

SIERRA LEONE:

**BRIEFING ON THE EVENTS
IN BUMBUNA, TONKOLILI
(APRIL 2012)**

**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

“Wednesday was the worst day. The [broadcaster] was advising people to stay calm and he was collecting [bullet] shells to show as evidence. At about 6:30 am they went to go arrest the [broadcaster] and the youths, women and children followed to resist the arrest. There was some firing but no casualties. The [police] came into my restaurant and took my drinks. They ate all the food. They emptied my freezer. They terrorized our neighbours. They verbally abused everyone, especially women. They were firing at people’s cooking pots. We were forced to stay indoors the rest of the day. We were asking the youths to go inside so the women were preparing to go down [to the police station] - singing peace songs.”

I.S., witness to events in Bumbuna, interviewed by Amnesty International on 12 May 2012

Over a period of two days in April 2012 the police in the Sierra Leonean town of Bumbuna fired live ammunition at unarmed community members, used chemical irritants described as teargas to dispel protests, raided homes and businesses and threatened numerous individuals. One woman was killed and at least 11 were injured, many as a result of gunshots.

The events in Bumbuna occurred in the context of a demonstration by employees of the iron-ore mining company, African Minerals Limited (AML), who had launched a public demonstration over working conditions and pay.

Amnesty International visited Bumbuna in May 2012 to investigate these events. The organization interviewed numerous witnesses, as well as victims, police officers, health workers, local civil society and human rights organizations and community members. Some of those interviewed asked not to be identified and some names have been changed to protect their identity.

Although the Amnesty International delegation was able to speak to individual police officers, efforts to meet officially with a spokesperson for the Sierra Leone Police (SLP) were unsuccessful. The organization also wrote to the SLP and AML presenting its findings and requesting further information. The SLP did not respond to Amnesty International's request. However, AML acknowledged receipt of the letter and expressed willingness to engage with the organization. On 3 August 2012, Amnesty International received a two and half page response from AML, which has been taken into account in this document. AML granted Amnesty International permission to make this letter publicly available, and it is included in the appendix of this document.¹ Representatives for AML also met with Amnesty International in London, and AML followed up directly in a second letter dated 17 September 2012. The organization welcomes the fact that AML responded. Recommendations to the Sierra Leone government and AML are included in the conclusion of this document.

Based on the evidence gathered at Bumbuna, Amnesty International believes that the police used arbitrary or abusive force, in breach of international standards guiding the use of force and firearms by law enforcement officers, and resulting in a violation of the right to life. Furthermore, the organization is concerned that the close relationship between the SLP and AML raises serious questions about the ability of the police in Bumbuna to independently maintain public order and enforce the rule of law in an impartial manner.

Amnesty International welcomes the Public Inquiry being undertaken by the National Human Rights Commission of Sierra Leone (NHRC) into the events at Bumbuna. It urges the Sierra Leone government to promptly implement the following recommendations:

- Ensure those suspected of arbitrary or abusive use of force in Bumbuna, including those with command responsibility, are investigated and prosecuted in proceedings which meet international standards of fairness; the NHRC Public Inquiry should not be a substitute for the criminal investigations and prosecution of perpetrators; all officers suspected of arbitrary or abusive use of force should be suspended from duty pending investigations;
- Ensure that victims and/or their families receive effective remedies, including compensation, for the loss of life, injuries sustained and loss of livelihood as a result of the police actions in Bumbuna in April 2012. Damage and loss of property should also be compensated;
- Publicly condemn through newspapers, radio, television and other mediums all use of unnecessary or excessive force by the SLP; and ensure this announcement is widely disseminated to police officers, as well as the public.

2. EVENTS IN BUMBUNA, 15-18 APRIL



The railway near Bumbuna is used by AML for transport of minerals. © Amnesty International

The town of Bumbuna is located in the Tonkolili District, Northern Province of Sierra Leone. This area is rich in natural resources, including iron ore. It is also the home of a government-owned hydropower dam, which provides electricity to Freetown and Makeni. Despite Bumbuna's natural resource wealth, many community members complained of underdevelopment, including lack of paved roads, running water and electricity in homes. Levels of unemployment in the area are reported to be high, due to a large influx of migrants in search of employment.

African Minerals Limited (AML) is a UK-based company with significant interests in Sierra Leone. It has a license to mine in the Tonkolili District. According to the company's 2011 annual report to its investors, AML is the largest private employer in Sierra Leone, employing 7,425 people - 82 per cent of whom are Sierra Leonean nationals.²

On 15 April 2012 local employees at the AML mine in Bumbuna initiated a public demonstration to protest their working conditions and remuneration. On the same day, they provided notice to the officer in charge of the Bumbuna police and some workers placed barricades on the main roads leading to the town.

