

# A Dangerous Business:

The human cost of advocating  
against environmental degradation  
and land rights violations

Conference Report October 2011



Protecting human rights defenders at risk since 1981

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# Contents

3

**Executive summary and recommendations**

6

**Keynote address**  
James Anaya

7

**First Plenary Panel**  
Risks and protection needs of human rights defenders working on environmental degradation and land rights

9

**Second Plenary Panel**  
Case studies on the impact of multinational enterprises on indigenous and traditional farming communities and their advocates

11

**Guest speakers**  
Michael Mansfield QC and Nick Mathiason

12

**Third Plenary Panel**  
International mechanisms to protect communities and human rights defenders working on environmental degradation and land rights

15

**Fourth Plenary Panel**  
Conclusions and ways forward

18

**Programme**

## COVER PHOTO

Indigenous communities line the streets for the visit of the UN Special Rapporteur for Indigenous Rights, James Anaya, in June 2010. Photo by PBI Guatemala

# Executive Summary and Recommendations

When subsistence farming and indigenous communities around the world find their human rights threatened by the interests of large-scale extractive, agribusiness and infrastructure projects, it is often human rights defenders (HRDs) who work to ensure their communities' rights are protected. These rights may include the right to water, food, health, an adequate standard of living, and in the case of indigenous communities, the right to their traditional lands.

HRDs often pay a high price for taking such a stand. They may fall victim to repressive tactics by state and non-state actors designed to silence dissent and advance business ventures. This can mean physical attack, intimidation, defamation, baseless prosecutions and unlawful detention. In over 30 years of working to protect and support HRDs at risk, PBI has been an eyewitness to the damaging environmental and human rights impact of large-scale economic projects. In Colombia, we support communities which, having previously been displaced by paramilitary groups working in collusion with state authorities and economic actors, have returned to find their land now occupied by palm oil companies. In Guatemala, we accompany members of an indigenous organisation who have been physically beaten and criminalised for daring to demand their right to consultation on extractive projects that threaten their culture and livelihood.

The extraordinary boom in mining and agribusiness currently enjoyed by countries such as Guatemala and Colombia suggests that the spectre of human rights violations is unlikely to diminish anytime soon. As such countries open the door to increased foreign direct investment (FDI), the potential complicity of multinational companies and their host states in human rights violations at the local level becomes ever more problematic.

HRDs working on land and environmental issues face a unique set of risks. As well as standing up against extremely powerful interest groups, they work in isolated rural areas, often with poor communications and limited access to traditional protection mechanisms and support networks. The international human rights community has to be prepared to tailor the support and protection it provides to suit these conditions.

There are a number of international standards, guidelines and legislative codes that are relevant to the protection of individuals and communities who are at risk of having

their human rights violated. Some of these standards are applicable to states, others to non-state actors such as corporations. Despite the existence of these standards, communities across the globe continue to suffer violations and environmental degradation, particularly in the context of large-scale extractive and infrastructure projects. The HRDs advocating for them continue to be targeted. This suggests that there is much more that states, businesses, international institutions, and civil society organisations could be doing to monitor, implement, and effectively enforce such protection mechanisms.

With the Guiding Principles and the UN Framework on Business and Human Rights having been approved by states at the UN Human Rights Council in June 2011, the upcoming years represent a unique chance for governments, business and civil society to work together to promote greater responsibility and reduce the negative impact of business operations.

It was with this in mind that PBI UK organised the conference 'A Dangerous Business: The human cost of advocating against environmental degradation and land rights violations'. Our idea was to analyse why violations continue to occur, and what can be done to address the gaps in policy, legislation, and enforcement to ensure that HRDs confronting human rights and environmental abuses receive better protection. This comes from our belief that HRDs are an absolutely fundamental stakeholder in making responsible business and protection of human rights a reality rather than just lip service.

With the support of Amnesty International, Minority Rights Group, the Law Society and the Institute of Latin American Studies, PBI staged a public event targeted a wide variety of stakeholders ranging from civil society to government and business. It was our impression that forums on business and human rights tended not to include the participation or views of aggrieved communities. We felt that PBI's experience in connecting the grassroots experience of affected HRDs and communities with high-level policy perspectives would inspire a more rounded, meaningful and creative debate around the issue.

The conference brought together human rights defenders from Mexico and Colombia, as well as experts from academia, non-governmental organisations, the mining industry, government and the legal profession

**"In Mexico being a human rights defender implies very high risks – whether we defend the indigenous, the environment, women's rights, the peasant farmers, journalists, afro-Mexicans, anyone – every day we suffer physical and psychological threats."**

**Father Wilfrido Mayrén Paláez  
(Father Uvi)**

to discuss and debate key issues of concern around the impact of large scale extractive, agribusiness and infrastructure projects on rural communities and those who advocate on their behalf.

The four panels provided fascinating insights into the situations faced by communities and human rights defenders around the world, and also provoked lively debate regarding the effectiveness of protection mechanisms for human rights defenders and affected communities, and the future direction of policy in this area.

We were fortunate to have James Anaya, the UN Special Rapporteur on the Rights of Indigenous Peoples, make two illuminating presentations. Mr Anaya outlined ways in which the rights of indigenous peoples could be more deeply recognised and embedded in practice by transnational companies and states in order to ensure fairer participation by indigenous groups in large-scale economic projects that impact on their culture, livelihood and territory.

Our other key note speakers included the civil rights lawyer Michael Mansfield QC and investigative journalist Nick Mathiason. Mr Mansfield set the tone for the conference by strongly advocating for the recognition of criminal responsibility in cases of environmental damage, citing the innovative environmental campaign that is lobbying for the classification of Ecocide as a crime against humanity. Mr Mathiason presented his report *Piping Profits*, in which he exposes the way leading mining companies make use of secrecy jurisdictions to maximise profits and evade accountability.

It was also encouraging to have the

participation and attendance of members of government, from the Foreign Office, the Ministry of Justice and the Department for Business, Innovation and Skills (BIS). Tom Kennedy, who leads the government's cross-departmental steering group on devising a business and human rights strategy in line with the UN Framework, outlined the government's commitment to consulting with all stakeholders.

Many of the conference panellists reassembled in Parliament the following day for a roundtable meeting hosted by Lisa Nandy MP, chair of the All Party Parliamentary Group (APPG) on International Corporate Responsibility: Business, Human Rights and the Environment. Several MPs and peers, as well as representatives from the Foreign Office and BIS were present in this meeting. The expert views of the delegates will be taken into account as the government finalises its business and human rights strategy.

On the back of the conference, PBI has launched a campaign to raise awareness and lobby for greater protection for HRDs working on land and environmental issues. More details can be found on our website, as well as links to in-depth recent reports on the impact of large-scale economic projects in Colombia, Guatemala and Mexico.

In the months following the conference, there have been several interesting developments. The UN Working Group on the Issue of Transnational Enterprises and Human Rights, created to oversee implementation of the Ruggie Framework, is now up and running. PBI is engaging with this group to ensure it works to understand and consider protection issues for HRDs. Our initial submission can be found on the Working Group's webpage.

