

Results and recommendations

Where do we stand after five years of efforts on addressing human rights violations in the coal supply chain from Cesar and how should the engagement be pursued?

Victims

- ◆ The victims have still not seen any form of remedy and still suffer from the results of the paramilitary violence in the mining region of Cesar.

Mining companies

- ◆ Despite international momentum towards peace and the numerous calls to change track, the mining companies have at best not cooperated constructively with their internal and external critics. Instead of showing their good will by taking constructive steps in line with the spirit of the peace process, Prodeco/Glencore has effectively refused to do so Drummond has been utterly unresponsive.

Energy companies

- ◆ The energy companies keep sourcing from both Drummond and Prodeco/Glencore.
- ◆ The OECD Guidelines and UNGPs indicate that companies have a due diligence responsibility to prevent or mitigate harmful impacts in their supply chains by engaging with their suppliers. According to the OECD Guidelines companies may have to **'disengage with a supplier either after failed attempts at mitigation or where the company deems mitigation not feasible or the risks unacceptable.'**
- ◆ The published progress report on chain responsibility for coal in the Netherlands does not state any progress. The emphasis is on processes and dialogue, which are not a goal in itself.
- ◆ The energy companies do however acknowledge the need to address the problems and state that **'when a supplier is not prepared to engage in dialogue, to cooperate for continuous improvement or when insufficient improvement has taken place after a certain amount of time, the bilateral relation will be stopped for a short or longer period.'**
- ◆ The criteria for 'insufficient improvement' or 'a certain amount of time' remain unclear.

Pursuing the road towards peace and reconciliation

- ◆ PAX agrees with the position of the energy companies that insufficient improvement after a certain amount of time should lead to disengagement.
- ◆ PAX is of the opinion that five years of efforts on addressing the unresolved problems and improving responsibility in the coal supply chain has been ample time to make progress. Given the lack of improvement PAX encourages the energy companies to translate their words (and those of the international standards they underwrite), into deeds. Leverage is too limited if it is not backed up by economic consequences.
- ◆ If the mining companies persist in their unconstructive stand and refuse to take significant steps towards a process of reconciliation, PAX expects the energy companies to publicly outline a clear disengagement strategy until significant improvement has materialized.

Sources available upon request.

The balance of five years of efforts against blood coal

Analyzing the Dutch process

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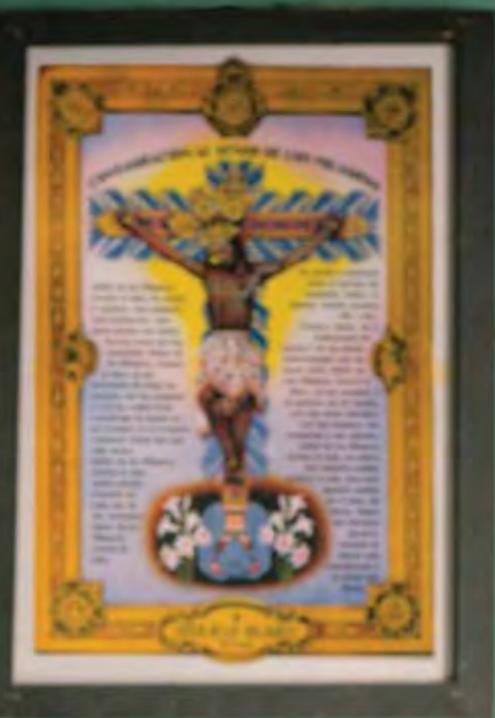
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Summary

Over the last five years, several European NGOs have focused on the mitigation of human rights violations in the coal mine region of Cesar (Colombia) and have strived for remedy for the thousands of victims of violence in that area.

Over the same time span, Dutch energy subsidiaries have taken numerous initiatives to address problems in their coal supply chain, especially the coal sourced from Colombia. Meanwhile, Minister Ploumen of Foreign Trade and Development Cooperation has set up a coal covenant and has committed support for a dialogue between victims of violence and mining companies. However, despite these constructive initiatives, there is little progress to report.

Against the background of a hopeful peace process it is time to take stock and draw some conclusions:



- ◆ Five years of engagement have so far not yielded concrete results on the ground. The victims of violence in the area of influence of the mining companies are still waiting for remedy.
- ◆ The mining companies have not taken any steps towards a reconciliation* process for the victims of violence surrounding their mines and have not cooperated constructively.
- ◆ The energy companies have stated that insufficient improvement in addressing problems in the supply chain must lead to (temporary) disengagement.
- ◆ PAX concludes that the energy companies so far have not given any clarity on the criteria for disengagement.

* For PAX reconciliation includes a) truth, b) acknowledgment, c) reparation and d) guarantees of non-repetition.