On 16 April the workers gathered at the awning of the local court house, a common gathering place for the community. The police in Bumbuna confirmed the gathering on 16 April was peaceful.³ Nonetheless, they called in reinforcements from Makeni, Magburaka and Freetown. Over the following two days several local government ministers also came to Bumbuna. The details of the interactions between local government officials, AML and the protesting workers during the 16 to 18 April are not clear, but as far as Amnesty International understands, protesters were told their concerns would be heard on 16 and 17 April. However, it was not until the evening of the 18 April that a delegation of local government ministers attempted to meet with the community, but this was unsuccessful.



The local court house where AML employees gathered to protest their working conditions and remuneration.
© Amnesty International

One local senior police officer, K.K., stated:

“They [AML employees] placed barricades all over the place. The barricades were placed and others were prevented from going to work. Five ministers came on Wednesday (18 April) but some delegates came on Tuesday (17 April) and urged the workers to stop the strike. The violence took place after two days. It was peaceful the first day but the strike was not unanimous.”⁴

Around 12:30 pm on 17 April, shots were heard near the AML fuel farm (a fuel depot), where some of the protestors had moved to wait for a convoy of local government ministers to drive by so they could express their grievances against AML.⁵ Shortly thereafter, around 1 pm, the police entered the main marketplace at Bumbuna - which was nowhere near the AML workers who were staging protests, and populated largely by women traders and their children – and fired tear gas and live ammunition into the air. Several women traders reported that the police also looted or destroyed their market stalls.⁶

One woman trader, told Amnesty International:

“We saw five OSD (Operation Support Division police officers)⁷ personnel entering the market place around 1 pm and they fired tear gas, followed by live bullets in the air. They then went on a rapid firing across the township. They were just roaming all over the town shooting tear gas and bullets through the day and anywhere they saw smoke they went there and they even shot at pots where people were preparing food and they ate our own food and placed me at

*gun point...the police used abusive language against the women and threatened them. When I returned to the market, all of my belongings [were] missing. We are in total doubt as to what was our take into the whole situation. We are not African Minerals workers, just market women."*⁸

The police have reportedly claimed that they were chasing men who were trying to burn down the fuel farm and had allegedly fled into the marketplace. However, Amnesty International was not able to find any evidence to corroborate this. According to the market women and other eye witnesses, the police simply entered the market place and began shooting without provocation. There was no threat to their lives or the lives of others and the police were not being shot at.



The local market where police entered and fired live ammunition into the roof.

© Amnesty International

Throughout the evening of the 17 April and into the early hours of the morning on 18 April, a local radio broadcaster was reporting on the events, including the behaviour of the police and the grievances of the AML employees. He was hosting a live call-in radio show where people could express their opinions and report on the events. According to people listening to the show, and the broadcaster himself, he was urging everyone to maintain calm.⁹

The broadcaster told Amnesty International that at approximately 6:30 AM on 18 April, the SLP, in an AML vehicle, driven by an AML employee, arrived at the local radio station to question him, claiming that he was resorting to hate speech and inciting the local residents.

According to the journalist, three people entered the radio station (a senior police officer, a photographer and an armed OSD officer) and the police officer stated they were questioning him because of "all that you are saying against us." The journalist agreed to accompany the police to the police station to be questioned but was released after the community came to the radio station to prevent what they believed was his arrest.¹⁰

Although events are not fully clear, it appears that the police may have used live ammunition near the radio station. One young man who was injured by the firing told Amnesty International:

“Early morning on Wednesday (18 April) we went to the radio station –about the same time they went to arrest the [broadcaster]. I was moving over from the scene across the river to get to the other side when I felt something on my foot like a stone so I lifted my foot and I saw I had been shot. I felt dizzy and fell down. My friends came to rescue me and they took me to community health officer so in the hospital when the police came again they arrest me. They also ran after other people in the hospital including my own brother.”¹¹

Later the same morning, a group of protesters who were airing their grievances against the SLP’s use of force and other misconduct the previous day were fired at while they marched to the town police station.

According to eye witnesses, the police fired live ammunition directly into the crowd without giving prior warning. One woman, Musu Conteh, died after receiving a bullet wound to the right side of her chest.¹² A health worker, M.V., who treated the injured, reported that a total of 11 people sustained injuries, including a child who inhaled a chemical agent.¹³ Amnesty International confirmed through medial records and interviewing health professionals at least six people who received gunshot wounds.

Another health professional, A.S., who treated some of the wounded on 18 April described to Amnesty International what he saw. He told Amnesty International *“the location of the injuries that I treated is not consistent with the rules of engagement. The police were not firing in the air or below the knee. They were firing directly into crowds.”* One woman he treated had suffered a gunshot wound to her right forearm and a second gunshot wound to the right lower third thorax. He said:

“I dug around for the bullet and removed some broken rib pieces. I felt that the plura on her lung was still intact and I breathed a sigh of relief. She was still alive. I explored the wound and removed the projectile. It was a 9mm pistol bullet.”