In her report to the 19th session of the UN Human Rights Council in March, Margaret Sekaggya, the Special Rapporteur on the situation of human rights defenders, identified HRDs working on land and environmental issues as a group at extraordinary risk due to the context in which they work. This is the first time her mandate has focused so explicitly on this group, and we hope the Special Rapporteur will consider it as an exclusive focus for her next thematic report.

Finally, the UK government has held rounds of consultation including with many of the delegates from the conference, and aims to publish its strategy in mid-2012. While the government's commitment to leading the way internationally in promoting the Ruggie

**“Numerous crimes against rural people, trade unionists and political opponents have been carried out in the name of ‘development’ and ‘prosperity’.”**

**Jorge Molano**

Framework is welcome, it is also essential that the strategy be open to revision, scrutiny and ongoing consultation with civil society.

### Recommendations

Conference speakers suggested a range of actions that international stakeholders, such as the UK government and multinational companies registered or based in the UK, can do to increase protection for communities and human rights defenders, and to provide effective remedy and access to justice once a violation has occurred.

### Preventing human rights violations

There are a number of existing international mechanisms that, if properly implemented, will provide a wider net of protection for vulnerable groups and accountability for violators. Delegates urged international governments to use their influence, technical capacity and resources to encourage countries of concern to achieve greater adoption and implementation of:

- National and regional court rulings on land and environmental rights
- International human rights norms such as International Labour Organization Convention 169, the UN Declaration on the Rights of Indigenous Peoples and relevant UN recommendations
- Judicial reform that aims to combat impunity and increase access to justice

Following on from this, delegates highlighted the need to develop clear and adequate consultation procedures nationally and internationally, to enable the meaningful

inclusion of communities at all stages of the decision making process. More should be done to assist communities in their capacity for negotiation.

Another area where the international community can provide assistance to host states is regarding good governance related to land tenure and management of natural resources. The Committee on World Food Security's draft *Guidelines on Land Tenure*, and the Institute for Human Rights and Business' draft *Guidelines on Business, Land Acquisition, and Land Use* provide powerful mechanisms to defend the rights of marginalised peoples, and give greater clarity for states and businesses.

On the issue of due diligence, delegates called for a clearer definition and understanding of corporate responsibility on development projects that reflect the full range of international human rights norms and the need for enforcement by home states. Home governments should also provide businesses with detailed guidance in order to foster understanding of the contexts in which they plan to invest, to ensure that they do not become involved in or profit from human rights violations. There was widespread agreement that the UK must promote more coherent and consistent messaging regarding business and human rights across government, and ensure that all civil servants working on business and human rights receive full training. In order to prevent future harm, trade missions should raise human rights concerns with host countries where relevant to the investment activities of British companies.

One way in which foreign missions can gather detailed and balanced information about the human rights impact of business is through regular dialogue with HRDs and communities adversely affected by development projects. The building of such relationships can provide significant protection for vulnerable communities and HRDs as outlined in the EU Guidelines on Human Rights Defenders. It is important that missions use these guidelines to give specific attention to the issue of defenders and communities whose rights are violated in the context of economic development projects. The UK's protection strategy, for example, should reflect specific issues related to land and environmental defenders, such as attempts to unjustly criminalise and repress their work. In addition, PBI also recommends that the guidelines be taken a step further and where relevant:



**Sheldon Leader, Essex University Business and Human Rights Project, speaking at the conference**

■ Home states, via their foreign missions, should consider assuming a mediation role between local communities, HRDs, companies and local authorities, prior to the commencement of development activities. This would provide a space, in accordance with due diligence and prior consultation procedures, in which local communities and HRDs can express their concerns and establish accountable follow-up mechanisms.

### Monitoring and addressing human rights violations

Many of the delegates expressed the need for the amendment of existing laws and for the introduction of new judicial and non-judicial mechanisms at home to hold companies based or registered in the UK accountable for human rights violations committed overseas. Some examples, elaborated in this report, include:

■ New legislation or the clarification of existing regulatory frameworks certifying how to sanction domiciled businesses and their employees for

involvement in abuses abroad.

■ The creation of a Commission on Business, Human Rights and the Environment to advise government and business on best practice and policy reform, while also serving as a forum to receive complaints, provide sanction and remedy, or mediate between parties

■ Ensuring that the body which replaces the Financial Services Authority enshrines the highest environmental and human rights regulatory standards, and is provided with greater powers to sanction and expel offending companies from the London Stock Exchange.

There was general agreement on the pressing need for more effective monitoring and reporting of the human rights impact of business operations, as undertaken independently, by states, and by businesses themselves. Although some businesses already voluntarily carry out human rights impact monitoring, delegates called for this

to be made a more stringent legal obligation. This could be made a reality by amending the 2006 Companies Act to include clear, detailed guidance on specific human rights requirements expected of business.

It is fundamental to any adequate monitoring process that the concerns of affected communities and HRDs can be directly voiced and taken into account without risk to their security. Again, PBI believes that the embassies of home states of such as the UK can play a key role in ensuring that this happens, by hosting a yearly meeting between HRDs working on land and environmental issues, members of the diplomatic corps and company representatives. The meeting would provide a neutral space in which HRDs and communities could share grievances in which the mission and company share how they plan to implement the UN Business and Human Rights Framework, while promoting respect for the rights of communities and serving as a protection mechanism for local HRDs.

# Keynote Address

## James Anaya, UN Special Rapporteur on the Rights of Indigenous Peoples

James Anaya began his keynote address with an outline of his role as the UN Special Rapporteur, which is to monitor the conditions of indigenous peoples worldwide and promote the implementation of their internationally recognised rights. He stressed that the activities of extractive industries on or near indigenous territories were an increasing issue of concern. Citing recent examples from Panama, Peru, Chile and the United States, he described the tensions at play between the protection of indigenous communities at the international level and the activities of the extractive industries at the local and national levels.

Historically, there has been a denial of indigenous peoples' rights at the international level, and only relatively recently has there been a move towards more robust recognition. Although this is most prominently seen in the 2007 United Nations Declaration on the Rights of Indigenous Peoples<sup>2</sup>, Mr Anaya explained how other international instruments – not necessarily directed at indigenous peoples – have also been used and interpreted to affirm indigenous rights, such as the International Convention on the Elimination of All Forms of Racial Discrimination.

While emphasising the relative strength of indigenous peoples' rights in regard to extractive industry activities on their lands, Mr Anaya described a lag between the formal recognition of these rights and their consequent implementation, which is perpetuated by a fundamental misunderstanding about the 'nature' and 'character' of indigenous rights. He alluded to a persistent lack of understanding about the full range of the rights that are implicated when extractive companies seek to develop on or near indigenous territories. Even in cases where a company has a discourse of respect for 'human rights', there is often a lack of understanding of what these rights mean for indigenous communities. To illustrate this, he gave the example of the Panamanian Ngobe community, which suffered severe flooding of its lands as a result of the operations of a hydroelectric company. The company considered its provision of compensation to be sufficient in respecting the Ngobes' rights, paying little regard to issues of cultural identity, relationship to territory, their desire to exist as a distinct community and involvement in the development of their lands. Mr Anaya believed



James Anaya calls for recognition of indigenous peoples' rights

EMMA MARSHALL

this situation to be symptomatic of relations between indigenous communities and the extractive companies developing on their lands.

