrounded and besieged expatriates lodging at the AML Guest House. The Commission concluded, upon hearing all of the witnesses, that the Guest House was not under siege and that the expatriates in

¹³⁸ *Bumbuna Inquiry Report 2012*, p. 25.

¹³⁹ *Ibid.*, pp. 24-25.

¹⁴⁰ Human Rights Watch interviews with the Paramount Chief of Kalansongoia, Bumbuna, July 14, 2012, and Abdulai Bayraytay, Freetown, September 18, 2012.

¹⁴¹ *Bumbuna Inquiry Report*, p. 33.

question were “rescued” by a man on a motorbike. The Commission found that the police overreacted as a result of these exaggerated reports.¹⁴²

AML attempted to communicate with local people at the time of the incident, the company told Human Rights Watch, but the situation escalated quickly, and efforts to communicate and address worker concerns were thwarted by the scale of the disturbance.¹⁴³ The planned high-level meeting did not take place until April 18, owing to the violence.

The Police Descend on the Market

Fatu Kalma, a market woman, had heard that the paramount chief was coming to address the workers and their concerns at the Court Barray. On April 17, she was making fried cakes to sell to those who were waiting when the police started shooting. Her testimony corroborates the findings of the Human Rights Commission, as well as the investigations of Amnesty International and Human Rights Watch:

I saw from start to finish the events of the first day in Bumbuna. I wrote down what happened in my diary at home. I was going to my aunt’s house that morning. The road was blocked. I asked what was happening. I received a fine response: I was told [by some workers] that African Minerals is not helping us. ‘They just use us and pay the foreigners lots and lots of money.’ I told them to be peaceful. Indeed, they didn’t fight or do anything violent. As I was coming back, I saw a vehicle full of white expats going through the roadblock. The workers would not allow them to pass. Then the police officers came. I told the police not to fight. The police said that the workers should clear the road block so that people could pass through.

The police, in the next 30 minutes, went through the road block. I heard gunshot. The workers scattered. Everyone ran. I didn’t run. The police asked me, ‘Are you not running?’ I said ‘no’ and they started to insult me. I said, ‘kill me if you want.’¹⁴⁴

¹⁴² *Bumbuna Inquiry Report*, pp. 37-38.

¹⁴³ Letter from African Minerals Limited, March 11, 2013.

¹⁴⁴ Human Rights Watch interview with Fatu Kalma, Bumbuna, July 15, 2012.

At around 1 p.m., they entered the main marketplace at Bumbuna, on the other side of town from where the AML workers were staging protests, and fired tear gas and live ammunition in the air. The market was filled with women traders and their children, who tried to flee.

Another market woman told Human Rights Watch:

Police came inside the town's central market and told everyone to pack and leave. We didn't know why. They set tear gas to disperse the market. I was here, and the gas hurt my eyes. At first I refused to leave. If you look, you can see holes in the ceiling from where the police shot [bullet holes still visible]. We then had to leave because of the tear gas, and we couldn't take our things. We lost our produce, and our earnings, and we ran home to our houses. The police shot outside our houses to intimidate us.¹⁴⁵

Kadie Kaboh, 45, chair of the market women, said she saw five police enter the market with guns. They launched teargas first and soon thereafter opened fire with live bullets, which punctured holes in the market's roof. "I want punitive action taken against those responsible for the violence to serve as a deterrent so that it doesn't happen again," Kaboh said.¹⁴⁶ Kaboh and other long-time Bumbuna residents believed that the policemen were from units from outside of Bumbuna as they did not look familiar to those from the small town.

Police Deployment

Police reinforcements from the district seat of Magburaka and regional capital, Makeni, were sent to Bumbuna to assist the local police unit. One shop steward reported seeing six trucks with scores of police arrive from Magburaka and Makeni.¹⁴⁷ A high-ranking police official in Magburaka told Human Rights Watch that in a situation of such strife, the operating commander in Bumbuna should call the local unit commander in Magburaka, who then, if needed, would call the Assistant Inspector General (AIG) Regional in Makeni, who would then go further up the chain and call the Inspector General of Police (IGP) in

¹⁴⁵ Human Rights Watch interview with Isatu Turay, Bumbuna, July 15, 2012.

¹⁴⁶ Human Rights Watch interview with Kadie Kaboh, Bumbuna, September 23, 2012.

¹⁴⁷ Human Rights Watch interview with E.F., AML worker, Bumbuna, July 14, 2012.

Freetown to mobilize and augment the police presence. Together, the AIG and the IGP decide on deployment.¹⁴⁸ It is not clear whether this protocol was followed in April 2012.

A police spokesman, Ibrahim Samura, said that the police “did what is appropriate.” The direction to shoot “came from within,” he said.¹⁴⁹ Asked about the government’s response to the protest, a spokesperson for President Koroma said:

There was no excessive force used against the population in Bumbuna. The police exercised their constitutional mandate to protect law and order.... There was a threat against the police. Workers threatened to set ablaze the fuel depot, which would have had a terrible environmental impact. The police had to restrain them.¹⁵⁰

The Human Rights Commission concluded after a thorough study that the police exaggerated the threat on the ground, which had the unfortunate effect of leading to violence, injury, and damage, particularly to the town’s market, whose sellers had nothing to do with the strike until that point. The Commission found no evidence of the threats that police cited as justification for its excessive and indiscriminate response to the protest.¹⁵¹

Arrest of Radio Station Manager

The April 18, 2012, arrest of Rev. Daniel Bangura, the station manager at a popular community radio station, led to a sharp escalation in tension in Bumbuna. Bangura worked overnight at Radio Numbara, and, according to both listeners and the Human Rights Commission, told the youth in town to stay calm in the face of the police violence. The police, however, interpreted Bangura’s statements as incitement to violence.¹⁵² Numerous witnesses said the police went after Bangura because he announced over the radio that he was in possession of shells for live ammunition used by the police in Bumbuna.¹⁵³

¹⁴⁸ Human Rights Watch interview with Theodora George, assistant superintendent of police, Magburaka, September 24, 2012.

¹⁴⁹ Human Rights Watch interview with Ibrahim Samura, assistant superintendent of police, Freetown, September 18, 2012.

¹⁵⁰ Human Rights Watch interview with Abdulai Bayraytay, Freetown, September 18, 2012.

¹⁵¹ *Bumbuna Inquiry Report 2012*, p. 3.

¹⁵² *Bumbuna Inquiry Report 2012*, p. 7. The absence of recordings from the radio show makes it difficult to verify these claims.

¹⁵³ *Ibid.*, p. 27.

Early in the morning of April 18, while Bangura was on air, he announced that police had arrived at the station and were about to arrest him. Hearing that the police were at the radio station, Bumbuna residents flocked to protect him.¹⁵⁴ They succeeded in doing so, and Bangura then went into hiding.

The police, according to multiple witnesses, including the paramount chief, began shooting at people, including some who were fleeing the chaos, near the radio station. “By then, it was no longer about the workers,” said one shop steward. “It was about the community.”¹⁵⁵

Young men in the community began to throw stones at the police in retaliation. Two police officers sustained severe head injuries requiring stitches. The wounds were from machetes and knives used by community members. Nine other police personnel sustained minor injuries.¹⁵⁶

As the paramount chief of Kalansongoia noted: “I saw the police [fire and] hit a youth in the head, and he was bleeding. I went to the police station, and the local unit commander and office commander said that if they were attacked, they would respond.”¹⁵⁷

The inspector general of police defended the actions of the police. “There was no intent to kill,” said Francis Munu, inspector general of the police. “The police were quelling a riot.”¹⁵⁸

Local Women Attempt to Stop the Violence

On April 18, at the height of the tension, a group of 50 women took measures to stop the violence. Members of a self-proclaimed “secret society,” they performed a traditional ritual they believed would limit the violence, and urged the men to go indoors as they marched peacefully through the streets carrying green twigs.¹⁵⁹

¹⁵⁴ Ibid., The commission reported being unable to secure a copy of the tape.

¹⁵⁵ Human Rights Watch interview with C.D. AML worker, Bumbuna, July 16, 2012.

¹⁵⁶ *Bumbuna Inquiry Report 2012*, pp.2-3, 34.

¹⁵⁷ Human Rights Watch interview with Paramount Chief of Kalansongoia, Bumbuna, July 14, 2012.

¹⁵⁸ Human Rights Watch interview with Francis Munu, inspector general of police, Freetown, October 22, 2013.

¹⁵⁹ *Bumbuna Inquiry Report 2012*, p. 28.

As the women marched toward the police station, where the paramount chief was meeting with local commanders, police officers fired on the women, killing one, 28-year-old Musu Conteh, who worked for an AML contractor. One of the group members recalled:

I went to hold a consultation with other women to talk about what to do. We have a traditional secret society. I said, “Let us come out in numbers. The men should go inside.” Over 50 women marched. I was one of the first ones, a leader, along with the lady who was killed. [She] was right in front of me. The police led an ambush close to the police station using teargas on us. We all fell, and the woman in front of me bent down to gather leaves to cover her eyes and nose. As she was bending to pick up the leaves, she was shot. As she got up, she was shot again in her heart and back. Her last words were, “Oh me, I’m dying for my rights.”

My sister was also shot. The women were mixed. Some were workers and some were not. I collapsed from the effects of the teargas and the shock. I was taken to the community health center after I had fallen unconscious. I thank God for my life.¹⁶⁰

One Bumbuna resident told the Human Rights Commission that, after this killing, “we all panicked and ran because anybody who came to rescue the lady was shot at.”¹⁶¹

Official Response to the Unrest

Both the Sierra Leone government and African Minerals took action in response to the protest, though important issues remain.

On April 18, 2012, a delegation of senior government ministers from Freetown arrived in Bumbuna to calm the situation and investigate what happened. Sallu Conteh, the labor leader, who briefly went into hiding because he heard that the police were looking for shop stewards, returned to town to address the government delegation. “They said, ‘Give us one week to resolve this,’” Conteh said.¹⁶² After one week, African Minerals agreed to a 16

¹⁶⁰ Human Rights Watch interview with Fatu Kalma, Bumbuna, July 15, 2012.

¹⁶¹ Bumbuna Inquiry Report 2012, p. 46. A witness told Human Rights Watch that he saw a man try to help Musu Conteh, but he was shot near his right shoulder and fell down. Human Rights Watch interview with EF, AML employee, Bumbuna, July 14, 2012.