He described the condition of another man that he treated:

“I treated a man who suffered a wound to the left shoulder. The bullet entered the left scapula and exited through the left clavicle. I did not take his name because there was so much chaos. I stopped the bleeding and I called the LUC (lieutenant in command) and said they needed to go to the bigger hospital.”¹⁴

According to the police in Makeni and Bumbuna, their use of force on the 17 and 18 April was in response to attempts by people in the community to burn down AML’s fuel depot, the paramount chief’s home and the police station. They claimed that members of the community were using violence, including by stone throwing.¹⁵ Some police officers told Amnesty International that they had collected evidence, such as petrol bombs, knives and cutlasses. However, when Amnesty International requested to see this evidence they said it had been taken to the headquarters for the Criminal Investigation Department.

According to the paramount chief, the police informed him that he was under threat but he did not find this credible. He claims he has a good relationship with the community and they would not want to harm him. He also stated that allegations of the police that protesters were armed were false as this community had been disarmed following the internal conflict, which ended in 2002.¹⁶

While allegations of stone-throwing by some protestors in response to the initial use of tear gas and live ammunition by the police is consistent with the information obtained by Amnesty International¹⁷, the organization has not found any evidence corroborating protestors' use of other items or weapons as reported by the SLP. In interviews with Amnesty International, one police officer reported that at least eight officers were injured by protestors.¹⁸ When pressed further, the officers were unable to give details as to the identity or injuries of the officers. They were also unable to indicate the rank or division of the officers. Amnesty International visited the Bumbuna Primary Health Care Unit and the Makeni Hospital where the injured protestors were taken for treatment but no one at the hospital could confirm that they received injured police officers. However, a police clinic in Makeni may have treated three injured officers.¹⁹ In July 2012 Amnesty International wrote to the police seeking further evidence of protester violence and injuries of police officers from the SLP in writing but did not receive a response.

During the National Human Rights Commission Public Inquiry, which finished its public hearing in Bumbuna on 7 August 2012, police were unable to publicly produce any evidence of weaponry allegedly used by protestors.



Ammunition and large cartridge collected by members of the community and shown to Amnesty International. © Amnesty International

Amnesty International has also received reports that some police officers engaged in looting and harassment of community members over the period from 17- 18 April. Several community members told Amnesty International that the police roamed through the community on 17 and 18 April breaking down doors to private homes to effect arrests of young men who they suspected of involvement in the protest action by AML workers.²⁰ They reportedly harassed women cooking outside and shot live bullets into cooking pots; threatened and harassed community members; and looted money, food and mobile phones from businesses and homes. Amnesty International was shown evidence of bullet holes in walls and roofs, broken doors and cooking pots, bullet cartridges, large canisters referred to as tear gas canisters, photographs and videos and injuries.

One man, whose bakery was looted by the SLP, described how two officers from the Operational Support Division entered his bakery on 18 April and shot at him.

"They came to my house and asked me what am I doing here. I said we are baking bread. They tried to enter, but I put a box to the door to prevent them. I told them there is bread, that it will get burned and I pleaded with them. But they wanted to take me by force but I pleaded and said there is bread - please take it. When I said I was not going they pointed their gun at me and I threw the bread at him and his gun fell down. When he reached for the gun I ran away. They shot at me, but I was already over the wall. They went around looking for me. I tried to enter one house but they wouldn't let me because they were afraid the police would enter. When I came [back] they had stolen [about] 2,800,000 Leones (approximately \$650USD) cash and [about] 800,000 Leones (approximately \$185USD) worth in bread. I had three phones in there because I have boys that work for me and if they don't pay me back I take their phones until they pay me back. The police took those phones. The OSD [Operational Support Division] left and came back with colleagues and they cleared all of my provisions: my yeast, butter, mayonnaise. My place was like a police post. They were stationed there and were shooting from there."²¹

In the aftermath of the events in Bumbuna, a delegation comprising local government officials came to the town to discuss the underlying causes of the unrest. It was reported that, following a closed door meeting on 24 April attended by government officials, the local paramount chief and AML workers, AML's General Manager publicly presented 40 million Leones (approximately \$9,300USD) to the paramount chief to dispense to the market traders. In making this payment the General Manager is reported to have said that the money was for the loss or damage to property at the market place due to the intervention by the SLP.²²

THE RELATIONSHIP BETWEEN THE SIERRA LEONE POLICE AND AFRICAN MINERALS LTD

Amnesty International's understanding of the events in Bumbuna gives rise to serious questions about the relationship between AML and the SLP. Amnesty International understands the SLP provide security to the AML mining operation and a number of SLP officers are stationed at the AML site in Bumbuna.²³

AML confirmed that due to the SPL's limited resources, the company provides some assistance to the police, including through transport, infrastructure, sustenance and financial

contributions.²⁴

Amnesty International cannot confirm if any of the SLP officers working on AML property were involved in the events that took place on 17 and 18 April. However, the role that AML played in relation to some aspects of the events in Bumbuna requires further investigation.