In order to address the disparity between the formal recognition of rights and their subsequent implementation in the context of resource extraction on indigenous territories, Mr Anaya made four distinct recommendations:

**1** He called for effective international recognition of indigenous peoples' rights in 'specific' situations. 'Specific recognition' would go further than the abstract recognition of indigenous rights as contained in the UN Declaration, recognising the rights concerned in specific circumstances with regard to particular peoples in certain places.

**2** He argued for a clearer definition and understanding of corporate responsibility in development projects which affect indigenous peoples. He maintained that in these situations, the scope for corporate responsibility should respect the full range of indigenous rights now recognised at the international level.

**3** He advocated for the development of clear and adequate consultation procedures in order to enable a true dialogue between indigenous communities and the companies interested in their land. These procedures should aim to achieve the true consent of indigenous peoples by including their communities at the earliest stages in the formulation of decisions, and

continuing to involve them in a meaningful way throughout the decision-making process, with 'free, prior and informed consent' (FPIC) being central to the modern international standard.

**4** Lastly, he advised that increased efforts should be made to assist indigenous peoples in building their capacity for negotiation. This enhanced negotiation capacity would enable indigenous communities to be in a position where they can choose from a range of possibilities – including cooperating with governmental and corporate actors – to advance their own interests and to benefit from the developmental activities on their lands, instead of simply saying 'yes' or 'no' to development proposals.

To conclude, Mr Anaya stated that the next big chapter in human rights advocacy would be 'forward looking': shifting the focus from remedying prior human rights violations to actually preventing them. This shift would necessitate an examination of how to promote and build best practices in the extractives industry, which itself would be reliant on the prior empowerment of indigenous peoples. To facilitate this change, indigenous communities affected by extractive industries needed to not be treated as mere stakeholders in the developmental process on their lands, but instead be recognised as the rights holders that they are.

<sup>1</sup> [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)

# First Plenary Panel

Chaired by Jonathan Glennie from the Overseas Development Institute, the first session of the conference examined the risks and protection needs of human rights defenders (HRDs) working on environmental degradation and land rights.

Father **Wilfrido Mayrén Palález**'s opening presentation focused on his personal experiences of defending the rights of marginalised communities with the Bartolomé Carrasco Briseño Regional Centre for Human Rights (BARCA-DH) organisation in Oaxaca, Mexico, and reflected on the dangers HRDs face there.

He began by stating the conviction of HRDs that human rights should cross-cut all public policy in a genuine democracy and that this was where the problem often started – he considered many 'democracies' in the global South to be merely 'paper democracies' with little regard for such considerations. In addition, HRDs experience violence and distress as a result of questioning power structures and

demanding that human rights violators are held to account.

Due to the powerful nature of their adversaries – governments, armed forces and multinational corporations – being an HRD implies very high risks. The risk is not only to the defenders themselves, but also to their families and colleagues and can involve daily psychological and physical threats. Father Palález described how the persecution of HRDs had worsened with time, and drew on the past 18 years to provide instances of harassment, criminalisation, arbitrary detention, torture, disappearances and assassinations. He noted how he had personally been subjected to threats, stigmatisation, judicial persecution and even an assassination attempt in 2010.

Father Palález proposed three ways in which the international community could enhance the protection of HRDs. Firstly, he urged all national governments and their corresponding embassies to ensure that development projects are coherent with human rights. Secondly, he called for the enhanced enforcement of all international protocols for the defence of

human rights. Lastly, he demanded compliance with court rulings at both the national and international level, claiming that these rulings had been consistently overlooked. He concluded by thanking Peace Brigades International for providing the accompaniment of field volunteers, without which he believed many human rights defenders would now be "in prison or dead".

The focus on Latin America continued as the second speaker of the session, **Jorge Molano**, a Colombian human rights lawyer, explored the link between the activities of multinational corporations and the repression of indigenous and peasant farmer communities in Colombia.

Describing multinational corporations as the principal benefactors of repression, Mr Molano outlined practices used against marginalised communities by companies seeking to develop resources located on their territories. The first method related to the forced displacement of communities. He described how, over the past 30 years, five



Father Wilfrido Mayrén Palález speaks about the dangers faced by HRDs in Mexico

EMMA MARSHALL

million indigenous, Afro-Colombian and peasant farming people have been dispossessed of 6.5 million hectares of land. A second practice was the use of violent force against peaceful protest, often resulting in physical injury or death. Thirdly, he explained how multinationals contracted the local police and army to protect their businesses, and described instances of human rights violations committed by state forces. He said there were close links between paramilitary groups and companies, with multinationals having provided support to illegal armed groups to assassinate those who oppose their activities. He also described the violation of the communities' rights to consultation, with often very little monitoring of the consultation process by states, and no verification of data or evidence of consultation procedures offered to affected communities.

Mr Molano stressed that working in this context also put at risk the lives of those trying to defend the communities' human rights. He explained how HRDs in Colombia were subjected to surveillance, including by the national intelligence agency, and continually



**March of almost 10,000 indigenous people in 2008 to denounce human rights violations committed by armed actors in rural areas in Colombia**

DAMIEN FELLOUS

fathered threats and persecution – between January and June 2011 there were a total of 145 attacks on HRDs in Colombia, resulting in 26 fatalities. He concluded by saying international solidarity was needed to maintain the work of HRDs and issued two recommendations to the international community. His first proposal argued for greater consistency in national governments' internal legislation for holding business entities accountable for criminal acts, ensuring corporations can be held accountable both in their home and in host states. His second suggestion called for more effective mechanisms to independently monitor and report back on the human rights impact of development initiatives prior to and during operations.

Peace Brigades International's **Christine Jones** closed the first panel with an examination of the role of international organisations and civil society in protecting and advocating for the rights of human rights defenders.

Ms Jones stated that organisations such as PBI aided the international human rights movement by ensuring human rights defenders stay alive and remain in their countries, in order to fight impunity and to promote democratic governance. Furthermore, by providing highly trained volunteers, PBI benefits the global movement as these individuals subsequently share their skills by migrating throughout political and social movement structures.

She expressed concern that international investment and trade deals could lead to increased criminalisation and repression of HRDs, and further disregard for the rights of indigenous communities. Referring to the tar sands project in Canada, she reminded us that in the process of exploiting natural resources, repressive strategies against HRDs can also be found closer to home. She showed how indigenous and other groups opposing this project have been targeted and criminalised in a similar way to HRDs in countries such as Colombia and Mexico.

