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Chad-Cameroon pipeline: New report accuses oil companies and governments of secretly contracting out of human rights

The \$US 4.2 billion Chad-Cameroon oil pipeline risks freezing human rights protection for decades to come for the thousands of people who live in its path, says Amnesty International in a new report published today (7 September).

"The ExxonMobil-led consortium that operates the pipeline is effectively side-stepping human rights law in Chad and in Cameroon," said Andrea Shemberg, legal advisor to Amnesty International UK.

"The investment agreements governing the project risk seriously undermining the ability and willingness of Chad and Cameroon to protect their citizens' human rights, making the oil companies de facto unaccountable in the pipeline zone. In effect, the parties to the agreements - the governments of Chad and Cameroon and the ExxonMobil-led oil consortium, which also includes Chevron Corporation of the US and Petronas Bhd of Malaysia - have contracted out of their human rights responsibilities."

The 54-page report, 'Contracting out of human rights: The Chad-Cameroon pipeline project', examines the framework of legal agreements, known as 'Host Government Agreements' (HGAs) (1), governing the construction and operation of the Doba oilfields in Chad and the pipeline that takes the oil to Cameroon's Atlantic coast. The pipeline is supported by the World Bank and is the single largest foreign investment project in Africa (2).

The report finds that the legal agreements governing the project place a 'price tag' on human rights by creating financial disincentives for the governments of Chad and Cameroon to protect human rights. The agreements may require the two countries to pay large financial penalties if they interrupt the operation of the pipeline or oil-fields – even when making an intervention to protect rights and enforce laws that apply elsewhere in their countries. This makes it extremely difficult for Chad and Cameroon to take action against company malpractice, and for individuals adversely affected by the pipeline to obtain redress.

The operation of the oilfields and pipeline has already led to alleged human rights abuses against poor farmers in the region who claim they were denied access to their land, which ExxonMobil refused either to compensate them for or to return to them. Some villages have reportedly been denied access to their sole safe water supply and Kribi fishermen who work off Cameroon's coast have had their livelihoods seriously threatened by the pipeline. The project's contracts open the door for further abuses such as

these, without effective redress, throughout the lifetime of the project – up to 70 years.

In addition, the legal agreements lack transparency, in so far as they have been considered commercially confidential and were shielded from public scrutiny until passed into law. Amnesty International believes that human rights are more likely to be respected on major infrastructure projects when the legal agreements behind them are subject to public scrutiny.

Amnesty International's report is warning that human rights protections are already compromised in Chad and Cameroon and that these legal agreements may exacerbate the situation. The report explains that there is a prevailing climate of fear and intimidation around the pipeline, some of whose critics have already been arrested and intimidated. In this context it is essential that human rights protection is of the highest standard.

Amnesty International is publishing the report as part of ongoing research into the impact of private investment agreements on human rights. While the organisation appreciates that 'stabilisation clauses' and similar provisions - designed to reduce financial and political risks posed to foreign investors by sudden changes in national laws – are common in agreements between companies and countries hosting large projects, Amnesty International is concerned that the breadth of these provisions may undermine human rights and the administration of justice.

"These agreements illustrate how companies are inserting themselves into the heart of governance. Disturbingly, there may be hundreds of such agreements in existence around the world, drawn up to a similar template, weakening the capacity of states to protect human rights and the environment," said Sheldon Leader, Professor of Law at the University of Essex and legal advisor to Amnesty International UK on this project .

Amnesty International's report argues that the World Bank, and specifically its private lending institution, the International Finance Corporation (IFC), bear some responsibility for the danger the project's agreements pose to human rights. Without World Bank support the project would not have gone forward, yet the Bank's pre-lending assessments did not take into account the potential human rights impacts of the legal agreements. Amnesty International is concerned that the World Bank is supporting projects that could deter states from protecting human rights.

Amnesty International recommends that:

the governments of Chad and Cameroon and the ExxonMobil-led oil consortium amend the legal agreements to include explicit guarantees that they cannot be used to undermine the human rights responsibilities of the states or companies involved;

no government or company draw up or sign legal agreements that undermine human rights protection;

projects supported by the World Bank, export credit agencies and other private lenders are not based on legal agreements that could undermine the ability of the host state to meet its human rights obligations.

"The ExxonMobil-led consortium and the governments of Chad and Cameroon must amend the agreements immediately to ensure human rights are protected in these countries. This project must not continue without changes that guarantee that human rights will be upheld. Human rights are not negotiable items that companies and governments are permitted to eliminate by contract," said Andrea Shemberg.

Notes:

1. Host Government Agreements, between companies and the governments of states hosting large investment projects, are also known as 'state-investor agreements' and 'concession agreements'.
2. The ExxonMobil-led pipeline consortium also includes Chevron and Malaysian oil company Petronas,

and its investment is supported by the World Bank, several export credit agencies and private banks. The pipeline was completed and began pumping oil in 2003.

Amnesty International's report, 'Contracting out of human rights: The Chad-Cameroon pipeline project', will be launched at a Breakfast Briefing at the Foreign Press Association at 9am on Wednesday 7 September, where it will be possible to ask questions of the report's authors and other stakeholders. For more information on this event or further comment on the report, contact Sarah Green at Amnesty International UK on the number below.

For a copy of the report post embargo: <http://web.amnesty.org/library/index/engpol34122005>

For advanced copies of the report, photos and interviews please contact:

Amnesty International UK press office:
Sarah Green, +44 (0)20 7033 1549
Neil Durkin, +44 (0)20 7033 1547
Outside office hours, +44 (0)7721 398 984

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

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