As noted above, AML paid compensation to women traders for the damage done when the SLP ransacked the market place and fired into the roof of the market. The fact that AML paid compensation for acts carried out by the SLP raises questions about the link between the two. Amnesty International contacted AML about the payment made to the market traders, and asked on what basis it was provided. According to AML, the amount paid to the market women was determined following the request of local government officials and the community, including the paramount chief. The funds were given on compassionate grounds.²⁵

The incident at the radio station also raises concerns regarding AML's close relationship with the SLP and the events described in this report. Witnesses claim that one of the vehicles used by the police to go to the local radio station on the morning of 18 April was an AML vehicle and that an AML liaison officer was driving the vehicle. The journalist and other eye witnesses described the vehicle as a "Hawk" vehicle, which according to the Hawk Group website is a UK-based construction company working in Sierra Leone.²⁶ According to the community, this company is sub-contracted to AML. Amnesty International also put this allegation to AML who confirmed that the vehicle is owned by Hawk and was being used by an AML police liaison officer (PLO). In a letter addressed to Amnesty International, 17 September 2012, the company stated that the PLO officer used the vehicle prior to the incident at the radio station. They stated that the PLO had left Bumbuna the day before the incident and the vehicle remained in Bumbuna. The company further stated to its knowledge no one employed or contracted by AML was involved in the visit to the radio station. However, Amnesty International spoke to several eye witnesses, including the journalist himself, who said the vehicle was driven to the radio station by the PLO.

The nature of the agreement between AML and the SLP over the provision of security at the mine site in Bumbuna and associated support by AML to the police are not clear. Amnesty International asked AML to disclose the terms of any agreements with the SLP, and requested figures for its financial contributions to the police. Amnesty International also asked AML to provide details of any risk assessment or measures put in place to ensure public security provided by the SLP to AML was done in a manner consistent with the responsibility of companies to respect human rights. AML did not respond to these questions but gave a general assurance that at no time have AML or its managers directed or sought to influence the SLP.²⁷

In the absence of a freedom of information law, many documents detailing government agreements with multinational corporations are not available to the public in Sierra Leone. Amnesty International, Human Rights Watch and the Freedom of Information Coalition have called on the government to ensure the passing of the Freedom of Information Bill currently pending in Parliament.²⁸

Amnesty shared a draft of this report with AML and the company responded in writing on 17

September 2012 by stating, "*The recommendations to AML which are included in the conclusion of the document have been reviewed by our management and we agree that all of them are appropriate and practical.*" The company further stated, "*AML has made progress in securing the resources required to follow up on these recommendations.*"

3. ACCOUNTABILITY AND JUSTICE

“They gave 40 million Leones for the women traders, but no one listened to the rest of us. I used to be able to afford 10 bags of flours, but now I can only buy 2... and now I am struggling. I want my money back. That is what I do – bake - I don’t have a mother or father. I am surviving from the skill I have. The [6] boys that work with me don’t have relatives here. We are surviving from the bakery. Now they have destroyed our work. If I had power I would retaliate by charging them to court.”

A baker whose business was ransacked by police in Bumbuna in April 2012

On 16 July 2012 the National Human Rights Commission of Sierra Leone established a Public Inquiry into alleged gross violations of human rights in Bumbuna in relation to the events that took place on 16, 17 and 18 April 2012.²⁹ The Inquiry had finished its investigation and was preparing its findings at the time of writing. The President also announced in June that a Coroner’s Inquest would be undertaken. However, it is not clear whether any criminal investigation is being pursued into the events described in this report and the evidence of unlawful use of force and unlawful killing. While the Public Inquiry is an important step, it must complement and not be a substitute for criminal investigations and prosecutions. Amnesty International has written to the SLP to request information about whether any investigation has been carried out to determine whether police officers acted in accordance with their own rules and guidelines as well as international law and standards. The SLP did not respond to these questions.

Victims of human rights violations have the right to an effective remedy. Prompt and thorough investigations are an important component of remedy; victims should be able to see that perpetrators are held to account. In addition the government should ensure that affected individuals have restitution, which can include measures to compensate victims, provide rehabilitation, ensure satisfaction (for example, a public apology), as well as measure to guarantee that the violations will not be repeated.³⁰

Inquiries by human rights bodies can address some aspects of effective remedy for victims. The National Human Rights Commission of Sierra Leone can recommend a broad range of remedial actions, including compensation, changes to law and policy and other reparation measures for victims, as well as making orders or directions for the enforcement of a decision the Commission has reached.

4. INTERNATIONAL OBLIGATIONS AND STANDARDS

Sierra Leone is a state party to the International Covenant on Civil and Political Rights (ICCPR) to which it acceded in 1996. Sierra Leone is also a state party to the African Charter on Human and Peoples' Rights (African Charter), ratified in 1983. The ICCPR and the African Charter guarantee, among others, the right to life; right to freedom of expression, association and assembly; the right to be free from arbitrary detention; and the right to a fair trial. The Constitution of Sierra Leone also recognizes these as fundamental human rights.