Ms Jones concluded by stressing the importance of strengthening advocacy and awareness on these issues within civil society in order to increase the protection of human rights defenders.



**Father Wilfrido accompanied by PBI volunteers in Oaxaca, Mexico**



# Second Plenary Panel

The second panel of the day was moderated by Mauricio Lazala from the UK-based Business and Human Rights Resource Centre. Drawing on a range of case studies, the speakers focused on the impact of multinational enterprises on indigenous communities and their advocates.

Representing Minority Rights Group, **Lucy Claridge** opened the panel by looking at land rights litigation regarding indigenous communities in Africa. Concentrating on the case of the Endorois<sup>2</sup> community in Kenya, she examined attempts to secure the implementation of the 2010 African Commission on Human and People's Rights (African Commission) decision<sup>3</sup> and outlined the value of the ruling to inform further litigation on similar cases in East Africa, such as the Ogiek community in Kenya and the Maasai of Loliondo in Tanzania.

Ms Claridge explained that in its decision, on 2nd February 2010, the African Commission declared the Kenyan government's expulsion of the Endorois community from their ancestral lands – in order to make way for a wildlife reserve – to be unlawful, and outlined the key restorative recommendations issued to the Kenyan government as a result. She said that the African Commission's ruling marked the first time an African peoples' rights to their traditional lands had been formally recognised while it also represented the first case globally in which a ruling had been made on the 'right to development'. Moreover, she said that the case significantly contributed to a better understanding and greater acceptance of indigenous rights in Africa and that it provided an incentive to all governments to regard indigenous communities as stakeholders in the development process. Ms Claridge asserted that as the ruling came from a regional body, it had created a strong legal precedent to guide similar cases concerning indigenous rights and multinational corporations.

Ms Claridge noted, however, that without having fully consulted the Endorois community, the Kenyan government had nonetheless recently designated the territory as a UNESCO 'World Heritage site'. She highlighted the need to respond with advocacy and lobbying to continue to promote the full rights of the

Endorois. Nevertheless, she concluded by affirming that the 'Endorois decision' offered further recognition of indigenous peoples' land rights worldwide. She asserted that the decision provided a strong tool that could be invoked against multinational corporations. She called for indigenous communities to be encouraged to use existing law and jurisprudence and to invoke the law more systematically in cases that resort to litigation.

The second panellist, **Jon Samuel** from Anglo American, gave a multinational corporation's perspective on the issue of respecting human rights.

Mr Samuel outlined the range of public commitments and external processes used by Anglo American to address human rights issues. A selection of these included: public commitments to international treaties and declarations and the support and implementation of the Voluntary Principles on Security and Human Rights, combined with internal actions to monitor human rights issues within Anglo American's trade and during its mining activities.

Turning to the challenges faced by multinational corporations, he explained the difficulty in fulfilling local expectations while sharing the benefits of development activities. For example, as the mining industry is very high tech and capital intensive, the scope for employment of the local communities within

the operations has often been negligible as the the number of local people has been greater than the number of jobs available or they simply may not have held the required qualifications to work on the site. In order to combat this, he explained that Anglo American had instead put a lot of emphasis on 'community development' projects. He argued that it was also often hard for companies to understand when operations are compliant with national legislation but fail to comply with international human rights provisions. Regarding the indigenous communities themselves, he stated that it was often problematic for companies to ascertain the legitimacy of community representatives as there are many voices present in most communities. Additionally, although Anglo American had no objection to states requiring 'free prior and informed consent' from the communities concerned, he said that companies are left adrift when this requirement wasn't enforced afterwards. In this situation, no definition of 'consent' could be given to the company, and if the company was to subsequently abandon the project, there would be no safeguard to prevent a less responsible company developing the project; making the requirement futile. Moreover, he asserted that accusations of 'human rights abuses' have often been related to technical failures, but once they were labelled as 'human rights abuses', any question of meaningful dialogue with the communities was compromised.

To conclude, Mr Samuel said that there



**Indigenous communities reject the exploration and exploitation of the Careperro Mountain, Colombia**

<sup>2</sup> <http://www.minorityrights.org/6779/trouble-in-paradise/the-facts.html>

<sup>3</sup> <http://www.minorityrights.org/?id=9587>

were vast opportunities to be shared between indigenous communities and multinational corporations. He stressed that human rights should not be considered an obstacle to broad-based socio-economic development –noting that countries with a positive human rights record tended to develop better over the long term – and that as the majority of companies supported human rights, those that fell short would struggle to retain good people in their business. He asserted that if companies could better understand the demands of local communities, then mutual agreements between the two should be possible.

procedures with the local communities, a widespread protest erupted in 2005. Ms Martin described how 28 protestors were arrested and subsequently detained, abused and tortured for three days in confinement. Despite the legal services becoming involved on behalf of the protestors, at first the police and the security services flatly denied any allegation of abuse and the decision was instead taken to prosecute the detainees. Nevertheless, the production of photographic evidence of the abuse in 2009 meant that the abuse could no longer be denied. As Monterrico Metals was headquartered in London, she explained how

Citing the case studies of Xstrata's<sup>7</sup> proposed Tampakan project in the Philippines and Vedanta's<sup>8</sup> aluminium bauxite mining refinery in India, **Andy Whitmore** from the London Mining Network examined the impact of the UK extractive companies that operated in Asia.

Mr Whitmore began by stating that the extractive industry has a disproportionate impact on indigenous communities, with 60% of the world's remaining mineral resources located in indigenous territories. He argued that while the industry had often blamed problems on 'junior' companies, larger companies have also been culpable of human rights violations, despite their corporate social responsibility programmes. He pointed to the importance of London for the mining industry as, not only is London one of the world's biggest centres for investment in the mineral industries but it is also home to the headquarters of four of the five largest extractive companies in the world and is host to major industry bodies such as the International Council on Mining and Metals.

In order to address the effects of the extractive industries on indigenous communities, Mr Whitmore provided two key recommendations. His first proposal called for an effective replacement of the Financial Services Authority (FSA) based in London. He argued that the body that replaces the FSA should be provided with greater powers to expel abusive companies from the London Stock Exchange and that there should also be more clarity about the environmental and human rights issues that are focused on. More generally, he asserted that the agenda for 'free prior and informed consent' was missing an understanding of the power imbalance between companies and communities. Communities needed to understand what companies wanted in order to hold fair negotiations and, Mr Whitmore concluded, it was necessary for companies to approach development initiatives from a rights-based agenda, which reflected the actual needs of the communities concerned.



**Shanta Martin** from Leigh Day & Co focused her presentation on corporate liability for human rights abuses by referring to the case of Monterrico Metals<sup>4</sup> in Peru. After illustrating the need for corporate accountability, she turned to discussing the ramifications of the UK's Legal Aid, Sentencing and Punishment of Offenders Bill 2010-12<sup>5</sup> (LASPO bill) with regard to remedying victims of abuse.