¹⁶² Human Rights Watch interview with Sallu Conteh, Bumbuna, July 16, 2012.

percent wage increase, an increased monthly minimum wage, and a commitment to build training centers.¹⁶³ The company compensated the market women for their losses, giving them 44 million leones (\$9,000), according to Kadie Kaboh, the chair of the group.¹⁶⁴

President Koroma offered financial assistance to some of those who were injured in the protest. One woman, who had been beaten by police, for example, received 150,000 leones (\$30) from a regional official and 3 million leones (\$600) from the president to help pay her hospital bills.¹⁶⁵

The Human Rights Commission held a week of public meetings in the Court Barray in Bumbuna in July 2012 and further meetings in Freetown, during which more than 40 witnesses or persons of interest testified about the events in Bumbuna. The Commission released its findings in a 100-page report on September 26, 2012, concluding that the police response to the AML protest was “high-handed,” uncoordinated, chaotic, and in violation of UN rules of engagement and principles on policing.¹⁶⁶ The Commission found that the police used disproportionate force to the level of threat, and failed to use peaceful settlement of conflicts, non-lethal weapons, and warnings of police intention to use firearms to residents. The Human Rights Commission noted that these guidelines are also contained within the Sierra Leone police’s own rules.¹⁶⁷

The Commission was unable to verify who gave the orders to shoot at the Bumbuna protesters. The inspector general of police suggested that the emergency response “was situational.”¹⁶⁸

Several executives from African Minerals, including then CEO Keith Calder, met with Human Rights Watch on February 19, 2013, to discuss the company’s operations in Sierra Leone. Calder, who had taken over after the protest in July 2012, said, “We’re the first to

¹⁶³ Letter from Gibril Bangura, executive chairman, African Minerals, to AML workforce, May 8, 2012.

¹⁶⁴ Human Rights Watch interview with Kadie Kaboh, Bumbuna, September 23, 2012. Kaboh was part of a five-woman delegation to the president’s state lodge in Makeni, where they each received microcredit loans of 1 million leones. The women shared this total amount with the other market sellers.

¹⁶⁵ Human Rights Watch interview with Kadi Kalma, Bumbuna, July 15, 2012.

¹⁶⁶ Human Rights Commission of Sierra Leone, *Bumbuna Inquiry Report, 2012*, p. 29-30 and passim, September 2012.

¹⁶⁷ *Ibid.*, p. 31.

¹⁶⁸ Human Rights Watch interview with Munu, Freetown, October 22, 2013.

admit that the way things were one year ago is not where we want to be.”¹⁶⁹ He said the company had not had a consistent grievance procedure, for example, and complaints had been “addressed in an ad-hoc manner.”¹⁷⁰

AML officials said they were revamping company procedures and policies with respect to the police. In the past, there had been no formalized agreements between AML and the police, but AML developed one to clarify the role of the police and outline what the company would provide officers who performed security tasks for the firm.¹⁷¹ The agreement arose in response to the concern that, lacking their own vehicles, the police used one belonging to the Hawk Group, a contractor, during the Bumbuna protest. In so doing, the police “overstepped their authority” by not soliciting the company’s permission, AML said.¹⁷²

The police inspector general told Human Rights Watch that there are informal guidelines for how companies can pay the police for specific functions, but no national laws govern the payment of police by private firms.¹⁷³

The inspector general questioned the Human Rights Commission’s choice of witnesses and panelists and cast doubt on the panel’s findings, asserting that the report was biased and that the Bumbuna incident was “blown out of proportion.”¹⁷⁴ The police did, however, act on a few of the commission’s recommendations, he said, including the relocation of three police officers and the issuance of a public apology some 18 months after the incident.¹⁷⁵ The police have yet to make public their own report on the incident in Bumbuna. The report was completed and submitted to the Ministry of Justice. “We have our own procedures,” he said.

¹⁶⁹ Human Rights Watch interview with Calder, New York, February 19, 2013.

¹⁷⁰ Ibid.

¹⁷¹ Letter from African Minerals Limited to Human Rights Watch, March 11, 2013.

¹⁷² Ibid.

¹⁷³ Human Rights Watch interview with Munu, Freetown, October 22, 2013.

¹⁷⁴ US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2012: Sierra Leone,” April 19, 2013, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204163#wrapper> (accessed May 16, 2013), p. 1. Human Rights Watch interview with Munu, Freetown, October 22, 2013.

¹⁷⁵ Human Rights Watch interviews with Abu Brima Sheriff, commissioner, Human Rights Commission of Sierra Leone, Freetown, October 24, 2013, and Munu, Freetown, October 22, 2013.

V. Rights-Based Development

Sierra Leone has a unique opportunity to recover from a tragedy-laden era through the “improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom.”¹⁷⁶ The government faces the challenge of bringing about development while promoting and encouraging respect for fundamental human rights of the country’s entire population. As one bilateral government donor said, “Sierra Leone got itself on its feet and dusted itself off, establishing institutions and holding peaceful elections. But now, the deeper structural problems are coming out. It’s make or break over the next five years.”¹⁷⁷

As foreign investors come forward, Sierra Leone’s government will need to manage and address conflicting interests in what is likely to be a significant economic transition. To ensure that foreign investment benefits, rather than undermines, the well-being and rights of all Sierra Leoneans, the government will need to provide for greater transparency and accountability in mining revenue and public spending. Only then will these commercial activities fulfill the government’s development and poverty-alleviation goals.

The following sections offer constructive recommendations about bolstering the institutions and processes needed to help Sierra Leoneans make informed decisions about their country’s development and realize their full array of rights.

Update and Strengthen Land Law and Administration

Activists and government officials acknowledge that Sierra Leone’s land-use system and laws, which date from 1960, are weak and out of date, and need to be strengthened and reformed. “We don’t have a proper land management system,” said Lansana Sowa of the Sierra Leone Network on the Right to Food (Silnorf), a prominent national nongovernmental organization.¹⁷⁸ As a result, there are innumerable conflicts over land in the country,

¹⁷⁶ Declaration on the Right to Development, G.A. res. 41/128, annex, 41 U.N. GAOR Supp. (No. 53) at 186, U.N. Doc. A/41/53 (1986), preamble.

¹⁷⁷ Human Rights Watch interview with Phil Evans, DFID, Freetown, October 24, 2013.

¹⁷⁸ Human Rights Watch interview with Lansana Sowa of Sierra Leone Network on the Right to Food, Freetown, September 18, 2012, and Aminata Kelly-Lamin of Network Movement for Justice and Development, Freetown, July 13, 2012.

particularly between chiefs and local government administrators and between chiefs and rural residents.

To remedy these and other problems, the United Nations Development Programme (UNDP) in Sierra Leone has spearheaded a process to reform land use practices in Sierra Leone, both in the post-conflict context and with the arrival of new foreign investors. Its steering committee, comprising people from government, industry, academia, and civil society, has submitted a land reform proposal to the Minister of Lands, and a new land act is expected to be approved by Parliament in 2014. The proposed reforms are designed to address Sierra Leone's needs in land administration, planning, and mediation of disputes, while protecting residents' land rights.

The proposed land reform sets out to reconcile the various land tenure systems in Sierra Leone, where in the provinces land is family or communally owned, and in cities and towns where it is individually owned. Family-owned land is usually inherited by the eldest son, and women cannot inherit land under this scheme, a deprivation that advocates have been working to reverse, so far without success. In cities and towns, women can buy, own, and sell land as individuals, a trend that is expected to expand under the new regime. Extending women's rights to land ownership to provincial areas, on an equal basis with men, would be a significant human rights achievement.

K. Mohamed Foray, a technical advisor and national consultant to UNDP, told Human Rights Watch that an overarching goal of the land reform plan is to provide access to land "for all Sierra Leoneans and investors."¹⁷⁹ A handbook on the proposed plan notes that it will "ensure protection of the land rights of citizens and access to land by vulnerable groups, small-scale landholders in the face of large scale foreign investments."¹⁸⁰

Whether or not the land is available for commercial enterprise would be determined by the Ministry of Lands, which would go through the chiefs to the family to ascertain ownership and consent to lease the land. In theory, the Ministry of Lands would also help negotiate with a potential investor, ensuring that the families interested in leasing land get a fair

¹⁷⁹ Human Rights Watch interview with K. Mohamed Foray, technical advisor and national consultant to UNDP, Freetown, October 24, 2013.

¹⁸⁰ Sierra Leone Ministry of Lands, Country Planning and the Environment, *National Land Policy: Abridged Version of the Final Draft Policy Document*, (August 2013), p. 12.

deal. Newly created land tribunals, consisting of government officials and local leaders, will mediate conflicts that arise, “like a Land Ombudsman to settle land disputes and related matters.”¹⁸¹ A land registry for the entire country will help establish who owns what, and whether there are parcels open for development. Regional and district-level land commissions will facilitate implementation.

This proposed system is meant to replace the current ad hoc dealings that take place behind closed doors, Foray said, largely by the Ministry of Mines, individual companies, and paramount chiefs.¹⁸² People benefitting from the lack of transparency were likely to be negatively affected by the new policy, he noted, which is designed to assist those who have been harmed by unregulated and uncoordinated land concessions.¹⁸³ The proposed land policy would also allow for more extensive vetting of investment deals, which could be rejected, depending on the short- and long-term impact on recognized land owners.¹⁸⁴

Clarify Legal Powers of Paramount Chiefs

“The chiefs have not always acted in the best interest of the community,” said Haddijatou Jallow, the director of Sierra Leone’s Environmental Protection Agency.¹⁸⁵ Her assessment echoed that of many Human Rights Watch interlocutors in Sierra Leone. As a Sierra Leonean NGO activist specializing in the rule of law noted, “The chiefs listen to the companies.... Some are even paid as local employees.”¹⁸⁶

This accusation has arisen in Bumbuna itself, where the paramount chief of Kalansongioia lives in a stately stone house in a deeply impoverished town that shows little evidence of the wealth generated by the firms extracting iron ore on its margins. In response to direct questions as to whether he accepted company payment for his role in facilitating the mining contracts, the chief vigorously denied being paid by the company to act on its behalf. The company pays rent by check to the chiefdom account, he said, and any

¹⁸¹ *National Land Policy: Abridged Version*, page 13.

¹⁸² Human Rights Watch interview with Foray, Freetown, October 24, 2013.

¹⁸³ *Ibid.*

¹⁸⁴ Human Rights Watch interview with Sahid Abu-Dingie, United Nations Development Programme, Freetown, July 18, 2012.

¹⁸⁵ Human Rights Watch interview with Haddijatou Jallow, Executive Chairperson, Environmental Protection Agency Sierra Leone, Freetown, September 20, 2012.

¹⁸⁶ Human Rights Watch interview with Ibrahim Tommy, executive director, Centre for Accountability and Rule of Law, Freetown, July 17, 2012.

withdrawal must be co-signed by the government's district officer. The paramount chief said he has not received money either from the company or the Mining Ministry. When asked how he was able to afford such an impressive-looking home, whether it came from being a member of a ruling family, the paramount chief said, "There were people who wanted to help the chief. Because of their help, I was able to do this. They were just being nice." He was also given a vehicle by an unidentified source. "I am being blessed," he said. "God provides."¹⁸⁷

"The chiefs have benefited for years," Jamesina King of Sierra Leone's Human Rights Commission told Human Rights Watch. The 2009 Chieftaincy Act¹⁸⁸ ostensibly commits the chiefs to good governance and transparency, but, in practice, King said, "the chiefs are accountable to nobody."¹⁸⁹

Sierra Leone's government, particularly the Ministry of Local Government, should reconcile the role of regional, district, and local councils with the chieftain structure, particularly with reference to community development. Whatever the powers afforded the chiefs, their actions should be transparent and they must be accountable to the law.