Article 6(1) of the ICCPR states: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." Article 4 of the African Charter provides: "Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right."

Amnesty International recognizes the right of police officers to defend themselves and their duty to protect the safety of the public. This role should, however, be carried out in a way that ensures full respect for the right to life, liberty and security of all persons, including those suspected of crime. The use of force by police and other security forces must be consistent with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles) and the UN Code of Conduct for Law Enforcement Officials.

The use of force by the police must be an exceptional measure. Article 3 of the UN Code of Conduct for Law Enforcement Officials states that they "may use force only when strictly necessary and to the extent required for the performance of their duty." Police must apply non-violent means before resorting to the use of force which should be used only if non-violent means have proven to be, or are likely not to be, effective (Basic Principle 4).

Although Article 16 of the Constitution of Sierra Leone recognizes the right to life, it provides that deprivation of life would not be unlawful where death is caused "as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case, that is to say –

- a. for the defence of any person from unlawful violence or for the defence of property; or
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- c. for the purpose of suppressing a riot, insurrection or mutiny; or
- d. in order to prevent the commission by that person of a criminal offence ..."

The provisions in Sierra Leone's constitution are inconsistent with the necessity and proportionality requirement of international standards on the use of force and firearms. While international standards allow for use of force "as is reasonably necessary" including for the prevention of crime or in effecting a lawful arrest, firearms may only be used as a last resort. The threshold for firearms to be used is high - "imminent threat of death or serious injury" or

“grave threat to life” (Basic Principle 9).

Further, the intentional lethal use of firearms is only permissible if strictly unavoidable in order to protect life (Basic Principle 9).

The Sierra Leone Constitution threshold for the use of lethal force (“reasonably justifiable in the circumstances of the case”) is impermissibly broad. It is open to a much wider interpretation than the “grave threat to life” requirement in the UN Basic Principles. As a result, it lowers the threshold for the use of lethal force.

Amnesty International welcomes the fact that, unlike the Constitution, the SLP internal “Guidance for opening fire for armed police officers” (Green Card “A”) clearly states that firearms must only be used as a last resort. However, the actions of the SLP in Bumbuna do not reflect adherence to this or the guidance and in international human rights law and standards.

The use of firearms for “warning shots” and chemical irritants (reported as tear gas) in the marketplace on 17 April, as well as the subsequent live ammunition fired in the air and at the property of the residents at various times through 17 and 18 April, was arbitrary or abusive. There is no evidence to indicate that there was any violent activity in the marketplace, let alone a grave threat to any person’s life. Furthermore, even according to the SLP “Rules of Engagement,” firing warning shots with live ammunition is not permitted.³¹ Amnesty International has sought clarification from the police about the circumstances that required them to use live ammunition. The SLP did not respond.

Amnesty International is also disturbed by the arbitrary or abusive use of force, including live ammunition, against the protestors marching towards the police station on 18 April, which led to the death of one woman and to gunshot injuries to several others.

Even if some protestors did in fact throw stones at the police, the use of force, including lethal force, by the police must comply with human rights standards at all times. The UN Basic Principles state that in the case of violent assemblies, security forces must only use firearms when less dangerous means are not practicable, and only to the minimum extent necessary. The use of lethal and “less lethal” weapons including tear gas should be carefully controlled to minimize the risk of endangering people, including those not involved in the incident. The SLP internal guidance itself does not envisage the use of live ammunition against those throwing stones or other missiles. It provides that where there is a risk of threat to life or serious injury to any person by such stones/missiles, the police may use “baton rounds.”³²

RIGHT TO REMEDY

Under international human rights law, Sierra Leone has an obligation to protect the rights to life, freedom of expression, peaceful assembly and association. Sierra Leone must also ensure the right to an effective remedy guaranteed under the ICCPR. Article 2(3) states that governments must “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy” and these remedies “shall be enforced when granted”.

According to the UN Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, victims should be provided with full and effective reparation including compensation for physical or mental harm, moral damage, costs required for legal or expert assistance, medicine and medical services, and psychological and social services, as well as “an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim”, public apology and judicial and administrative sanctions against the persons liable for the violations (paragraphs 18-22).

HUMAN RIGHTS RESPONSIBILITIES OF COMPANIES

Under international law, governments are responsible for respecting, protecting and promoting human rights. When a government fails to protect people’s human rights against harm by non-state actors, such as companies, this amounts to a violation under international law. However, the fact of government failure to protect rights does not absolve the non-state actor from responsibility for their actions and the impact of their actions on human rights.

The UN Guiding Principles on Business and Human Rights (UN Guiding Principles) clarify that all companies must respect all human rights, and that “the responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States’ abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights” (Principle 11).