Ms Martin gave an overview of the wide range of issues on which the extractive industries can negatively impact. She emphasised some of the most harmful of these by examining the case of Monterrico Metals' Rio Blanco mine in Northern Peru. The Rio Blanco mine represented one of the largest open-pit mining operations in the Americas and, following inadequate consultation

UK-based Leigh Day & Co solicitors brought action against the company in the London High Court, alleging liability due to the participation of the company in the abuses and for its failure to prevent the scenario, finally securing significant compensation for the victims after two years of litigation.

Ms Martin explained that ensuring sanctioning and reparation was a crucial part of corporate responsibility and that it was also important to bring cases of human rights abuse to the countries in which the companies in question are headquartered. However, she asserted that the LASPO legislation would have a devastating effect<sup>6</sup> on corporate accountability and victims' access to remedy in the UK, conclusively stressing the need to lobby Parliament to prevent the passage of the bill in order to protect the rights of vulnerable communities worldwide.

<sup>4</sup> <http://www.leighday.co.uk/News/2011/July-2011/Peruvian-torture-claimants-compensated-by-UK-minin>

<sup>5</sup> <http://services.parliament.uk/bills/2010-11/legalaidsentencingandpunishmentofoffenders.html>

<sup>6</sup> [http://corporate-responsibility.org/wp/wp-content/uploads/2011/05/jackson\\_analysis5.pdf](http://corporate-responsibility.org/wp/wp-content/uploads/2011/05/jackson_analysis5.pdf)

<sup>7</sup> <http://londonminingnetwork.org/2011/10/philippines-details-of-the-tampakan-project-challenged>

<sup>8</sup> <http://londonminingnetwork.org/2010/03/india-indigenous-groups-step-up-protests-over-mining-project>

## WELCOME SPEECH

### Michael Mansfield QC

The conference was kicked off with Michael Mansfield QC providing a welcome speech to the audience. Drawing on the case study of the Canadian tar sands, Mr. Mansfield provided specific recommendations to the British government regarding its policy on environmental issues, and called attention to the 'ecocide' campaign.

He explained that over 90 companies – including various British businesses – invested in Canada's tar sands, the activities of which had tremendous environmental and human rights impacts. Paying particular reference to the boreal forest region in Alberta, he said that the land rights of the communities traditionally reliant on their territories to live, farm, fish, hunt and move had been negatively and irrevocably affected as their lands had been destroyed and replaced with 'tailings' to store the excess waste produced from processing the sands.

Mr Mansfield called for the British government to relinquish its support of the extractive activities in the tar sands and to overturn its opposition to the European Union ban on oil imports from the area, urging the attendees of the conference to lobby the government in the same cause. He also stressed that the British government should stop the process of 'fracking' – by which natural gas is obtained from the earth – as it had adverse environmental effects by being



Michael Mansfield QC says ecocide should be established as an international crime

EMMA MARSHALL

predominantly practised in environmentally protected areas, and urged the audience to lobby the government in the same vein. His final recommendation promoted the case for the formal recognition of 'ecocide' as an international crime. He stated that there was a campaign to put ecocide on a par with genocide and to make it the fifth international crime, providing it with universal jurisdiction and holding perpetrators individually responsible. He explained that, as fictional bodies, companies

themselves could not be brought to account. However, by establishing ecocide as an international crime, those who are responsible for its violation would be held individually accountable, forcing senior executives to think twice about the effects of their development initiatives. He maintained that the legal recognition of 'ecocide' as an international crime was necessary in a world where multinational corporations were increasingly involved with the violation of human rights.

## KEYNOTE SPEECH

### Nick Mathiason, Bureau of Investigative Journalism

Drawing on work conducted during a five-month investigation for Publish What You Pay<sup>9</sup>, Nick Mathiason gave a presentation on patterns of naccountability in the corporate off-shore world.

Mr Mathiason explained how corporations were able to severely underpay their taxes by using networks of subsidiary companies. He noted that in 2010 ten of the most powerful extractives companies collectively generated \$1.82 trillion but stated that their

costs equalled a total of \$1.59 trillion, subjecting their profits to a meagre tax rate of only \$106.9 million. He further divulged that, together, these ten companies controlled an astonishing 6,038 'materially important' subsidiary companies, of which over a third were held in 'tax havens'. He also revealed that companies often did not publish figures regarding their revenues, costs, profits or reserves used and, consequently, the countries which held natural resources could never be certain whether they received a fair deal for the resources they possessed.

To address these deficiencies, he explained that there is currently an agenda for country-by-country reporting. He maintained that global country-by-country reporting would

require all countries to report this information which would consequently enable a fairer deal for the producer nations. He stated that although companies were required to report their tax figures, this requirement was effectively meaningless as there was no corresponding public record of how much money had been made. He further argued that the implementation of country-by-country reporting would also benefit human rights activists as it would necessarily enhance transparency by reducing the darkness in which multinational corporations often operate.

<sup>9</sup> <http://corporate-responsibility.org/campaigns/uk-commissions-proposal>

# Third Plenary Panel

Moderated by Ingrid Gubbay from Hausfeld & Co LLP, the focus of this panel concerned the international mechanisms that guarantee protection for communities and activists whose rights may be adversely affected by the operations of multinational companies. The aim was to examine the extent to which there is compliance with these mechanisms and to identify any potential gaps that need addressing.

The session was opened by **Peter Frankental** from Amnesty International who examined the prospects for Britain's implementation of the UN "Protect, Respect and Remedy" Framework for Business and Human Rights. Having been produced in June 2011 by John Ruggie, the UN Framework provides a set of 31 guiding principles concerning the interplay between businesses and human rights, which has subsequently been endorsed by the Human Rights Council.

Despite being accepted in principle by the

British government, Mr Frankental noted that embedding the Framework across government policy may give rise to various practical challenges. Quoting the British government's statement that its agenda was based on 'growth' and 'prosperity', he said he doubted whether raising human rights standards would be compatible with these goals, particularly in light of the government's commitment to reduce regulatory burdens. He also questioned whether the Framework itself could become hostage to the pressures on states to attract inward investment, as for many states, predominantly in the South, their competitive advantage relied in their low standards, lack of law enforcement and ease by which companies could bypass regulations. Lastly, he asserted that the actual steps required by the Framework were onerous and presented an enormous challenge to its effective implementation, illustrated through the example of 'impact assessments' which he said were often neglected by companies due to delays, finances, design and location of projects.