Bolster Labor Department and Labor Laws, and Allow Multiple Unions

Sierra Leone's Labour Ministry has been unable to keep pace with the growing number of employers in the country. In September 2012, there were six labor inspectors who investigated labor conditions at places of employment and six labor officers who played a mediating role in case of a labor conflict. Labour Ministry staff members have no vehicles or even stationery, and no capacity to travel to work sites. Sierra Leoneans with complaints concerning labor conditions must travel to Freetown at their own expense. The government does not allocate adequate funding for the department to function even at basic level, labor officials reported.¹⁹⁰

In the course of granting permits to mining concerns, the government should appoint at least one labor inspector to each concession, said King from the Human Rights

¹⁸⁷ Human Rights Watch interview with Paramount Chief of Kalansongoia, Bumbuna, September 23, 2012.

¹⁸⁸ Government of Sierra Leone, The Chieftaincy Act, No. 10 of 2009.

¹⁸⁹ Human Rights Watch interview with Jamesina King, Human Rights Commission of Sierra Leone, Freetown, July 12, 2012.

¹⁹⁰ Human Rights Watch interview with Mohamed L. Momoh, senior labour officer, Department of Labour, Freetown, September 19, 2012.

Commission.¹⁹¹ That kind of placement, possibly underwritten by taxes or royalties, could help ensure compliance with the country's labor laws. A labor inspector, particularly one who makes unannounced visits, could also oversee health and safety and meet with workers to assess working conditions. As one employee of an AML contractor told Human Rights Watch, "The government should monitor the company and see how the company is managing the workers."¹⁹²

In the aftermath of the Bumbuna protest in 2012, and following a recommendation of the Human Rights Commission, the Labour Ministry deployed a labor officer to the regional capital of Makeni. However, the officer has not been provided with transport for the 90-minute drive to Bumbuna, which, in the absence of easily accessible public transportation, would enable him to routinely investigate working conditions at the mine.¹⁹³ The workers, their families and local residents near mining and agriculture concessions need inspectors who are both empowered and able to protect labor, land, and environmental rights.

While Sierra Leone has encouraged mining firms to invest in the country, and in 2009 passed a Mines and Minerals Act to oversee this sector, labor laws remained inadequate, with a 1971 law governing labor conditions and a 1997 law stipulating the minimum wage and wage brackets.¹⁹⁴ As the Human Rights Commission acknowledged in its report on the Bumbuna protest, both laws are out of date, and pose an impediment to the realization of workers' rights. The 2009 mining legislation covers worker safety—and workers reported African Minerals to be quite strong in that regard—but it does not cover collective bargaining, hours, overtime, and other benefits. The need to reform labor legislation in Sierra Leone has been noted for years, but the few efforts that have been initiated have gone nowhere.¹⁹⁵ Both the government and its corporate investors will need to act in accordance with international standards on labor, as enshrined in the ILO core convention, especially on the rights to organize.

¹⁹¹ Human Rights Watch interview with Jamesina King, Human Rights Commission of Sierra Leone, Freetown, July 12, 2012.

¹⁹² Human Rights Watch interview with M.N., employee of AML contractor, Bumbuna, September 23, 2012.

¹⁹³ Human Rights Watch interview with Brima Sheriff, commissioner, Human Rights Commission of Sierra Leone, Freetown, October 24, 2013.

¹⁹⁴ The Minimum Wage Act 1997, Sierra Leone Gazette, <http://www.sierra-leone.org/Laws/1997-1.pdf>; and Regulation of Wages and Industrial Relations Act, 1971, Sierra Leone Gazette. <https://www.ilo.org/dyn/natlex>. The minimum wage was increased to 480,000 leones in the 2014 budget. Email communication from Theophilus Gbenda, February 3, 2014.

¹⁹⁵ Human Rights Watch interviews with Mohamed L. Momoh, senior labor officer, Freetown, October 25, 2013, and Emmanuel Saffa Abdulai, executive director of the Society for Democratic Initiatives, Freetown, October 24, 2013.

The Human Rights Commission recommended that the 1971 Regulation of Wages and Industrial Relations Act in Sierra Leone be revised to facilitate the ability to join a union of one's choice, an issue that sparked the AML workers' strike and continues to cause discontent in Bumbuna. After the protest in Bumbuna, the government was unwilling to adopt most of the labor-related recommendations made by the Human Rights Commission. Disputed by government officials and labor leaders, the matter also has been making its way in two different cases through Sierra Leone's judicial system.

In one case, a judge has ruled that under the country's constitution, the upstart labor union MASEU was legally permitted to operate in Sierra Leone. In the second case, concerning MASEU and UMU, which had solely represented the workers at AML, the court ruled that MASEU was the rightful representative of the AML workers. Neither judgment has been enforced; attorneys for MASEU have sought to bring contempt of court proceedings against the Ministry of Labour.¹⁹⁶

In the midst of this judicial wrangling, the Ministry of Mines, representatives from the country's major mining firms, and UMU secretly signed a collective bargaining agreement on September 28, 2012, after Parliament went into recess, and after the Human Rights Commission published its report on the Bumbuna dispute. It specified the rules for mining employees, including the stipulation that they may affiliate only with the UMU.¹⁹⁷ The agreement, pending further action by the Ministry of Labour or the courts, remains in force.

Multiple unions have existed in a given sector in Sierra Leone. For instance, at one concession, two unions competed to represent security guards. The older union in this case deferred to the newer one, which was more popular. As a senior labor officer told Human Rights Watch, "The law says there can be a rivalry."¹⁹⁸

Protect Civil Society, Including Labor Activists

¹⁹⁶ Human Rights Watch interview with Emmanuel Saffa Abdulai, Abdulai and Associates, Freetown, October 24, 2013.

¹⁹⁷ Terms and Conditions of Service for Mine Workers below Supervisory Level, Sierra Leone Gazette, September 28, 2012. Workers, labor leaders, and staff at the Labour Ministry said they were completely unaware of or uninvolved in this development.

¹⁹⁸ Human Rights Watch interview with Mohamed L. Momoh, senior labour officer, Ministry of Labour, Freetown, October 25, 2013.

Critics of government policy and investment plans in Sierra Leone have faced serious repercussions, as noted by an activist: “If you raise a finger against the companies, you raise a finger against the government.”¹⁹⁹

Labor activists in Sierra Leone have been punished because of their advocacy efforts. One labor leader, for example, associated with MASEU, the union AML workers wanted to join, was thrown out of a meeting to discuss the Bumbuna strike. The inspector general of police asked that this same labor leader not be allowed to participate in the Human Rights Commission’s hearings on the April 2012 events.²⁰⁰ When officials from the Ministry of Mines and the country’s major mining firms signed an agreement allowing for only one union in the country to represent mining workers, labor leaders from other unions—those who might be more challenging or strident—were excluded.

Sallu Conteh, a shop steward for the AML workers, was the only AML employee to testify at the Human Rights Commission hearing about the experiences of its workers. He said that on the eve of his July 2012 testimony, two company employees “called me and told me to testify in favor of the company.” The two who called told him that the company was addressing the workers’ complaints.²⁰¹ Despite the phone call, Conteh, an air conditioning technician and former soldier, decided to testify:

What gave me the urge to speak the truth was that the bosses wanted otherwise. I spoke as a Sierra Leonean. The people in this country would suffer if these concerns are not addressed. I have faith in the law.... I wanted to show that I would not be bribed.²⁰²

In September 2012, Conteh was transferred to Freetown. According to the company, he was promoted, and received an increase in pay.²⁰³ He said it became much more difficult for him to serve as a shop steward to the workers in Bumbuna and that he was unsure as to

¹⁹⁹ Human Rights Watch interview with Ibrahim Tommy, Centre for Accountability and the Rule of Law, Freetown, July 17, 2012.

²⁰⁰ Human Rights Watch interview with Falla Ensa N’Dayma, General Secretary, Trade Union Confederation of Sierra Leone, Freetown, September 19, 2012.

²⁰¹ Human Rights Watch interview with Sallu Conteh, Freetown, September 24, 2012.

²⁰² Ibid.

²⁰³ Letter from African Minerals Limited to Human Rights Watch, March 11, 2013. Foyle-Twining, after he left the company, said he was told by Gibril Bangura, the executive chairman of AML Sierra Leone, that “Sallu Conteh will be moved from Tonkolili to Freetown to be seen under my gaze.” Human Rights Watch interview with Foyle-Twining, London, October 20, 2013.

whether the relocation was an acknowledgment of his potential or retaliation for his public appearance at the commission's hearings. Other shop stewards were also relocated.²⁰⁴

On the weekend of May 18-19, 2013, Conteh died under unclear circumstances as he made his way to Bumbuna from Freetown. The paramount chief of Kalansongoia apparently asked Conteh on Saturday morning, May 18, to assist him with some technical household issues.²⁰⁵ On his motorcycle, Conteh left Freetown for Bumbuna at about 4 p.m., stopping in Makeni on the way. He left Makeni at approximately 10:30 p.m., spoke to his wife in Bumbuna by phone at 11 p.m. and was not heard from again. His wife called him at 1 a.m. on Sunday May 19 to check up on him, and another voice answered the phone, saying that Conteh was driving.²⁰⁶

On May 19, nearby residents found Conteh's body lying in a ditch near the road just outside of Bumbuna—his phone and money were taken—and reported the matter to police that day. The police, through its traffic division, immediately ruled the death an accident and brought the body to the town health center.²⁰⁷ Conteh had died from a serious head injury.²⁰⁸ The community health officer told Human Rights Watch:

Sallu was a friend of mine. He was brought to the health center in Bumbuna by the police. He had a dent on his head and a fractured skull. One of his limbs was also fractured. His jeans were torn near the pocket. The corpse was found in a swamp. When they found him, he was already dead. They called the police. The police said it was a road traffic accident. I went to the scene of the accident, and saw patches of his hair on a stone. It seems clear that he was hit by something, or that he hit something. He had a traumatic head injury. I also went to the police station, where they showed the bike to me. It

²⁰⁴ Human Rights Watch interview with Theophilus Gbenda, journalist, Freetown, October 22, 2013.

²⁰⁵ Human Rights Watch interview with Falla Ensa N'Dayma, National President, Trade Union Confederation of Sierra Leone, Freetown, October 23, 2012. Ensa N'Dayma was in the same office as Conteh on the day of his ill-fated trip, and heard Conteh talking to the chief about the visit. Conteh apparently wanted to stay in Freetown, but told Ensa N'Dayma that the chief had summoned him. Conteh's relative also reported to Human Rights Watch that he was called by the chief and told to come to Bumbuna. Human Rights Watch interview with Susan [no last name provided], Conteh's relative, May 20, 2013. Email correspondence from Foyle-Twining, then Global Head of Human Resources and Sustainable Development, further mentions a project for the paramount chief. Email from Graham Foyle-Twining to Human Rights Watch, May 28, 2013. Human Rights Watch was unable to confirm this with the chief.