In order to meet their responsibility to respect human rights, businesses should carry out human rights due diligence. This encompasses steps a company must take to become aware of, prevent and address adverse human rights impacts.³³

The UN Guiding Principles further affirm that business enterprises should, “Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (Principle 13). In the commentary to Principle 13, “business relationships” are defined as including relationships with other non-state or state entities directly linked to its business operations, products or services. This would include relationships with security providers, whether these are private security companies or public security providers such as the police. The Guiding Principles also note that “Questions of complicity may arise when a business enterprise contributes to, or is seen as contributing to, adverse human rights impacts caused by other parties” (Principle 17).

Specific standards have also been developed with regard to the relationship between extractive industry companies and public and private security providers; there are the Voluntary Principles on Security and Human Rights (Voluntary Principles).³⁴ The Voluntary Principles provide guidance to companies on elements of due diligence in respect of corporate relationships with public security providers such as the police.

The Voluntary Principles were developed by businesses, governments and NGOs (including Amnesty International) and provide detailed guidance to companies on maintaining the safety and security of their operations in a framework that ensures respect for human rights. The Principles state that “companies should consult regularly with host governments and local communities about the impact of their security arrangements on those communities.” The company should encourage the government to make all such arrangements available to the public, subject to any safety or security concerns, to ensure transparency. They must also “communicate their policies regarding ethical conduct and human rights to public security providers, and express their desire that security be provided in a manner consistent with those policies by personnel with adequate and effective training.”

5. RECOMMENDATIONS

TO THE PRESIDENT OF SIERRA LEONE:

- Publicly condemn any use of arbitrary or abusive force by the SLP as well as the looting, harassment and intimidation of community members in Bumbuna, and ensure that all those found responsible, including those with command responsibility, are held to account.

TO THE POLICE COUNCIL:

- Ensure police independence and impartiality when operating to protect private companies. Police involved in guarding private actors must be under a clear and appropriate command structure, not subject to interference by companies, and aware of their role and responsibilities in relation to the wider public;
- Ensure that all security agreements between public security and private companies are established in an open and transparent manner, and in consultation with potentially affected communities and civil society organizations, in order to help ensure accountability, independence and impartiality;
- Ensure that the public has clear information on how to make a complaint about police misconduct (including at police stations, through radio and television programmes and on the internet).

TO THE INSPECTOR GENERAL OF THE SIERRA LEONE POLICE:

- Suspend from active duty, pending a full investigation, those suspected of ordering or resorting to arbitrary or abusive use of force and looting, harassment and intimidation of community members in Bumbuna;
- Ensure that all police officers, including the Operation Support Division, are aware of and abide by international human rights standards on police use of force, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials;
- Ensure that all use of firearms is reported, and make clear the prohibition on “warning shots” of live ammunition. Procedures for reporting incidents, as well as investigation following every incident, should be thorough and enforced through the chain of command. These procedures must be logged appropriately and be used for evaluating the operation in order to ensure accountability;
- Ensure police officers are accountable for their weapons and the ammunition used; keep detailed records of issuance, including receiving officer, date, time, weapon registration number, type and number of munitions used.

TO NATIONAL HUMAN RIGHTS COMMISSION:

- Ensure the Inquiry addresses all human rights violations and abuses by state and non-state actors;
- Seek to identify those directly responsible for human rights violations, including individuals who acquiesced or were complicit in such abuses, and investigate chain of command responsibility;
- Make recommendations for criminal investigations and prosecutions of suspected perpetrators. Any information relevant for the prosecution of perpetrators should be passed to the Director of Public Prosecution (DPP), Office of the Prosecutor in the Ministry of Justice and Attorney General's Office;
- Address the rights of the victims, including those who suffered loss or damage to property, to seek redress and receive reparations, including compensation. All medical costs incurred for treatment of injuries should also be included;
- Include a critical analysis of institutional structures, policies and practices of the police force. The Inquiry should also seek to identify systemic patterns and analyze contributing factors including impunity, archaic legislation that is not in line with human rights and effective accountability of all actors involved;
- Make strong recommendations to the government including a timeline for implementation and recommendations to the Ministry of Justice and Attorney General's Office for prosecutions of named perpetrators;
- Ensure the findings and recommendations are widely disseminated and that the public is aware of the timeline for implementation.

TO THE SIERRA LEONE PARLIAMENT:

- Amend Section 16(2) of the Sierra Leone Constitution to ensure that it does not provide for wider use of lethal force than permitted by international human rights law;
- Urgently pass the pending Freedom of Information Bill. This legislation would allow members of the public to obtain access to information held by public bodies including information that was previously inaccessible, such as government contracts with multinational companies.