Mr Frankental advocated for a package

of recommendations to be adopted by the British government in order to avoid these problems. His first recommendation stated that country desk officers, both at the Foreign and Commonwealth Office and on missions abroad, should have a thorough understanding of the human rights context of UK companies when operating abroad, actively supported by specific training and awareness-raising schemes. Secondly, he affirmed that British trade promotion delegations should similarly be aware of human rights violations and that they should raise issues of abuse with the host countries, especially when relevant to the trade and investment activities of British companies operating there. His third proposal argued for increased cohesion across government departments and agencies in order to enable all sectors to be on the same page regarding human rights violations. Additionally, he advocated for the creation of a specialised new body, a Commission for Business, Human Rights and the Environment<sup>10</sup>, to address the human rights and environmental impacts



Protest against large-scale mining in Carrizalillo (Guerrero)

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of UK companies abroad. The Commission would hold a promotional function, serve as an ombudsman, and have a capacity-building role in the host nation. His final recommendation was for there to be improved access to judicial remedies in the UK, for example by supporting an amendment to the LAPSO bill explained by Shanta Martin in the previous panel. He considered each recommendation essential for the UK to fully implement the UN Framework.

**Tricia Feeney**, from Rights and Accountability in Development (RAID), continued by evaluating the effectiveness of the OECD Guidelines for Multinational Enterprises.<sup>11</sup> As part of the OECD Declaration on International Investment and Multinational Enterprises, the OECD Guidelines are a set of recommendations developed by 43 governments regarding transnational enterprises and containing recommendations on human rights, supply chain management, labour relations, the environment, combating bribery, consumer interest, competition and taxation.

Providing an overview of developments since the 2000 revision of the Guidelines, Ms Feeney initially explained how a complaints mechanism had been established to resolve disputes relating to the non-observance of the Guidelines. Regarding its activity, she stated that NGOs had filed over 100 cases, the most common claim regarding the 'General Policies' chapter of which over a third of all cases had dealt with alleged human rights violations by companies. However, she described how a large amount of the most egregious cases had dealt with 'supply chain' issues – such as conflict minerals – which were rejected wholesale as they fell outside the remit of the complaints mechanism. Nevertheless, she explained how the Guidelines were again revised in May 2011 to include 11 chapters instead of 10; which was underlain by companies having to respect human rights principles wherever they operate and, consequently, having to carry out due diligence to ensure their compliance with human rights standards.

Notwithstanding its revision, Ms Feeney asserted that the OECD Guidelines still suffered from prominent shortcomings. She argued that the first of these was a complete lack of timelines in the complaints procedure, asserting that all parties should know where they stood with reference to a complaint. She also stated that the Guidelines' focus on 'mediation' was too narrow and that mediation is not



Los Filos-Bermejil mining project in Mezcala, Mexico

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appropriate for all cases. If there is no access to a judicial mechanism, then a party should instead be able to ascertain a 'determination', which should replace mediation when the latter is inaccessible. Furthermore, she stated that the reference to indigenous peoples in the Guidelines was inadequate as it suffered from a lack of clarity, with no reference to 'free, prior and informed consent' (FPIC) or to the 2007 UN Declaration on the Rights of Indigenous People. In conclusion, she maintained that due to these remaining deficiencies, the OECD Guidelines should not be regarded as a panacea, but they were still an important step towards finding a permanent solution.

**Sheldon Leader**, Director of the Essex Business and Human Rights Project, examined the relationships between 'parent' and 'subsidiary' companies and their consequent impact on corporate responsibility. He maintained that it was imperative to hold parent companies liable for the actions of their subsidiaries in order to prevent a split between the 'locus of real control' and the 'locus of responsibility', believing it was the task of human rights lawyers to narrow this gap.

Nevertheless, Mr Leader stated that the existence of the theoretical 'corporate veil' presented an obstacle to human rights lawyers attempting to hold parent companies accountable. He explained that the 'corporate veil' was used to induce shareholder investment in a company through limited liability whereby, under certain conditions, the

parent company is immune from responsibility, assuming that the source of the problem was from the subsidiary. Despite this, he acknowledged that the corporate veil could be pierced under one of two circumstances: first, if a subsidiary was used to defraud by getting a parent company 'off the hook' then a court would ignore the subsidiary and charge the parent; or secondly, if the parent exhibited evident day-to-day control of the subsidiary, the court would again prosecute the parent.

However, although the conditions exist in which the corporate veil could be pierced, these are rare circumstances as there is usually a distinct degree of autonomy between the parent and the subsidiary. As a result, he suggested an alternative method of attaining parent responsibility when the classic methods of piercing the veil have been blocked: invoking a concept called the 'duty of care'. He explained that the concern in this situation was not whether the parent was in control of the subsidiary, but rather whether the subsidiary was reliant on the parent. The role of the parent as a 'standard setter' in this sense engaged its responsibility due to the effects of its advice on its subsidiary. The lynch-pin in the 'duty of care' was that the parent took the initiative to adopt due diligence policies – regarding environmental and human rights issues – after which it had a consistent obligation to observe and, consequently, take responsibility for the actions of its subsidiary.

<sup>10</sup> <http://www.oecd.org/dataoecd/43/29/48004323.pdf>

<sup>11</sup> <http://www.globalwitness.org/library/simply-criminal-targeting-rogue-business-violent-conflict>



Amnesty International's Peter Frankental raises concerns about the Ruggie Framework

Representing Global Witness, **Andie Lambe** turned the audience's attention towards a framework<sup>12</sup> for advancing the prosecution of rogue businesses operating in the context of violent conflict. She began by discussing the challenges to enforcing criminal law, penal code provisions and all other legislation applicable to business involvement in serious violations. The obstacles highlighted consisted of variations of legal, political and practical difficulties which, among others, included: the absence of any component of either national or international law designed specifically to address business liability in human rights violations; the inadequacy of national legal frameworks to specifically address the particular challenges posed by businesses in conflict zones; a lack of will – both at the state and the individual level – to investigate businesses in relation to human rights abuses; and, confounded by practical issues such as weak law enforcement cooperation, the use of multiple languages and states' inability to provide effective protection to the victims.

In order to overcome these deficiencies,

Ms Lambe advocated the use of Global Witness's 'Culpability Framework' for businesses involved in violent crimes. The objective of the framework was described as two-fold: firstly, to facilitate legal action against rogue businesses operating in contexts of widespread violence; and secondly, to encourage businesses to ensure that their activities remain above a common standard of acceptable behaviour. She explained that the Culpability Framework consisted of three distinct prohibitions. Prohibition One used international criminal law to specify existing criminal law applicable to business entities for offences including murder, war crimes, torture, rape and crimes against humanity. Prohibition Two used domestic anti-corruption law to legally specify acts committed by business entities that constitute aiding and abetting during their relations with perpetrators of violent crimes. Prohibition Three utilised the existing illegalities against violent crimes and trafficking in order to prevent the practice of dealing in conflict goods. However, she recognised that certain risks could not be mitigated and, in certain situations, the risk of culpability may be so high that the only

reaction would be to suspend the business's operations.

Additionally, in order for the Framework to be successfully implemented, Ms Lambe outlined four requirements needed by states. Firstly, she explained that each nation would initially have to amend or pass new legislation to criminalise domiciled businesses for their involvement in abuses abroad and, subsequently, to clarify their regulatory frameworks by certifying how to prosecute business entities. She also asserted that businesses should be compelled by their governments to carry out due diligence to ensure that their trade is legal and that it conforms with human rights standards, while necessarily also sanctioning those businesses involved in human rights violations. Concluding, she said that there was a clear precedent for states to prosecute both their own citizens and domiciled businesses for crimes committed abroad, which should be extended by states to include complicity in violent crimes or human rights abuses.