²⁰⁶ Theophilus Gbenda, "Independent Investigative Report on the Tragic Death of Sallu Conteh," May 25, 2013.

²⁰⁷ Human Rights Watch interview with Sgt. Sheriff Rollings Kamara, crime officer, Sierra Leone Police, Bumbuna, October 26, 2013.

²⁰⁸ Human Rights Watch interview with Joseph Caesar M'Bayo, community health officer, Bumbuna, October 26, 2013.

was not seriously damaged. Just the headlight was broken. I recommended an autopsy to the family in Makeni, but they seem to have declined. The body was not embalmed, and was thus not well preserved.²⁰⁹

Human Rights Watch, which was contacted by Conteh's relative on May 20, immediately raised the matter with African Minerals, which indicated that the company was conducting an inquiry.²¹⁰ The company reported that, because Conteh was off-duty, it was difficult to establish the exact details of the incident, since it was not workplace related.²¹¹

Civil society activists issued a public statement in June 2013 calling on the Sierra Leone police to fully investigate Conteh's death, given his public role as a shop steward at AML, and to obtain a call log and conduct an exhumation.²¹² Francis Munu, the inspector general of police, told Human Rights Watch that he was waiting for the relevant NGOs to follow up and "partner with" the police.²¹³ NGO activists who had been in touch with the police said they were told their financial assistance was needed for the police to do a proper criminal investigation, a common request in Sierra Leone.²¹⁴

Ensure Transparency

Efforts toward improving Sierra Leone's business environment have not been matched by the creation or strengthening of mechanisms for greater transparency. That transparency is essential to the success of the country's development plans is broadly recognized. "We are very much concerned about transparency," said Francis Kumah, representative of the International Monetary Fund in Sierra Leone. "The government isn't there yet. It's very politically sensitive."²¹⁵

²⁰⁹ Human Rights Watch interview with Joseph Caesar M'Bayo, community health officer, Bumbuna, October 26, 2013.

²¹⁰ Human Rights Watch email communication with Graham Foyle-Twining, Global Head of Human Resources and Sustainable Development, May-June 2013. Foyle-Twining said he later received an unsubstantiated report that the accident was caused by a log on the road. Human Rights Watch interview with Foyle-Twining, London, October 20, 2013.

²¹¹ Human Rights Watch email communication with Graham Foyle-Twining, May-June 2013. The company provided a vehicle for the body to be moved to the health center in Bumbuna, donated two million leones for the burial, and provided another vehicle to convey the corpse to Makeni. Theophilus Sahr Gbenda, "Independent investigative report on the mysterious death of Sallu Conteh," May 25, 2013.

²¹² National Resource Governance and Economic Justice Network, Press Statement on Sallu Conteh, June 28, 2013.

²¹³ Human Rights Watch interview with Francis Munu, IGP, Freetown, October 22, 2013.

²¹⁴ Human Rights Watch interview with Theophilus Gbenda, Freetown, October 22, 2013. Police officials have admitted that some officers won't work unless they get bribes. Human Rights Watch interview with Brima Sheriff, commissioner, Human Rights Commission of Sierra Leone, Freetown, October 24, 2013.

²¹⁵ Human Rights Watch interview with Francis Kumah, (IMF), Freetown, September 25, 2012.

Four important areas for transparency are revenues, contracts, spending, and public access to information. With regard to revenues, Sierra Leone has signed up to the Extractive Industry Transparency Initiative (EITI), which aims to strengthen governance in resource-rich countries by increasing transparency over government proceeds from the oil, gas, and mining sectors. In February 2008, Sierra Leone was accepted as a candidate country, meaning that it was considered an EITI “implementing country” and was expected to meet the organization’s requirements, but to date Sierra Leone has fallen short.

In February 2013, EITI suspended Sierra Leone’s candidacy because the country’s first report, covering the 2008-2010 period, did not sufficiently document mining revenue and company payments. The EITI’s governing board said it would lift the suspension if the government took several remedial measures and published a further report by a December 2013 deadline. EITI warned that the country would be “de-listed” or expelled from the initiative if it was not fully in compliance by the end of February 2014.²¹⁶

Sierra Leone also lacks transparency over mining contracts, which is increasingly recognized as a key element of proper governance over natural resources.²¹⁷ Government officials in the Ministry of Finance, for example, said they have found it challenging to project revenue when they don’t even have access to the contracts that other government agencies have signed. To remedy this deficiency, donors have brought in outside assistance, who liaise between the tax and mining authorities to forecast revenue, reconcile projections and revenue from mining, understand the different tax obligations of different companies, and institute better recordkeeping systems.

“When people in the tax authority have to get them [the contracts] from the company, it shows them the relevant section,” one outside expert noted.²¹⁸

²¹⁶ See EITI, “Sierra Leone,” country page, at <http://eiti.org/SierraLeone> (accessed November 12, 2013). In addition, companies listed in European Union countries are subject to new EU directives requiring them to report payments of more than €100,000 to governments related to extractive industries or logging. See Mark Tran, “EU’s new laws will oblige extractive industries to disclose payments,” *Guardian* (London), June 12, 2013, at <http://www.theguardian.com/global-development/2013/jun/12/european-union-laws-extractive-industries-payments>.

²¹⁷ For example, a May 2013 revision to the EITI rules includes a provision that requires participating countries to publish contracts. The initiative grants implementing countries a transition period to adapt to the new requirements. See EITI, “The EITI Standard,” at <http://eiti.org/document/standard> (accessed November 12, 2013).

²¹⁸ Human Rights Watch interview with Steve Macey, economist, Freetown, September 18, 2012. See also, Gemma Ware, “A stutter start for iron miners in Sierra Leone,” *Africa Report*, September 12, 2013. <http://www.theafricareport.com/West-Africa/a-stutter-start-for-iron-miners-in-sierra-leone.html> (accessed October 10, 2013). In this article, the head of the new

Mining contracts, for example, should be accessible to members of government and to the public, most usefully via a government website. To promote this kind of openness in Sierra Leone, a coalition of more than 400 civil society organizations for 10 years pushed for a Freedom of Information Bill. International pressure, including from the World Bank and U.S. government, helped spur the campaign's success. In October 2003, the law was approved by parliament and signed by the president shortly thereafter.²¹⁹

Passage of the Freedom of Information law enables Sierra Leone to meet the minimum eligibility requirements to join the international Open Government Partnership, an initiative that aims to secure concrete commitments from governments to enhance openness about government activities, encourage citizen participation, and draw on technology as means to combat corruption and strengthen governance.²²⁰ Transparency of government information in Sierra Leone has been hindered by the country's criminal libel law, which the authorities invoke against journalists, civil society members, and other government critics. Donors to Sierra Leone, as well as other multinational bodies, have called on the government to increase transparency and adopt other good governance and rule of law measures. To promote the sharing of information, World Bank officials in Freetown have supported efforts by journalists to investigate how much money is being invested in the country, where it is going, and whether it meets the expectations of beneficiaries.²²¹

On March 7, 2013, President Koroma launched a National Minerals Agency, whose purpose, he said, was to ensure transparency and sustainable development in the mining sector as well as maximize revenue and other benefits for all Sierra Leoneans. While the Ministry of Mines establishes a regulatory framework, the subordinate National Minerals Agency implements the policy and oversees contracts, revenue flows, and concessions.

National Minerals Agency notes that the government is still unsure exactly how much money it earns from the mining sector, because the revenue is collected by different agencies. Corporate tax breaks also mean that companies are paying little more than 3 percent royalty rates.

²¹⁹ Human Rights Watch interview with Emmanuel Saffa Abdulai, Freetown, July 13, 2012.

²²⁰ See Open Government Partnership, "What is the Open Government Partnership?" at <http://www.opengovpartnership.org/> (accessed November 12, 2013).

²²¹ Human Rights Watch interviews with Sheriff Ismail, communications officer, and Sheikh Sesay, operations officer, World Bank, Freetown, September 25, 2012.

The minerals agency is expected to recommend changes to existing contracts to ensure greater revenue for popular investment from mining.²²²

The agency, according to one of its supporters, is still settling in. “There’s still a ways to go, and the jury’s out on whether it will deliver,” said Phil Evans, head of the UK development agency, DFID, in Sierra Leone.²²³

The value of iron ore and way in which it is processed could have a direct and positive impact on the lives of Sierra Leoneans, if the investment is well managed. Translating resource revenues into better outcomes for the broader population demands transparency and accountability over government finances, including budgets and spending.²²⁴ Sierra Leone is far from meeting good international practices in this area. It should work to comply with internationally recognized standards of fiscal transparency and accountability. One key standard is contained in the IMF’s Code of Good Practices on Fiscal Transparency, which, among other elements, calls for open budget processes, public availability of information, and proper oversight.²²⁵

In November 2013, an IMF assessment credited the government with improvements in a number of areas but also expressed misgivings about important aspects of governance in Sierra Leone, including with regard to natural resource management and budget controls. The IMF pointed to “persistent weaknesses in public financial management,” drawing

²²² Kemo Cham, “Under-pressure Sierra Leone launches National Minerals Agency,” *Africa Review*, March 11, 2013, <http://www.africareview.com/Business---Finance/-/Sierra-Leone-launches-National-Minerals-Agency/-/979184/1716814/-/108m7cpz/-/index.html> (accessed April 22, 2013).

²²³ Human Rights Watch interview with Phil Evans, DFID, head of Sierra Leone and Liberia, Freetown, October 24, 2013.

²²⁴ The Network Movement for Justice and Development (NMJD) conducted a cost-benefit review of the AML lease agreement, and found a lack of information about the contract, violations of national tax laws and regulations, as well as the failure of the government to ascertain basic financial and production information prior to signing it. See “Cost-Benefit Review of African Minerals Limited Mining Lease Agreement (Tonkolili) May 17, 2011, pp. 4-5.