TO AFRICAN MINERALS LIMITED:

- Co-operate fully with the NHRC and other official investigations;
- Implement the Voluntary Principles on Security and Human Rights by:
 - Ensuring that all security personnel, including SLP officers, operating on AML property or on behalf of AML receive human rights training and are aware of the

Voluntary Principles on Security and Human Rights;

- Consulting regularly with local communities and civil society organizations about the impact of the company's security arrangements;
 - Making the terms of any agreements between AML and the SLP publicly available; while it may be necessary to keep some information confidential for security reasons, there should be a presumption of maximum disclosure by AML;
 - Ensuring that any security forces operating to protect AML property carry out their activities in full compliance with the law, including international human rights law and standards;
 - In the context of AML's discussions and agreements with the Sierra Leone authorities and the SLP, promote the UN Basic Principles on the Use of Force and Firearms and the UN Code of Conduct of Law Enforcement Officials to ensure that any use of force is consistent with the principles of necessity and proportionality.
-
- Direct that company personnel who observe police activities that appear to violate human rights should promptly report such incidents to the state authorities, and, where appropriate, urge that an investigation is pursued;
 - Ensure that human rights recommendations made to the company are implemented in close consultation with local communities and civil society organizations.

APPENDIX: LETTER FROM AFRICAN MINERALS LTD



African Minerals Limited
5 Stratton Street
London
W1J 8LA

Aster van Kregten
Deputy Program Director
Africa Programme
Amnesty International International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW

Friday 3rd August 2012

Dear Ms van Kregten,

Thank you for your patience in waiting for a response from African Minerals ("AML") to your letter of 9 July.

Following my recent appointment as Chief Executive Officer of AML on 4 July, I have taken a number of immediate actions to understand the principles by which the Company has been managed historically with the specific aim of discovering whether they are appropriate to the Company's strategic objectives and to the stakeholders who are affected by our operations. As part of this I am also undertaking a review of our policies and working practices to ensure that they embrace the appropriate principles.

Amnesty has highlighted important issues, of which the main ones have already been under review by the Company over the last few months. Whilst this process is ongoing, it is already clear to me that a range of opportunities for improvement exist in regards to our operating standards and to the external communication of our position and procedures. Our future actions in Sierra Leone will demonstrate that the Company is implementing the necessary changes in the months ahead.

I respect the motivation behind your letter to us, and re-iterate my support for AML's commitment, as stated in the 2010 Annual Report, to embracing the aims of the UN Global Compact. As a fast growing company which has transformed from explorer through developer and now to being an operator, our priorities, operating patterns and workforce have equally changed dramatically. My first interview with the Financial Times newspaper signalled a coming of age for the Company and a step change in the way we do business. There is clearly room for improvement in formalising roles and responsibilities on numerous fronts, notably with Government, our workforce and the community.

The particular challenge of ensuring adequate separation between Company and Government is critical to appropriate governance. As with many developing countries, the framework of Government in Sierra Leone continues to evolve, and skills, infrastructure and national resource capability continue to grow in line with the rapidly increasing demand.

*Registered offices at Victoria Place, 31 Victoria Street, Hamilton HM 10, Bermuda
Company Registration Number 34816*

The prospect of work at our operations has meant that a large number of people have travelled to the area of Bumbuna in search of employment. Despite significant job creation, this influx has led to high unemployment and widespread disillusionment amongst those whose expectations have not been met. We realise that we need to communicate more effectively to better manage these expectations.

The limited resources of the SLP have not been able to keep up with the requirements of the situation, particularly in Bumbuna, and because of this AML has provided assistance, infrastructure, transport, sustenance and some financial contribution. This support was provided in good faith to alleviate resource shortages, with the sole intent of facilitating the increase of SLP presence in the face of the significant inward migration as a result of our operating activities.

The Company has recognised the potential for a conflict of interest in providing this support and has sought to avoid this at all times. At no time have AML or its managers directed or sought to influence the SLP, and we take very seriously the need to maintain a strong separation between Company and Government.

In relation to the specific incident at Bumbuna you will be aware of the official review which the Human Rights Commission of Sierra Leone has initiated. AML has made a public commitment to comply with the recommendations of that review in full.

The amount paid to the market women was determined following a request from the Resident Minister Northern Province on behalf of the Government and the local community including the Paramount Chief of Bumbuna village. Funds were committed on compassionate and humanitarian grounds.

AML undertook a review into the underlying cause of the original protest in co-operation with the Police, the Government of Sierra Leone and representatives of the workers. Following that review process, AML introduced a comprehensive package of measures to tackle the grievances of the workforce. These include:

- A 16% increase in salaries for all Sierra Leonean staff, backdated to 1 January 2012 to reflect consumer price inflation.
- A commitment to annual salary increases for all Sierra Leonean staff in line with the consumer price index;
- The setting of a minimum wage of \$137 per month;
- The creation of 2 additional training facilities to provide indigenous workers with greater opportunities to advance their careers;
- Support from AML for the unionisation of the company's workforce and for the principles of free collective bargaining; and
- A range of other measures relating to medical insurance, rights of casual employees, termination procedures, cultural orientation for both expats and locals.