<sup>12</sup> <http://www.ihrb.org>

# Fourth Plenary Panel

The final panel of the day, chaired by Julian Berger, former Coordinator of the Indigenous Peoples and Minorities Unit at the Office of the High Commissioner for Human Rights (OHCHR), sought to identify conclusions from the issues raised during the conference and to propose ways forward. In particular, this session aimed to provide recommendations regarding how the international community, and the UK government in particular, could adopt stronger mechanisms to guarantee protection and access to remedy for communities and human rights defenders (HRDs) adversely affected by the operations of multinational corporations.

The first panellist was **Kelly Davina Scott** from the Institute for Human Rights and Business (IHRB). Opening the session, she focused on the promotion of the IHRB draft Guidelines on Business, Land Acquisition and Land Use<sup>13</sup> as a safeguard for human rights in the context of corporate activity.

Ms Scott stated that the draft Guidelines would indiscriminately apply to all companies and that they were intended to ensure that companies' policies and practices regarding land use and land acquisition were consistent with international human rights standards. She explained that the Guidelines were guided by three key principles. The first principle regarded **transparency**, which

required all companies to be open about their motives regarding particular plots of land and obliged companies to clarify their plans and intentions with the host communities. The transparency principle also obliged companies to provide realistic estimates of timescales, to publicise and share information regarding employment opportunities, and to declare company policies to compensate those who may suffer. The second guiding principle was based on **non-discrimination**, which would apply to company policies, recruitment, consultation and compensation schemes, while it would also ensure that entities acting on a company's behalf similarly operated under the same principle. The last guiding principle was **accountability**. This final principle necessitated that companies operated open and fair consultation procedures regarding land acquisition initiatives and ensured that grievous mechanisms were put in place to guarantee that any dispute would be handled effectively but which Ms Scott asserted should not be used to substitute legal remedies when human rights violations did occur.

In acknowledging the need to move beyond abstract principles, Ms Scott recommended certain measures to be taken by companies when considering land acquisition. Before operations commence, she asserted that companies should have: conducted a baseline survey of the land; assessed the conflict potential and impact

of the project; identified the legal owners of any land being considered for acquisition; assessed the company's own needs in order to refrain from buying land that is not needed; identified the needs of local communities regarding their socio-economic situation; and respected the local culture and custom norms. Regarding the operations themselves, she asserted that: all stakeholders – i.e. all individuals affected by the project – should be consulted, including any marginalised groups; particular attention should be paid to women, as men and women use land differently; and communities should be consulted without intimidation, both before and throughout the operations. Commenting on the role of the state, she maintained that companies should seek governmental support to ensure the fair acquisition of land and to enable effective arbitration but that they should avoid using the state to secure community consent – as this consent should be free – while they should similarly avoid the use of the armed forces during land acquisition. Finally, regarding the relocation and rehabilitation of dispossessed communities, companies should not assume that a community being relocated would want to live together; they should ensure that the accommodation offered meets international standards; they should provide and maintain access to traditional resources on which the communities in question depended and provide compensation for the economic loss communities may have faced due to the relocation; and, fundamentally, they should ensure that legal assistance is provided to communities.

Providing an initial overview of issues regarding land and development since the 2009 food crisis, Oxfam's **Constantino Casasbuenas** maintained that an enormous amount of resources had gone into securing land which, consequently, had resulted in a massive displacement of communities worldwide. Although he noted that investment was fundamental for continued development, Mr Casasbuenas asserted that all measures for accountability were lacking, which had resulted in the non-compliance of essential legal rights, stating that it was impossible to demand peoples' rights if the system in which they are based was itself ineffective. Due to

<sup>13</sup> <http://www.publishwhatyoupay.org/resources/piping-profits-secret-world-oil-gas-and-mining-giants>

JULIAN MONTONI



In October 2011 Afro-descendant communities in Colombia took to the streets of Bogotá to demand their rights, following the displacement of over 70,000 Afro-Colombians the previous year



Oxfam's Constantino Casasbuenas (2nd left) calls adoption of international guidelines on land tenure

this, he proposed that what was now being experienced was 'development in reverse', whereby accelerated conflict was generated at the local, regional and national levels.

In order to address these problems, he stated that, with particular reference to the UK, the Foresight report<sup>14</sup> published in January 2011 provided a strong tool for the British government to promote development in other countries. On a more general level, he pointed to the utility of the UN Committee on World Food Security (CFS). He described how the CFS put civil society organisations at the core of the UN General Assembly, enabling a space for governments and civil society to be represented at the global level and in which the private sector could facilitate development. He argued that this positioning generated a forum in which the main problems associated with land and peoples' rights were able to be discussed, including the important issues of investment, trade, bilateral treaties, energy and food reserves. Specifically, Mr Casasbuenas drew the audience's attention to the CFS's draft guidelines on land tenure<sup>15</sup>. Once completed, he advocated for the international adoption of the Guidelines as they would create a powerful voice to defend the rights of marginalised peoples. He stressed that the adoption of the

Guidelines would establish a responsible tool in which all the stakeholders concerned with the development of land could be held accountable, particularly regarding the communities whose rights were put at risk.

Representing Protimos, **Fiona Darroch** placed the focus of the panel on the necessity for affected communities to have access to legal assistance, in the absence of which she asserted

that communities were subjected to a corporate onslaught which they were powerless to resist. She stated that the corporate attitude towards local communities was, however, fundamentally changed as soon as the community in question was supported by a legal presence.

Ms Darroch provided an overview of four main factors involved with the development operations of multinational corporations. Initially, she placed emphasis on a company's **corporate structure**, arguing that companies do not have a moral *raison d'être* but instead have a pragmatic duty to make a profit, recognising that it is only due to extensive advocacy and lobbying that an ethical requirement has been driven onto the corporate agenda. The second issue highlighted regarded **'the community'** concerned. She stated that deeper recognition needed to be put on the 'customary laws' of communities – which are increasingly gaining legal protection – and that these should be utilised in order to resolve issues and disputes. Thirdly, regarding **financial institutions**, she explained that there is now often a requirement within these bodies for 'free, prior and informed consent' (FPIC). She asserted that if FPIC is undertaken effectively, then it is 'free' because the community chose to give its consent; it is 'prior' as it was issued before the deal; it is 'informed' because the community had been given advice according to its own needs; and it is 'consent' if it was capable of being withheld, otherwise it was merely



Voting during a community consultation in the municipality of Cunén, Guatemala

<sup>14</sup> <http://www.bis.gov.uk/assets/bispartners/foresight/docs/food-and-farming/11-547-future-of-food-and-farming-summary.pdf>

<sup>15</sup> <http://www.fao.org/cfs/cfs-home/cfs-land-tenure/en>



consultation. Her fourth factor concerned the **consultation** process. She stated that the difference between 'broad community support' and 'FPIC' is huge and asserted that in order to mitigate this difference, a structure needed to be put in place to regulate the giving of consent. She regarded the issue of determining 'consent' to be the main problem facing companies.