²²⁵ Also reflected in the IMF Guide on Resource Revenue Transparency and other initiatives. See International Monetary Fund (IMF), Code of Good Practices on Fiscal Transparency, 2007, www.imf.org/external/np/pp/2007/eng/051507c.pdf (accessed August 3, 2012); and IMF, Guide on Resource Revenue Transparency, 2007, www.imf.org/external/np/pp/2007/eng/051507g.pdf (accessed August 3, 2012). In 2012 the IMF began work to revise the fiscal transparency code and to prepare two board papers, one on “Natural Resources Wealth Management” and a second on “Taxation of Natural Resource Rents.” See IMF, “Consultation on IMF’s Revised Draft of the Fiscal Transparency Code,” at <http://www.imf.org/external/np/exr/consult/2013/fiscitransp/index.htm> (accessed November 12, 2013); Consultation on IMF Natural Resources Work, August 5, 2013, www.imf.org/external/np/exr/consult/2012/NR/ (accessed November 12, 2013). See also, for example, the principles underlying the Natural Resource Charter and the Global Initiative on Fiscal Transparency at: The Natural Resource Charter, The Twelve Precepts, <http://www.naturalresourcecharter.org/precepts> (accessed August 3, 2012); and The Global Initiative for Fiscal Transparency (GIFT), Expanded High-Level Principles on Fiscal Transparency, <http://fiscaltransparency.net/wp-content/uploads/2013/07/GIFT-Expanded-High-Level-Principles-20130511.pdf> (accessed November 12, 2013).

special attention to “critically important” problems with budget processes and expenditure management that the government has pledged to address. It stated, “Although significant progress has been made since the end of the civil conflict toward social stability and a sustainable macroeconomic position, Sierra Leone needs more durable poverty reduction and growth efforts.”²²⁶

There are still many questions as to who will benefit from Sierra Leone’s peace dividend. The mining of iron ore can and should have a direct and positive impact on the lives of Sierra Leoneans, but only if the investment is both well managed and respectful of the rights and needs of the country’s long-deprived people. Transparency and managing expectations are essential, Evans said. “A lot more needs to be done to include communities in what is going on.”²²⁷

²²⁶ IMF, “Sierra Leone: 2013 Article IV Consultation and Request for a 3-year Arrangement under the Extended Credit Facility” (IMF Country Report No. 13/330), November 2013, pp. 5, 13, 53-54, at <http://www.imf.org/external/pubs/ft/scr/2013/cr13330.pdf> (accessed November 14, 2013).

²²⁷ Human Rights Watch interview with Phil Evans, DFID, head of Sierra Leone and Liberia, Freetown, October 24, 2013.

VI. National, Regional, and International Standards

The Sierra Leonean government has obligations under its national constitution and international human rights law to protect and promote Sierra Leoneans' human rights. These include rights to freedom of expression and association as well as to the progressive realization of rights to food, water, work, and health. Private companies operating in Sierra Leone also have human rights obligations, as described below.

Sierra Leone's Constitution

Sierra Leone's 1991 Constitution, which is currently undergoing review, affirms that the country's "sovereignty belongs to the people of Sierra Leone from whom Government ... derives all its powers, authority and legitimacy."²²⁸ In addition, "the security, peace and welfare of the people of Sierra Leone shall be the primary purpose and responsibility of Government, and to this end it shall be the duty of the Armed Forces, the Police, Public Officers and all security agents to protect and safeguard the people of Sierra Leone."²²⁹

The Constitution commits the state to defend individual rights, ensure the efficient functioning of government services, and take all steps to eradicate corrupt practices and the abuse of power.²³⁰ It also provides that government should harness all national resources to promote national prosperity and the maximum welfare and freedom of every citizen, who shall have equality of rights.²³¹ Under the Constitution, the state should direct its policies toward affording access to health, safety, and welfare, with due regard to state resources.²³² In particular, the Constitution provides "protection from deprivation of property without compensation," subject to limitations of the rights of others and "the public interest."²³³

²²⁸ The Constitution of Sierra Leone, 1991, Chapter II, No. 5.2.a.

²²⁹ *Ibid.*, No.5.2.b.

²³⁰ *Ibid.*, Nos. 6.4 and 6.5.

²³¹ *Ibid.*, Nos. 7.1a and 8.2a.

²³² *Ibid.*, Nos. 8.3c and 8.3d.

²³³ *Ibid.*, Chapter III.15.d.

International Treaties

Sierra Leone has ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the International Convention on the Rights of the Child (CRC), the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), among many other international human rights instruments.²³⁴

These instruments obligate Sierra Leone's government to respect, protect, and fulfill the rights enshrined in these documents. The preamble to the ICCPR, for example, similar to Sierra Leone's constitution, states that "the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights." Moreover the ICCPR provides that, "In no case may a people be deprived of its own means of subsistence."²³⁵

The ICESCR advances these obligations and states that governments "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."²³⁶ Both the ICCPR and ICESCR affirm "the right of everyone to form trade unions" for the protection of their interests.²³⁷

Under the CRC, governments recognize "the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity."²³⁸ And CEDAW bars "discrimination against women in all its forms," compelling governments to eliminate it in political, economic, and social spheres.²³⁹

²³⁴ Working Group on the Universal Periodic Review for Sierra Leone, Human Rights Council, May 2011.

²³⁵ International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* March 23, 1976, preamble and article 1(2).

²³⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* January 3, 1976, article 11(1).

²³⁷ ICCPR, article 22; ICESCR, article 8(1).

²³⁸ CRC, article 28(1).

²³⁹ Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, *entered into force* September 3, 1981, article 2.

African Charter on Human and Peoples' Rights

Sierra Leone has ratified the African Charter on Human and Peoples' Rights (the African Charter), which affirms many of the rights enshrined in the international covenants, but also addresses the right of dispossessed people to lawful recovery of their property and to adequate compensation.²⁴⁰ Governments also commit to “undertake to eliminate all forms of foreign economic exploitation.”²⁴¹

The treatment of the residents of Ferengbeya, Wondugu, and Foria raises a question as to whether, under the African Charter, these are indigenous groups denied land rights. In 2010, the African Commission on Human and Peoples' Rights ruled that the Endorois, a pastoralist group in Kenya, had been wrongly evicted from their land by the Kenyan government, which sought to make way for tourism development. In *Endorois Welfare Council v. Kenya*, the commission ruled that the Endorois were a distinct indigenous people, essentially because no one claimed the land before them. They had a clear historic attachment to and recognized ownership of land. The commission found that Kenyan authorities failed to respect the Endorois' land rights, as well as their rights to consent to development and receive adequate compensation for the loss they had suffered from their eviction.²⁴² The ruling suggests a possible legal precedent for those in Sierra Leone similarly evicted from historic land, livelihood, and cultural integrity.²⁴³

International Guidance on Government Obligations around Evictions

The UN Special Rapporteur on the right to adequate housing and other human rights experts have set out guidelines on the rights of people being resettled for the purpose of economic development projects such as mining, dams, and roads.²⁴⁴ International

²⁴⁰ African Charter on Human and Peoples' Rights (African Charter), adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, article 14.

²⁴¹ African Charter, article 21(5).

²⁴² Ibid. art. 22. See Human Rights Watch, “Kenya: Landmark Ruling on Indigenous Land Rights: African Human Rights Commission Condemns Expulsion of Endorois People for Tourism Development,” February 4, 2010.

²⁴³ The ruling also found violation of free practice of religion (African Charter, art. 8) and culture (art. 17) due to importance of land to the community such as for religious ceremonies at ancestral graves.

²⁴⁴ UN Human Rights Council, “Basic principles and guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living,” Miloon Kothari, A/HRC/4/18 and Commission on Human Rights, Comprehensive Human Rights Guidelines On Development-Based Displacement, adopted by the Expert Seminar on the Practice of Forced Evictions Geneva, 11-13 June 1997, E/CN.4/Sub.2/1997/7 [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.1997.7.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.1997.7.En?Opendocument) (accessed December 3, 2013).

financial institutions that finance or directly implement projects involving involuntary resettlement, such as the World Bank, have also developed protocols on the safeguards that should be in place for resettled populations.²⁴⁵

International human rights law additionally provides protections for the right to “sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses” and notes that water is necessary to produce food and to ensure environmental hygiene and the right to health.²⁴⁶ Individuals should have access to a continuous water supply sufficient for personal and domestic use, such as drinking, sanitation, bathing, washing clothes, and cooking.²⁴⁷

The Special Rapporteur on housing has developed guidance regarding resettlements due to development-related projects that address the rights of affected populations. According to the Special Rapporteur, a resettlement process that fully respects human rights should ensure public consultation and participation at all stages of the process, including in the design, implementation, and post-move phases of resettlement. Affected groups and individuals should give their full and prior informed consent regarding the relocation site.²⁴⁸ The state should consider alternate plans proposed by affected persons and communities and establish accessible channels for providing feedback outside the framework of planned consultations.²⁴⁹ The resettlement protocols of the World Bank and the African Development Bank provide that affected communities should remain fully informed and closely consulted at all stages of the process, including the development of resettlement documents.²⁵⁰

²⁴⁵ World Bank, “BP 4.12 – Operational Policy on Involuntary Resettlement,” December 2001 (revised February 2011), <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html> (accessed December 3, 2013).

²⁴⁶ UN Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment No. 15, The Right to Water, E/C.12/2002/11 (2003).

²⁴⁷ *Ibid.*, para. 3.

²⁴⁸ UN Human Rights Council, “Basic principles and guidelines on development-based evictions and displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living,” Miloon Kothari, A/HRC/4/18, http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf, and Commission on Human Rights, “Comprehensive Human Rights Guidelines On Development-Based Displacement, adopted by the Expert Seminar on the Practice of Forced Evictions Geneva,” 11-13 June 1997, E/CN.4/Sub.2/1997/7 [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.1997.7.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.1997.7.En?Opendocument) (accessed December 3, 2013).

²⁴⁹ *Ibid.*

²⁵⁰ African Development Bank (AfDB), “Involuntary Resettlement Policy,” Abidjan, November 2003 <http://www.afdb.org/en/documents/document/bank-group-involuntary-resettlement-policy-11166/> (accessed August 23,

The UN Office of the High Commissioner for Human Rights has promulgated guidelines on how states should respect human rights when contemplating or undertaking evictions. The guidelines note that the government and any other parties responsible for evictions should provide just compensation and sufficient alternative accommodation, or restitution when feasible, and should do so immediately upon eviction. At a minimum, authorities should ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) access to common property resources previously depended upon; and (g) education for children and childcare facilities.²⁵¹

Corporate Responsibility to Protect Human Rights

Companies are the subject of a number of international human rights standards.²⁵² These include international norms that elaborate the respective roles of governments and companies in upholding human rights and avoiding complicity in violations, as well as standards developed to specifically address concerns related to security and human rights.

2012) and World Bank, “BP 4.12 – Operational Policy on Involuntary Resettlement,” Washington DC, December 2001 (revised February 2011), <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/o,,contentMDK:20064610~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html> (accessed August 23, 2012). The World Bank and AfDB are in the process of reviewing and updating their involuntary resettlement policies together with other social and environmental safeguards. Civil society organizations are advocating for the World Bank to enhance its standards and procedures to comply with international human rights law, of which they currently fall short. See “Initial Comments by Civil Society Organizations on the World Bank’s Safeguard Policies Review and Update,” December 2012, http://www.hrw.org/sites/default/files/related_material/Initial%20Comments%20by%20Civil%20Society%20Organization%20on%20the%20World%20Bank%20Safeguards%20Review.pdf (accessed December 3, 2013).

²⁵¹ Office of the High Commissioner of Human Rights, Basic Principles and Guidelines on Development-Based Evictions and Displacement: Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, article 52.