In my view, the Company's license to operate over the 60 year mine life of the Tonkolili resource relies upon a demonstrable multi-generational commitment to the people of Sierra Leone beyond the benefits which employment and economic improvements alone can provide. Our own long term future requires us to maintain a social licence to operate, which itself drives us not only to uphold but indeed to continue to promote and improve human rights in the areas where we operate.

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Given that African Minerals' operation is a showcase for the capabilities of the Sierra Leonean nation, AML's desire to embrace the highest standards of governance is paramount. My commitment to that aim, in the interest of both the Company's financial and non-financial audiences, is absolute.

Thank you for approaching AML to clarify matters and I am sure that we will be communicating future developments to you in due course.

Yours Sincerely,



Keith Calder
Chief Executive Officer

cc. Lisa Sherman-Nikolaus
cc. Gibril Bangura

ENDNOTES

1 See Appendix.

2 AML annual report 2011, p. 5.

3 Amnesty International interview with local police officer K.K. on 12 May 2012.

4 Amnesty International interview with local police officer K.K. on 12 May 2012.

5 Amnesty International interviews with eyewitnesses on 12 and 14 April who were present at the local court house on 17 April 2012.

6 Amnesty International delegates visited the market and observed, and photographed, holes in the tin roof of the market where police had fired. The delegates were also shown a video by a journalist in which people are seen running out of the market place and gun-shots are heard in the background.

7 The distinction between an OSD officer and a general police officer is readily identifiable in uniform (blue camouflage) and weaponry. Only OSD officers carry weapons.

8 Amnesty International interview with M.K. on 12 May 2012.

9 The broadcaster stated that he had given copies of the broadcast to other organizations and individuals investigating the events in Bumbuna but did not have any more readily available. Amnesty International was not able to obtain a copy due to constraints in time, but all those interviewed, with the exception of the police, by Amnesty International who listened to the broadcaster collaborated his account of the broadcast.

10 Amnesty international interview with broadcaster on 14 May 2012.

11 Amnesty International interview with U.B. on 12 May 2012. Injury was shown to delegates and delegates were able to confirm type and cause of injury through medical records.

12 Photographs obtained by Amnesty International on record. Two health staff also confirmed the cause of death.

13 Amnesty International interview with health worker M.V. on 14 May 2012.

14 Amnesty International interview with A.S. on 12 May 2012.

15 Amnesty International spoke to police officers on 12 and 13 May 2012.

16 Amnesty International interview with paramount chief on 14 May 2012 .

17 Two sources told Amnesty International that they viewed video footage in which protesters and the police were throwing rocks. Amnesty International interview in Freetown in May 2012.

18 Amnesty International interview with K.K. on 12 May 2012.

19 Amnesty International interviews with human rights workers in Freetown in May 2012.

20 The local police confirmed to Amnesty International that 23 individuals were arrested on 17 April but could not give further information about charges or status of those arrested. Other local NGOs confirmed a number of arrests over the two day period (17 and 18 April) Amnesty International was unable to confirm details. Amnesty International spoke to one young man who described how he was asleep in his room around 8 am when the police entered and arrested him. They accused him of being one of the protesters, which he denied. He showed Amnesty International scars where he claims he was beaten by the police. Photographs on record.

21 Amnesty International interview with G.C. on 12 May 2012.

22 Amnesty International interview with M.K. on 12 May 2012. MK was present at the public meeting and received some of the compensation.

23 Amnesty International interviews with local police, community members and human rights workers in May 2012.

24 See Appendix.

25 Ibid.

26 See http://www.hawk-group.co.uk/intl_history.html

27 See Appendix.

28 Amnesty International, Sierra Leone: Pass Freedom of Information Bill (Index: AFR 51/001/2012), 2 April 2012

29 See: <http://hrcls-newsletter.blogspot.co.uk/2012/07/human-rights-commission-of-sierra-leone.html#1/2012/07/human-rights-commission-of-sierra-leone.html>

30 These five forms are well established and defined in international instruments. See UN Basic Principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and international humanitarian law (Van Boven-Bassiouni Principles), UN Comm'n Hum. Rts Res. E/C.N.4/2005/35, 13 April 2005; GA Res. A/RES/60/147, 16 Dec. 2005 (<http://www2.ohchr.org/english/law/remedy.htm>).

31 Green Card 'A' Guidance for Opening Fire for Armed Police Officer of the Sierra Leone Police.

32 Yellow Card 'B' Guidance for the Use of CS and Baton Rounds by Officers of the Sierra Leone Police. There is no such provision for stone/missile throwing in the Green Card 'A'.

33 Report to the UN Human Rights Council of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, Addendum: Corporations and human rights: a survey of the scope and patterns of alleged corporate-related human rights abuse, A/HRC/8/5/Add.2, 23 May 2008.

34 The Voluntary Principles on Human Rights Security and Human Rights. Available at: http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf