A TOXIC LEGACY: GLENCORE'S FOOTPRINT IN COLOMBIA AND PERU

European banks and investors must take responsibility

EXECUTIVE SUMMARY

This paper, written by Fair Finance International, Oxfam, Finanzas Justas Colombia and Finanzas con Derechos Peru, is based on the research by CooperAccion in Peru "The Antapaccay case and an analysis of compliance with international human rights due diligence standards", and the report by Cinep and Censat Agua Viva "Does Cerrejón always win? Between corporate impunity for human rights violations and the search for comprehensive reparations in times of transition". Oxfam acknowledges the assistance of Kees Kodde and Bram Joanknecht in its production. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.

For further information on the issues raised in this paper please email advocacy@oxfaminternational.org

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Cover photo: *Cristina Choque Castillo, 64, gathers her cows from the contaminated fields near the Glencore-owned copper mine in Espinar, Peru.*
Credit: Jacob Balzani Lööv.

Glencore's business model continues to have severe consequences for local communities and the environment. Several scandals have provided evidence of Glencore's involvement in human rights violations, corruption, tax avoidance and environmental destruction. Glencore's mines have had devastating impacts on their surrounding environments, with grave consequences for the communities living beside them. This report elaborates on two such examples of Glencore-owned mines: the Cerrejón coal mine in northern Colombia, and the Antapaccay copper mine in Espinar in Peru.

External pressure from investors, banks, policymakers and regulators is therefore key to forcing Glencore to change. The EU should properly integrate the human rights responsibilities of the financial sector into its Corporate Sustainability Due Diligence Directive (CSDDD).

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One of the largest companies in the world, Glencore's business model continues to have severe consequences for local communities and the environment. Several scandals have provided evidence of Glencore's involvement in human rights violations, corruption, tax avoidance and environmental destruction.[1]

Glencore, based in the tax havens of Jersey and Switzerland, operates globally in all aspects of the mining chain across a range of minerals (copper, molybdenum, silver, gold, coal, cobalt, nickel, zinc, etc.). It also has power generation and agribusiness operations.

Glencore's mines have had devastating impacts on their surrounding environments, with grave consequences for the communities living beside them. The reports on which this paper is based elaborate on two such examples of Glencore-owned mines: the Cerrejón coal mine in northern Colombia, and Antapaccay copper mine in Espinar in Peru.

A river has been diverted to accommodate Glencore's mine in Colombia, in an area where water is very scarce, while the water supply in Peru and Colombia around the mines is polluted with lead and other heavy metals. Indigenous and Afro-Colombian communities have been particularly affected.

External pressure from investors, banks, trading partners, policymakers and regulators is therefore key to forcing Glencore to change.

Banks and investors have engaged with Glencore, both individually and through common investor initiatives like Climate Action 100+ and Advance by PRI.[2] However, although Glencore endorses many international conventions and agreements,[3] implementation of these at the national level is severely lacking. Glencore does not ensure that national subsidiaries live up to the policies and standards it claims to endorse. **The engagement by banks and investors with Glencore has been piecemeal and ineffective, and many banks and investors are failing to hold Glencore accountable.**

Governments and the European Union need to show strong leadership to contribute to the better integration of human rights issues in the due diligence processes of companies and investors. The EU should properly integrate the human rights responsibilities of the financial sector into its Corporate Sustainability Due Diligence Directive (CSDDD), in line with the OECD sectoral guidelines for the financial sector.[4] By requiring financial institutions to identify and address the social and environmental risks and harms in their financial decisions and portfolios, the Directive could limit and end harmful financial flows, and ensure better treatment of sustainability-related financial risks. Such a requirement is considered necessary and workable by a wide range of stakeholders, including progressive investor groups,[5] the UN in its Guiding Principles on Business and Human Rights (UNGPs),[6] and the OECD in its general and investor-specific guidelines.[7]

Due to heavy lobbying by the financial sector, banks and investors are not sufficiently covered in the current CSDDD proposal. It is crucial that the European Parliament, the Council of the European Union, and the European Commission align the final text of the Directive with the OECD Guidelines for Responsible Business Conduct for Institutional Investors.[8] These include the obligation for financial institutions to conduct ongoing due diligence, rather than one-off events before providing services. It also means ensuring that due diligence is carried out throughout financial institutions' entire value chains and investment portfolios. In this way, financial institutions financing Glencore will undertake proper human rights due diligence analysis before financing controversial companies and can use their leverage to pressure companies such as Glencore to improve its performance. It is crucial that investors establish specific and measurable milestones to be achieved by Glencore.

Governments should support the call for the adoption of a UN Binding Treaty on business and human rights that holds companies legally accountable for human rights violations along their value chain.[9] The treaty should fill regulatory gaps in existing international instruments and challenge corporate impunity for human rights abuses.

This briefing paper outlines structural failings in Glencore's operations in Colombia and Peru.

NOTES

[1] See Natural Resource Governance Institute. (18 July 2022). *Seismic change needed at Glencore following a decade of corruption*. Press release. Accessed 23 October 2023.

https://resourcegovernance.org/articles/seismic-change-needed-glencore-following-decade-corruption; NOAH. (n.d.). *Glencore: A Critical Factsheet.* Accessed 23 October 2023.

https://noah.dk/sites/default/files/inline-files/Glencore%20-%20a%20critical%20fact%20sheet_Online%20version_0.pdf

[2] Principles of Responsible Investment (PRI). (n.d.). *Advance: The Companies*. Accessed 23 October 2023. https://www.unpri.org/investment-tools/stewardship/advance/the-companies

[3] Glencore. (2021). *Human Rights Policy*. Accessed 9 October 2023. https://www.glencore.com/.rest/api/v1/documents/f2d81b57e4d807b70f3f307d7a877d86/Human+Rights+Policy.pdf

[4] Organisation for Economic Co-operation and Development (OECD). (n.d.). *Responsible Business Conduct in the Financial Sector.* Accessed 23 October 2023. https://mneguidelines.oecd.org/rbc-financial-sector.htm

[5] Eurosif. (24 November 2022). *Joint statement of support by responsible investors' organisations for the Corporate Sustainability Due Diligence Directive (CSDDD).* Press release. Accessed 23 October 2023. https://www.eurosif.org/news/joint-statement-of-support-by-responsible-investors-organisations-for-the-corporate-sustainability-due-diligence-directive-csddd

[6] United Nations Working Group on Business and Human Rights. (2023). *Financial Sector and the European Union Corporate Sustainability Due Diligence Directive.* Accessed 23 October 2023. https://www.ohchr.org/sites/default/files/documents/issues/business/workinggroupbusiness/Statement-Financial-Sector-WG-business-12July2023.pdf

[7] OECD. (2023). *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*. Accessed 23 October 2023. https://www.oecd.org/publications/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct-81f92357-en.htm; OECD. (2017). *Responsible Business Conduct for Institutional Investors: Key Considerations for Due Diligence Under the OECD Guidelines for Multinational Enterprises*. Accessed 23 October 2023. https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf

[8] OECD. (2017). *Responsible Business Conduct for Institutional Investors*, op. cit.

[9] OHCHR.org. (2023). *Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights*. https://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc

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