²⁵²For example, former Special Representative of the UN Secretary-General on Business and Human Rights John Ruggie elaborated on some of the international human rights obligations pertaining to businesses in his 2008 “Protect, Respect and Remedy” framework. This framework was further supplemented by a set of “Guiding Principles on Business and Human Rights” endorsed by the United National Human Rights Council in 2011 and referenced further below. United Nations Office of the High Commissioner for Human Rights (OHCHR), “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect, and Remedy’ Framework,” New York, 2011. In addition, there are a number of industry- and issue-specific standards that also articulate their responsibilities. One such standard, the Voluntary Principles on Security and Human Rights, is described further below.

Governments have international legal obligations to protect against human rights abuses by third parties subject to their jurisdiction, including businesses.²⁵³ Among other elements, this entails ensuring that the government appropriately regulates and monitors the conduct of private firms. This duty clearly applies to the host government within whose territory a company operates.

There has been increasing recognition that the home governments of multinational companies—the United Kingdom in the case of African Minerals Limited—have affirmative obligations to regulate and monitor the human rights practices of these companies’ operations abroad.²⁵⁴

The UN Guiding Principles on Business and Human Rights call on private companies to respect human rights and avoid causing or contributing to any abuses. Further, the guidelines note, companies should adopt a human rights due diligence process to identify, prevent, mitigate, and account for human rights impacts and to enable the remediation of adverse human rights results that the companies cause or contribute to.²⁵⁵

Both governments and private companies should abide by the Voluntary Principles on Security and Human Rights, a multi-stakeholder effort—which included the UK government—to address human rights abuses arising from security arrangements in the oil, gas, and mining industries. Established in 2000, the Voluntary Principles are designed to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights. For example, when

²⁵³ See, for example, Principle 1 of the UN Guiding Principles on Business and Human Rights: “States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.”

²⁵⁴ For example, the Maastricht Principles state that governments should take measures to ensure that transnational corporations and other businesses do not nullify or impair the enjoyment of economic, social, and cultural rights, whether domestically or abroad. http://www.fian.org/fileadmin/media/publications/2012.02.29_-_Maastricht_Principles_on_Extraterritorial_Obligations.pdf.

²⁵⁵ In 2008, then Special Representative of the UN Secretary-General on Business and Human Rights John Ruggie elaborated the “Protect, Respect and Remedy” framework for business and human rights, which was further supplemented by a set of “Guiding Principles on Business and Human Rights” endorsed by the United National Human Rights Council in 2011. This framework sets out 1) the state duty to protect human rights, 2) the corporate responsibility to respect human rights, and 3) the need for a remedy for victims of business-related human rights abuses. See United Nations Office of the High Commissioner for Human Rights, “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect, and Remedy’ Framework,” New York, 2011. United Nations Office of the High Commissioner for Human Rights, “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect, and Remedy’ Framework,” New York, 2011.

residents are exercising their rights to freedom of association and peaceful assembly, or engaging in collective bargaining, as recognized by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work, companies or government should not impede the exercise of these rights.²⁵⁶

To prevent violations, companies should conduct comprehensive risk assessments prior to operation, the principles emphasize. Companies should also consult regularly with host governments and local communities about the impact of their security arrangements on those communities. Both companies and host governments should ensure that security arrangements are transparent and accessible to the public. The type and number of public security forces deployed “should be competent, appropriate and proportional to the threat.” Companies, the principles note, should promote observance of applicable international law enforcement principles, particularly those reflected in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms, to prevent casualties emanating from disputes over the companies’ operations.²⁵⁷

²⁵⁶ Voluntary Principles on Security and Human Rights, 2000.

²⁵⁷ Ibid.

VII. Conclusion

The management team that took over African Minerals in July 2012 and resigned in August 2013 expressed a commitment to uphold human rights principles, both publicly and in its dialogue with Human Rights Watch and other organizations. Following the unrest in Bumbuna, for example, the African Minerals head of corporate development and investor relations publicly affirmed the company's commitment to uphold the principles set out in the UN Global Compact, a voluntary corporate social responsibility initiative that addresses, among other elements, human rights, and labor protections. At the time, African Minerals also expressed its support for the objectives of the Voluntary Principles on Security and Human Rights and said it would review the underlying causes of the April 2012 labor protest.²⁵⁸

It remains unclear whether the company will be able to fulfill these goals. According to its January 27, 2014 corporate presentation, the company saw progress in its iron ore production, in spite of the lack of skilled and semi-skilled workers, "isolated geography in remote jungle," "Biblical rainfall," and other conditions in the country.²⁵⁹ African Minerals said it would provide more on-the-job training and education programs, but these are unlikely to address the structural impediments to realizing the rights of workers and community members in Sierra Leone.²⁶⁰ As the company plans to expand, it should address the full range of existing and anticipated rights issues.²⁶¹ The impact of any initiatives by AML will be measured, not on paper, but on the ground.

²⁵⁸ Letter from Mike Jones, AML Head of Corporate Development and Investor Relations, to the Business and Human Rights Resource Center, May 21, 2012, at <http://www.business-humanrights.org/media/documents/african-minerals-response-to-press-release-re-bumbuna-21-may-2012.pdf> (accessed December 1, 2013).

²⁵⁹ African Minerals Limited, "Corporate Presentation," January 2014, http://www.african-minerals.com/system/files/uploads/financialdocs/AMI_CorporatePresentation_Jan2014.pdf (accessed February 7, 2014), p. 14.

²⁶⁰ *Ibid.*, p. 29.

²⁶¹ *Ibid.*, p. 30.

Acknowledgements

This report was researched and written by Rona E. Peligal, deputy director of the Africa division at Human Rights Watch. It was reviewed by Corinne Dufka, senior researcher, Africa division; Arvind Ganesan, director, business and human rights division; Lisa Misol, senior researcher, business and human rights; Jessica Evans, senior researcher and advocate, business and human rights; Nisha Varia, senior researcher, women's rights division; Juliane Kippenberg, senior researcher, children's rights division; David Mepham, London director; James Ross, legal and policy director; and Babatunde Olugboji, deputy program director.

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Human Rights Watch wishes to thank Theophilus Gbenda and Mohamed Jalloh II for their assistance in conducting the in-country research. We also thank the many people in Sierra Leone and elsewhere who contributed information and analysis through interviews.

This report is dedicated to the memory of Sallu Conteh.

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300 ;
917-591-3452

AFRICA DIVISION

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Marianna Enamona, *Senior Associate*
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Annex I: Follow-Up Letter to African Minerals Limited

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January 10, 2014

Mr. Bernard Pryor
Chief Executive Officer
African Minerals Limited
Stratton House
5, Stratton Street
London W1 J 8LA
United Kingdom

Re: AML Operations in Tonkolili, Sierra Leone

Dear Mr. Pryor,

I am writing to request information from African Minerals Limited (AML) concerning its operations, and those of its contractors, in Sierra Leone. I am deputy director of the Africa division at Human Rights Watch, an international nongovernmental organization that monitors human rights conditions in more than 90 countries across the globe. We are researching allegations of human rights abuses connected with mining in Sierra Leone's Tonkolili district with a view to publishing a report on our findings in the first quarter of 2014.

We have thus far conducted three research trips to Sierra Leone in July and September 2012 and in October 2013 and interviewed more than 96 people. In January 2013, I reached out to AML's previous management (see enclosed letter), and in February 2013, a colleague and I met with then AML Chief Executive Officer Keith Calder, as well as members of his

senior management team – Eric Christensen, Graham Foyle-Twining, and Mike Jones. They then responded in a lengthy letter to my inquiries (also enclosed). Given that AML is now under new management, we wish to give you an opportunity to provide your perspective on human rights issues at the Tonkolili iron ore mine in recent months and going forward.

Our report will focus on three major issues: 1) displacement and relocation of local farmers; 2) labor rights, including working conditions and the ability to form a union; and 3) the April 2012 protest in Bumbuna town and events connected to it. We are specifically interested in what AML's management has been doing in these areas since September 2013.

Your written response to the questions in the attached, as well as to the description of conditions based on our research, if received by January 31, 2014, will be reflected in Human Rights Watch's forthcoming report. Any other comments or information that you can provide us would be appreciated. I would also welcome an in-person meeting with you in Sierra Leone or London.

Thank you very much for your attention to this matter. I look forward to receiving your response.

Sincerely,

Rona E. Peligal, Ph.D.
Deputy Director, Africa Division
peligar@hrw.org

Questions Concerning the Iron Ore Mine in Tonkolili District, Sierra Leone

Sierra Leone's constitution affirms fundamental rights and freedoms, including the rights to free expression and assembly, to join a trade union, and to challenge the deprivation of property in a court of law. Although governments have primary responsibility for promoting and ensuring respect for human rights, corporations also have a number of responsibilities, as increasingly recognized by international law and other norms. These norms, encapsulated to a large degree in the United Nations Guiding Principles on Business and Human Rights, reflect an expectation that corporations should have policies and

procedures in place that ensure human rights abuses do not occur and that they undertake adequate due diligence to identify and effectively mitigate human rights violations.

African Minerals Limited (AML), on its website, commits to “aligning our operations and strategies towards the ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption set out in the UN Global Compact.” In turn, the UN Global Compact has stated that the first and second of the compact’s 10 principles are fully in line with the UN Guiding Principles. They state: “Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; and Principle 2: make sure that they are not complicit in human rights abuses.”

Resettlement

As noted in the enclosed document, African Minerals management told Human Rights Watch in March 2013 that it had secured 180 acres of land for the families resettled in the new villages of Ferengbeya, Wondugu, and Furia: 150 acres for intensive agricultural activities and the remaining 30 acres for individual family plots. A dam, eight kilometers from the relocation site, would permit the irrigation of this land for farming, the company then said.

1. Is this secured land currently being used for farming by the resettled villagers? Has it been irrigated? If not, when do you think the land can be cultivated?
2. In the aforementioned villages, is there piped and potable water, as also promised by the company, or do water trucks continue to bring in water containers? In the latter case, when do you expect there to be piped water in these locations?
3. Are residents still receiving monthly food packages and stipends, and, if so, for how long do you expect this provision to continue?
4. The Paramount Chief told Human Rights Watch in October that he was trying to arrange a microcredit scheme with African Minerals for the resettled women, to enable them to restart their livelihoods. Has that proposed funding been disbursed?
5. What kind of support is AML currently providing to the primary schools, if any, in the resettled areas?

Labor Conditions

As noted in the enclosed documents, employees of AML and its contractors expressed concern over their inability to join a union of their own choosing, the lack of due process

in job dismissals, the disparate quality of amenities and salaries for expatriate versus local workers, and the lack of accountability for discriminatory treatment by a few expatriate supervisors.

1. AML's website says that the company has 6,850 employees, of whom approximately 80 percent are Sierra Leonean. Is that still the case? Are all of those employees at AML itself, or at both AML and its contractors?
2. Prior to their departure, previous AML management told Human Rights Watch that the company was putting in place personnel policies and procedures to govern and unify AML and its contractors and monitor the contractors' employee relations performance. Can you specify what AML has done in this regard?
3. AML's website notes that the firm retained ERM to assist in developing a sustainability framework. Has ERM provided its recommendations? If so, how are you implementing ERM's findings? Who is currently supervising AML's work on human resources and sustainable development? Could you please provide us with a copy of the new sustainability framework, whether in draft or approved form?
4. African Minerals told Human Rights Watch in March 2013 that it was setting up a committee and process to deal with termination cases and grievances for both AML and its contractors. Where does that endeavor now stand?
5. African Minerals also told Human Rights Watch that the company, which had once provided bottled water to all workers on site, was reviewing its water supply process and looking into installing a water treatment plant to provide water for all our employees. Could you describe your company's efforts to provide workers with potable water on site?

Relationship with Police and Community in Bumbuna

On April 17 and 18, 2012, Sierra Leone police in Bumbuna fired live ammunition and used teargas to disperse protests. One woman, Musu Conteh, who worked for an AML contractor, was killed by police gunfire, and eight other residents unaffiliated with the company sustained gunshot wounds by the police; three police officers were also injured in the protest.

1. AML officials told Human Rights Watch that they were revamping company procedures and policies with respect to the police. Has that policy gone

- into effect? What are the parameters of police involvement in managing AML's security?
2. How has AML worked to incorporate in its operations the Voluntary Principles on Security and Human Rights, a multi-stakeholder effort to address human rights abuses arising from security arrangements in the oil, gas, and mining industry that the company has publicly stated it supports?
 3. What actions has AML taken to consult with local communities about the impact of its security arrangements on those communities, in line with the Voluntary Principles?
 4. Can AML provide some examples of how it is abiding by the principles set out in the Voluntary Principles and those of the Global Compact?
 5. What concrete efforts is AML now making to improve its relationship with the community?

Thank you for your responses to these questions.

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350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300 ;
917-591-3452

AFRICA DIVISION

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Corinne Dufka, *Senior Researcher*
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Charlene Harry, *Research Assistant*
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Jehanne Henry, *Senior Researcher*
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Annex II: Letter to African Minerals Limited and Response

January 8, 2013

Mr. Keith Calder
Chief Executive Officer
African Minerals Limited
Stratton House
5, Stratton Street
London W1 J 8LA
United Kingdom

Dear Mr. Calder,

I am writing to open a dialogue with African Minerals Limited (AML) concerning its operations, and those of its subsidiaries, in Sierra Leone. I am deputy director of the Africa division at Human Rights Watch, an international nongovernmental organization that monitors human rights conditions in more than 90 countries across the globe. We are researching allegations of human rights abuses connected with mining in Sierra Leone's Tonkolili district with a view to publishing a report on our findings in 2013.

We have thus far conducted two research trips to Sierra Leone in July and September 2012 and interviewed more than 80 people. During the latter trip, I requested a meeting with your press officer in Freetown, who said he forwarded my materials to relevant officials in the company. I received no further response, despite repeated inquiries. Prior to completing our research, we wish to give you and AML an opportunity to provide your

perspective on human rights issues related to the operation of the Tonkolili iron ore mine. Our report will focus on four major issues: 1) labor rights, including working conditions and the ability to form a union; 2) displacement and relocation of local farmers; 3) the April 2012 protest in Bumbuna town; and 4) AML's relationship with the community in the Bumbuna area.

We are very interested in AML's perspective on these issues. Your written response to the following description of conditions and questions if received by February 8, 2013 will be reflected in Human Rights Watch's forthcoming report. Any other comments or information that you can provide us would be appreciated. I would also welcome an in-person meeting with you in Sierra Leone or London.

Thank you very much for your attention to these pressing issues. I look forward to receiving a response from AML and to beginning a dialogue with you.

Sincerely,

A handwritten signature in black ink that reads "Rona Peligal". The signature is written in a cursive, flowing style.

Rona E. Peligal, Ph.D.

Deputy Director, Africa Division

Questions Concerning the Iron Ore Mine in Tonkolili District, Sierra Leone

Sierra Leone's constitution affirms fundamental rights and freedoms, including the rights to free expression and assembly, to join a trade union, and to challenge the deprivation of property in a court of law. Although governments have primary responsibility for promoting and ensuring respect for human rights, corporations also have a number of responsibilities, as increasingly recognized by international law and other norms. These norms, encapsulated in the United Nations Global Compact, reflect an expectation that corporations should have policies and procedures in place that ensure human rights abuses do not occur and that they undertake adequate due diligence to identify and effectively mitigate human rights.

African Minerals Limited (AML), on its website, commits to “aligning our operations and strategies towards the ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption set out in the UN Global Compact.”

A. Labor Conditions

Hours and Pay

Human Rights Watch interviewed more than 15 workers lining up at 4 a.m. in Bumbuna town to take the bus to AML’s mine in Tonkolili. They told us that that they work 12-hour shifts seven days a week for two weeks, and then have one week off before resuming the same schedule. They report receiving a one-hour lunch period, which is unpaid, but no other breaks during their daily shift. We calculate that local employees spend working at the site 77 hours per week, three weeks per month. Some reported receiving overtime for this work; others did not.

Sierra Leone’s Regulation of Wages and Industrial Relations Act (No. 18 of 1971), in Article 5, calls for a 40-hour work week from Monday through Friday. That schedule may vary, but may not exceed the 40-hour total without triggering double pay for the added hours. (For watchmen, security men, and gate men, the normal working hours are 12 hours per day five days per week, Monday through Friday.) For both sets of workers, Saturdays, Sundays, and Holidays, according to the 1971 Act, shall be paid double time.

1. Can you describe the work schedules that employees are required to fulfill?
2. What is AML’s wage and benefit structure for both local and expatriate workers?
3. When does AML pay overtime? To whom?

Access to Water

Numerous Sierra Leonean workers at AML in Tonkolili told Human Rights Watch that they lack suitable water for consumption at the mine. Expatriate workers, we were told, received bottled water. Local workers bring empty bottles to fill at a local tap, where the water appears discolored, they said. If the tap runs dry, they said, they use a local stream. The Environmental Protection Agency in Sierra Leone showed Human Rights Watch reports finding that there are high bacteria levels in the streams surrounding the mine; the water, according to their scientific assessment, was not fit for human consumption. The workers

also expressed concern about drinking untreated water during the country's virulent cholera epidemic over the summer.

1. What is AML's policy on the provision of bottled water for its workers, and does it distinguish here between local and expatriate workers?
2. What kinds of health services does the firm provide for sick workers on site?

Disparities in the Types of Food Available

At least five employees told Human Rights Watch that AML maintains two cafeterias for its workers – one for expatriates and one for nationals. Sierra Leonean workers said that the expatriate cafeteria had a higher quality of food, greater quantity of food, and more pleasant setting. The local workers said they were served one small meal during their lunch break, which they found to be nearly inedible. For example, they cited boiled unseasoned chicken not cooked thoroughly, so that it was visibly raw on the inside and potentially unsafe. The Sierra Leonean lunch area is filled with flies, they reported. The Sierra Leonean workers have been told they are not permitted to eat in the same venue as the expatriate workers, who also have opportunities to eat better food throughout the day. The disparity in food services for the workers was one of the 11 issues raised by labor leaders in an April 2012 letter to AML's general manager following the Bumbuna strike. Months later, during Human Rights Watch's July and September visits to Bumbuna, workers reported that the segregated eating arrangements were still in place.

1. Does the company maintain two distinct dining areas, one for expatriate workers and the other for Sierra Leonean employees? If so, why?

Entitlement to benefits

In Sierra Leone, according to the 1971 Regulation of Wages and Industrial Relations Act, the probation period for a new employee cannot extend beyond nine months. At that point, the employee becomes permanent, or is dismissed. If no action is taken, labor officials said, the assumption is that the employee is permanent at the nine-month mark. At the one-year mark, according to Sierra Leonean law, the employee is entitled to full benefits. Workers may be hired for short periods, but may not be renewed repeatedly as temporary workers to avoid the payment of benefits, which include paid leave, vacation days, travel days, sick leave, and maternity leave.

Several workers, both for AML and its subsidiaries, informed Human Rights Watch that, despite these national regulations, they were on short-term contracts that had been renewed multiple times, sometimes over an 18-month period, with no benefits provided. One worker we interviewed waited 21 months before his employment, with benefits, was made permanent.

1. What are the general terms and conditions under which AML employees at the Tonkolili mine are hired?
2. What determines whether workers are hired on a permanent or on a short-term basis?
3. Does AML oversee the employment practices of its subsidiaries?

Termination and grievance procedure

One of the grievances cited by workers in their April 2012 protest letter concerned termination of workers. Several local employees said they had co-workers who were dismissed in a manner that appeared to be abrupt or arbitrary, for reasons ranging from being late once to feeling dizzy, unwell, or exhausted on the job. According to the 1971 Regulation of Wages and Industrial Relations Act (Articles 20 and 21), job termination beyond the probationary period involves a regulated grievance procedure. Terminated employees who have worked for one year or more are also entitled by law to certain benefits, including compensation correlated with the years of service.

1. Does AML terminate employees at the Tonkolili mine in accordance with the 1971 Act? If not, why not?
2. The Human Rights Commission, in its study of the Bumbuna protest, recommended that AML develop a grievance mechanism for all workers. Does the company now have such a policy and, if so, how is it implemented and monitored?

Ability to form a union

AML employees described repeated attempts, over several years, to press for improvements in their working conditions. They said they saw few such improvements by management. By 2011, workers had grown frustrated with their union, the United Mining workers Union (UMU), which had represented employees during AML's previous incarnation as the Sierra Leone Diamond Company, labor ministry officials told Human Rights Watch. The workers formally sought to change their representation to the Mining

and Allied Services Employees Union (MASEU). They registered with MASEU, and formally submitted their check-off forms to the Ministry of Labour, which, labor officials confirmed, conducted an on-site visit and verified that registration with this union was not coerced. The official said he prepared a letter affirming MASEU's representation of AML workers. AML workers sent a formal letter to opt out of UMU, a process that requires three months' time or payment of dues. (AML, we were told by labor officials, was provided a copy of that letter.) Reflecting the workers' desire to change their representation, and the necessary approval from labor officials, AML should then have deducted from the workers' paychecks union dues for MASEU, but it did not do so, according to an April 2012 press release of the Trade Union Confederation of Sierra Leone.

During that time, apparently, the Ministry of Labour received a complaint from UMU that MASEU did not have a bargaining certificate. The Minister for Labour and Social Security, Hindolo S. Trye, who initially said he would extend a bargaining certificate to MASEU to reflect the will of the workers, put the offer on hold. It remains unclear to Human Rights Watch why Minister Trye reversed his decision. In response to this turn of events, the AML workers in March 2012, in accordance with Sierra Leonean law, gave 21-day notice that they would strike, which they did, on April 16.

Before we were able to interview him, sadly, Mr. Trye passed away. Members of the Human Rights Commission of Sierra Leone told Human Rights Watch that he had apologized at the commission's July hearings for rescinding his approval of the new union. The inability to join MASEU remains, and workers, who cited this as one of their grievances in April, continue to express frustration that their choice of representation has not been recognized.