In order to overcome this obstacle, she recommended the adoption of the freestanding and independent protocol known as the Green Light Programme<sup>16</sup>, which was being designed specifically for use by a community and a corporation. The protocol sought to address the many difficult methodological challenges by which a corporation could ensure that it had obtained a level of communication which could be regarded as true 'consent'. In examining the protocol, she explained that it would be composed of three sections: a section for 'monitoring and evaluation' after the actors have signed up to the protocol; a section for 'independent certification'; and a means for an 'alternative dispute resolution', coupled with an agreed forum for when there is a requirement for litigation.

The final panel was closed by **Tom Kennedy** from the Foreign and Commonwealth Office (FCO). Mr Kennedy provided a direct insight into the British government's perspective on business and human rights.

He explained that the British government's core strategic priority was prosperity for Britain – which necessarily involved British foreign policy and British investments – and that the government had put the issue of human rights at the core of its foreign policy decisions. With reference to the implementation of the UN Guiding Principles, he stated that the government aimed to help British businesses prosper while similarly maintaining very high human rights values, in order to show British businesses that the government expected the highest standard of behaviour from its companies, both at home and abroad. He said that the British government's human rights message to the corporate world was that responsible companies would help to raise standards of behaviour, together with a respect for transparency, good governance and the rule of law. Consequently, as companies were able to influence other companies, over the long term, the responsible behaviour expected of British



**Women of San Juan Sacatepéquez, Guatemala, observe the progress of construction works on a cement plant located on indigenous lands**

companies would ultimately raise the standards of the marketplace.

Mr Kennedy went on to outline the key actions taken by the British government concerning the issue of business and human rights. He asserted that the first objective of the government was to unite all governmental departments – regarding combining the prosperity agenda with the human rights agenda – in order to obtain a unified stance to send out to British companies. Secondly, he stated that the government was aiming to define policy relating to human rights and that an advisory group on human rights had already been established to sit biannually to assess the proposed policy. He maintained that, following the advisory group's endorsement, the next step would be to work out how best to communicate this policy to British companies,

an important component of which would be signposting companies to recognising the existing human rights guidelines and mechanisms. He further confirmed the support of the British government for the international acceptance of the UN Guiding Principles and stated the government's desire to be an active promoter of them. Lastly, he declared that the government aimed to provide logistical support to the newly formed UN Working Group which would take forward the UN Guiding Principles, but noted that the challenge would be to undertake this in a manner that would be understandable to the companies concerned, especially regarding medium and small companies.

<sup>16</sup> <http://www.protimos.org/what-we-do/ipsr-and-biodiversity/free-prior-informed-consent>

# A Dangerous Business:

## The human cost of advocating against environmental degradation and land rights violations

Conference Programme, 31 October 2011

**08.30 – 09.00**

Registration

**09.00 – 09.15**

Welcome Speech by **Michael Mansfield QC**

**09.15 – 09.45**

Keynote Address by **James Anaya**, UN Special Rapporteur on the Rights of Indigenous Peoples

**09.45 – 11.15**

### **Panel 1: Risks and protection needs of human rights defenders (HRDs) working on environmental degradation and land rights**

**Moderator: Jonathan Glennie (Overseas Development Institute)**

■ **Christine Jones** (Peace Brigades International): The role of international organisations and civil society in protecting and advocating for the rights of human rights defenders

■ **Wilfrido Mayrén Peláez** (Mexican human rights defender): Situation facing human rights defenders and indigenous communities in Oaxaca, Mexico

■ **Jorge Molano** (Colombian human rights lawyer): The silent beneficiaries: multinationals in Colombia

**11.15 – 11.30**

Coffee Break

**11.30 – 13.00**

### **Panel 2: Case studies on the impact of multinational enterprises on indigenous and traditional farming communities and their advocates**

**Moderator: Mauricio Lazala (Business and Human Rights Resource Centre)**

■ **Lucy Claridge** (Minority Rights Group): The Endorois case

■ **Jon Samuel** (Anglo American): Respecting human rights – a mining company's perspective

■ **Shanta Martin** (Leigh Day & Co): Monterrico Metals in Peru, and the ramifications of the LASPO Bill with regards remedy to victims

■ **Andy Whitmore** (London Mining Network): The impacts of UK extractive industry companies operating in Asia

**13.00 – 14.00**

Lunch Break

14.00 – 15.20

### **Panel 3: International mechanisms to protect communities and human rights defenders working on environmental degradation and land rights**

**Moderator: Ingrid Gubbay (Hausfeld and Co LLP)**

- **Peter Frankental** (Amnesty International): What are the challenges for the UK in implementing the UN Framework on Business and Human Rights and how can the framework engender greater respect and accountability for human rights by both companies and states
- **Tricia Feeney** (Rights and Accountability in Development): OECD Guidelines: an evaluation of the revisions made and gaps that remain.
- **Sheldon Leader** (Director, Essex Business & Human Rights Project): Transnational corporate law as a link in the chain of international protection
- **Andie Lambe** (Global Witness): A framework for advancing prosecutions of rogue businesses operating in the context of violent conflict

15.20 – 15.30

Coffee Break

15.30 – 17.00

### **Panel 4: Conclusions and ways forward**

**Moderator: Julian Burger (former Coordinator of the Indigenous Peoples and Minorities Unit, Office of the High Commissioner for Human Rights)**

- **Kelly Davina Scott** (Institute for Human Rights and Business): Good practice guidelines for business regarding land acquisition and use
- **Constantino Casasbuenas** (Oxfam): Mitigating the land grab following the 2009 food crisis
- **Fiona Darroch** (Protimos): The necessity for vulnerable communities to have access to legal assistance when confronted by multinational corporations
- **Tom Kennedy** (Foreign and Commonwealth Office): A government perspective on business and human rights

17.00 – 17.30

Keynote Speech by **Nick Mathison** (The Bureau of Investigative Journalism)

17.30 – 17.45

Final Summary by **James Anaya**,  
UN Special Rapporteur on the Rights of Indigenous Peoples

# Peace Brigades International

PBI is an international grassroots organisation whose volunteers provide protective accompaniment to local human rights defenders living in areas of conflict whose lives and work are threatened political violence. For 30 years, PBI has helped hundreds of communities and thousands of people in 11 countries by protecting human rights defenders who tirelessly work in pursuit of justice for the victims and survivors of violence, displacement and repression. We currently work in Nepal, Mexico, Colombia and Guatemala, and have exploratory missions in Kenya and Honduras. We are nonpartisan and do not interfere in the affairs of those we accompany because we believe that a lasting peace cannot be imposed from outside but must come from the desires of local people.

[www.peacebrigades.org.uk](http://www.peacebrigades.org.uk)



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