The Human Rights Commission reported in September that:

[T]he freedom of association of the workers of AML has been violated and continues to be violated by the failure of the Government and especially the Ministry of Labour to make available and real, the possibility of workers to belong to a trade union of their choice. This problem is acute with respect to AML workers at the AML mining site in Ferengbeya in Kalasongoa Chiefdom who expressly sought to join a different trade union because they lacked confidence in the United Mining workers Union (UMU).... The absence of a trade union of choice for AML workers, compounded by a history of broken

promises on the part of the management of AML and longstanding unaddressed grievances led the workers to protest out of frustration.

In its final report, the Human Rights Commission acknowledged that the 1971 Regulation of Wages and Industrial Relations Act in Sierra Leone is outdated and recommended that it be revised. It appears to have contributed to some of the obstacles workers faced in forming a union of their own choosing. That said, the right to form a union is a basic right protected in numerous international treaties. The International Covenant on Civil and Political Rights, which Sierra Leone has ratified, affirms that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.” The International Labour Organization informs employers that “the right of workers and employers to form and join organizations of their own choosing is an integral part of a free and open society.”

1. What is the company’s stance on the decision of its employees to be represented by MASEU instead of UMU? Does AML recognize MASEU? If not, why not?
2. How has AML sought to address the concerns raised by workers during and after the April strike?

B. Resettlement of Villagers in Tonkolili District

Consultative process in resettlement

Authorities and residents in Tonkolili district expressed concern to Human Rights Watch about the limited amount of consultation AML conducted with communities affected by the mining operation. The Paramount Chief, as the traditional custodian of the land, who was copied on the 2005 exploration license signed by the Minister of Mining, seemed unaware in 2012 both of the size of AML’s parcel and its market value. Numerous people within Kalasongoia chiefdom told Human Rights Watch that the Paramount Chief simply ordered them to move from their ancestral villages. It should be noted that many in the area do not see him as representing their interests.

As one relocated village chief said, expressing a view echoed by many other residents, “We were told [by the Paramount Chief] not to ask questions.” In 2010, when residents in this village saw company representatives marking up houses and questioned what was happening, four youth went to speak with the Community Liaison Officer (CLO) in Bumbuna

town. (The CLO apparently reported that the youth threatened him, but the youths disputed that accusation.) Police then came to the village, arrested the youth, and jailed them for three days and nights without charge. The village collected money to provide bail for the youths' release. The village chief said he had no prior knowledge that the company was going to mark up the houses. President Ernest Bai Koroma, accompanied by AML officials, addressed the discontented villagers. The villagers said that he told them that if they interfered in the relocation, they would "have only themselves to blame," The President's office said in a January 2010 release:

To the people of Sierra Leone, especially those at Ferengbeya, the President said there should be calm and understanding, even as he had started hearing about disputes over ownership of the land where the company is operating. He warned against undermining the operations of the mine, and to always find legal and amicable solutions to differences: This country will not develop without discipline. Anyone caught trying to deliberately undermine the company's activities will face the full force of the law...This is an opportunity for all of us in Sierra Leone, this is an opportunity to change this country and ensure that everyone benefits from our God-given resources... Tonkolili is at the centre of Sierra Leone... This is not only a Tonkolili affair. It is a national asset.

After this statement, one village elder from Ferengbeya told Human Rights Watch, "The company [AML] has used President Koroma's statement to justify everything, including our relocation."

In another village, the residents refused to move for two months. They alleged that AML began blasting away at the rock near their village to force everyone to leave. At that point, the actual move happened very quickly, leaving families little time to pack. Many people left belongings behind. Residents said that AML then bulldozed the property.

1. Did AML consult with affected communities to explain the surveying or land acquisition process? If so, can you describe those discussions?
2. How was the value of the land assessed, and how was that information – as well as information about compensation – relayed to community members and authorities?
3. Were there any complaints about this process, and, if so, how were they dealt with?

Forced relocation without adequate compensation or alternative arrangements

To the extent that they were informed about being resettled, many of the affected residents of Tonkolili district, including the Paramount Chief, said they received incomplete or misleading information about the move and later expressed deep disappointment with AML's fulfillment of its stated commitments.

Three villages of several hundred residents each – Ferengbeya, Wondugu, and Furia – were displaced from their land for the mining site. Affected farmers told Human Rights Watch that the Paramount Chief informed them that they would be given equivalent land for cultivation elsewhere. It appears, however, now that the villagers have been resettled, that farming is not possible at Ferengbeya II, New Wondugu, and [New] Furia, because the land is dry and the plots are too small to allow cultivation. The relocated residents thus seem to have lost livelihoods, income, and the ability to feed themselves. (For example, previously they were able to grow their own food and pan for gold.). The Paramount Chief himself acknowledged that he is disappointed that the economic and social amenities that he said were promised by AML have not come to fruition.

The 2009 Mines and Minerals Act provides that those who are resettled as a result of being displaced by a proposed mining operation must receive “suitable alternate land, with due regard to their economic well-being and social and cultural value so that their circumstances are similar to or improved when compared to their circumstances before resettlement, and the resettlement is carried out in accordance with the relevant planning laws.”

1. What arrangements for compensation were made for people in Tonkolili district displaced by AML?
2. What measures are in place to ensure that any compensation agreements are fulfilled?
3. With whom did AML contract to build the houses in which the displaced villagers are now living? Was this bid issued publicly and competitively?
4. How does AML communicate with the Paramount Chief, village chiefs, and affected communities in Tonkolili?
5. Have AML personnel visited the newly constructed villages where people formerly living near the mine were relocated? What is the company's assessment of the conditions there?

C. AML's Response to the April Protest in Bumbuna

Police Arrest of Rev. Bangura

During the April 2012 protest in Bumbuna, Sierra Leone police, driving a vehicle owned by an AML subsidiary, arrested Reverend Bangura of Numbara Radio, allegedly for inciting violence. The Human Rights Commission of Sierra Leone, however, found that the station provided “timely information about the incidents” related to the April protests and did not find evidence of incitement in the absence of recordings of the programs. The commission also said that:

The relationship between the Sierra Leone Police (SLP) and AML is of grave concern to the people of Bumbuna, who perceive the police as biased in their work in favour of AML...The Panel was told that Rev. Bangura was arrested by police officers using a HAWK vehicle driven by the AML liaison officer. The Panel was also informed that AML has a security arrangement with the SLP and occasionally provides material assistance to them including transport.” [Final report, 26 September 2012, p. 43]

1. Was AML or any of its subsidiaries involved in the police operation to arrest Rev. Bangura?
2. With which public and private actors does AML have formal or informal security arrangements in Tonkolili?
3. Does AML regularly provide the police with material assistance such as transport, and did it do so during the Bumbuna protest?
4. With whom did AML coordinate to respond to the workers' protest?
5. Did the firm attempt to meet with the workers and address their concerns?
6. Does AML have any policies on security and human rights? If so, can you describe them and explain how they are implemented in Tonkolili?

Treatment of Strike Leaders

Sallu Conteh, one of the strike leaders, was the only AML employee who testified about the company's treatment of its workers during the Human Rights Commission hearings in July. (The Human Rights Commission said that the company did not permit its workers to attend the meetings.) Conteh told Human Rights Watch that he received a phone call from the company prior to his testimony asking him to reflect positively on the AML work environment, which he did not do. After his two-day presentation in July, Conteh was

relocated from Bumbuna to Freetown, a move he interpreted as possibly punishing him for speaking out, as he was the only person moved. He said he was also discouraged by a supervisor from visiting Bumbuna during a week off in September.

1. Did AML attempt to influence Sallu Conteh's testimony?
2. Why was shop steward Sallu Conteh transferred from Bumbuna to Freetown, apparently against his will?

D. AML's Corporate Social Responsibility

Community Development and Relationship with Local Authorities

Sierra Leone's 2009 Mines and Minerals Act provides for the creation of funds endowed by mining revenues to benefit the neighboring community. According to an official in the Ministry of Finance, there is a community development fund and a technical rehabilitation fund overseen by the Paramount Chief. The Human Rights Commission reported, as did many in the Bumbuna community, however, that "the relationship between the Community and AML is ambivalent and cause for concern."

1. How much has AML deposited into the community development fund? Who oversees the fund's disbursements?
2. With whom does the company negotiate on local investment?
3. If local officials or residents have a complaint about the company's operations, to whom should they turn and how are complaints customarily dealt with?
4. The Human Rights Commission has recommended the development of a grievance mechanism for the community. Has AML taken action to institute one?
5. As the Human Rights Commission recommended, has AML reconsidered and reoriented its relationship with the Paramount Chief and Sierra Leone Police?
6. To better understand AML's relationship with the government of Sierra Leone and with the community around the mine, could Human Rights Watch obtain a copy of the contract signed by AML and the Sierra Leonean government?

Degradation of Roads in Bumbuna

Bumbuna's roads are heavily pockmarked, a condition allegedly exacerbated by the use of heavy vehicles owned by AML and its subsidiaries. At the time of our September visit, toward the end of the rainy season, local youths set up informal road barriers to protest the degraded conditions, an action that the town chief himself did not oppose. Many

elders in the town told Human Rights Watch that the road conditions were worse than they had ever been.

1. Does AML have plans to pave the roads and improve other infrastructure in and around Bumbuna town?

Thank you for your responses to these questions.

WHOSE DEVELOPMENT?

Human Rights Abuses in Sierra Leone's Mining Boom

Sierra Leone's government is working to rebuild the nation after a brutal armed conflict from 1991 to 2002 killed tens of thousands of civilians, displaced millions of others, and gave rise to widespread and systematic abuses. Rich in minerals and well-watered land, Sierra Leone is once again attracting private companies that are investing in mining and commercial agriculture.

One of the country's largest investors is African Minerals Limited, a London-based firm that is mining iron ore to ship to China for steel production. *Whose development?* examines African Minerals' operations in Tonkolili district as a case study of the human rights impact of rapid economic development in a country with weak corporate regulations, vague land laws, and powerful local authorities.

African Minerals has created thousands of jobs, but actions by the government on behalf of the company have also proved costly to local residents. To make way for the mine, for example, the government, beginning in late 2011, relocated hundreds of families who had been living on a lush, well-watered mountain to an arid area with no potential for farming. In response to a largely peaceful strike in the town of Bumbuna in April 2012 by workers who wanted to form their own union, police brought in from surrounding areas used excessive force to quell the protest, killing one woman and injuring others in the community.

Both the government and the company have thwarted attempts by residents, activists, and workers to challenge rights abuses that were taking place. To promote sustainable development, Sierra Leone's government should commit to full accountability and transparency in its plans. This is not only a prudent political strategy, given Sierra Leone's history of conflict, but is also essential to the realization of Sierra Leoneans' full array of rights.



Children play in one of the new villages created on arid plots of land to house families who were relocated to make room for the African Minerals Limited iron ore mine near the town of Bumbuna, Sierra Leone.

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