The story behind blood coal

Dutch energy utilities have bought and still continue to buy coal from Drummond and Prodeco/Glencore, two mining companies that have allegedly been implicated in gross human rights violations. What follows is in short the dark story behind this particular supply chain:

Mining and murder in a warzone

- ◆ In the mid-nineties Drummond and Prodeco/Glencore set up mining operations in the high-risk conflict region of Cesar, effectively a warzone. Both companies were confronted with security issues from the start, mainly connected with guerilla activities.
- ◆ In 1996 the first paramilitary group of the AUC started to operate in the center of Cesar and within two years the guerrillas were driven out. In 1999 a specific paramilitary front was established, called the Juan Andres Alvarez Front (JAA Front), operating in the vicinity of the mines and the railroad. This Front grew from 60 men to 600 troops at the moment of its demobilization in 2006.
- ◆ The paramilitaries waged systematic terror in the mining region, killing more than 3,100 people and displacing over 55,000 from their villages. The bodies of 300 persons are still missing. Community organizations and labor unions are severely repressed.

The testimonies against Drummond and Prodeco

- ◆ After the demobilization most paramilitary commanders of the JAA Front went through the 'Justice and Truth' system, making declarations under oath about their crimes. Similar testimonies were given in a US court case. In total 9 former paramilitary commanders testify, not only about the thousands of murders, assaults and rapes, but also about the financial structure of the JAA Front that was operating in the mining areas.
- ◆ Their testimonies form a detailed description of the strategic, logistic and financial collaboration between the paramilitaries and Prodeco/Glencore and Drummond. They allege that the JAA Front depended to a large extent on the financial support of Drummond and Prodeco/Glencore.
- ◆ Colombia has a high impunity rate. Despite this sad track-record a former contractor of Drummond was convicted for his involvement in the killing of two trade unionists in 2001. In 2015 it became clear that the public prosecutor is investigating the role of the Drummond management itself.
- ◆ Both mining companies strongly deny the allegations.

The victims still suffer

- ◆ The victims of violence in the mining region suffer to date. They still do not know the truth behind what happened to their beloved ones, the land has not been restored back to displaced



families, and the leaders continue to be intimidated by unknown groups when they try to claim their rights.

The companies profit

- ◆ The mining companies have clearly profited from the paramilitary operations in a number of ways:

- 1) The paramilitary dislocation of the guerrilla from the area around the mining concessions and railroad has guaranteed a constant supply and shipment of coal, which otherwise would not have been the case.
- 2) As a result of the displacement, followed by fraudulent transfers of land titles, the mining companies in recent years have been able to acquire a significant part of the dispossessed lands of displaced farming communities; lands they would otherwise not have been able to acquire without official resettlement procedures.
- 3) The systematic attacks and threats directed against leaders of civil society organizations in the region – which continue to this day – are silencing critical civil society voices and, consequently, the public articulation of criticism regarding the negative impact of the mining companies in Cesar.
- 4) The ongoing systematic harassment and intimidation of trade unions is furthermore severely weakening the collective bargaining power of the mining companies' employees.

- ◆ These are important factors why the mining companies could continue to grow and export coal from Cesar at competitive prices.
- ◆ European energy companies have been the foremost clients of Drummond and Prodeco/Glencore. For instance, in the years 2011 through 2013 the energy companies imported an average of 58% of the coal from Cesar, thus indirectly profiting from the human rights violations and supplying millions of European households with blood coal-fueled electricity.

For the full story see PAX's report *The Dark Side of Coal – paramilitary Violence in the Mining Region of Cesar, Colombia*.

Five years of efforts

Despite clear warning signs, i.e. thousands of killings in a conflict area, European energy companies started sourcing from Cesar anyway. The urgent focus is now on addressing the unresolved problems and improving responsibility in the coal supply chain. The following is a brief summary of the most important developments on this subject in the past five years:

2010

- ◆ Dutch investigative journalism program 'Netwerk' airs an item on the human rights violations in the Colombian coal supply chain and the connection to Dutch energy utilities, prompting public and political discussion about transparency of sourcing in the energy sector.
- ◆ Dutch politicians speak out in favor of improving transparency in the coal supply chain and against importing blood coal from Colombia. Halbe Zijlstra, current fraction leader of the governing Liberal Party: 'Transparency is possible. It's just a matter of political will.' Diederik Samsom, current fraction leader of the governing Labor Party: 'You just do not put any coal in your power plant that has been sourced in such a manner.'

2011

- ◆ The Dutch Coal Dialogue (DCD) is started, involving both the state, energy utilities and civil society organizations, with the aim of improving the coal supply chain.

2012

- ◆ Parallel to the DCD the energy sector sets up an industry-driven organization called Bettercoal, with the stated aim of 'advancing the continuous improvement of the ethical, social and environmental performance of coal mines by improving business practices ...'

2013

- ◆ The DCD ends. In the final report NGOs and trade unions state that they 'believe that the DCD failed to meet their main objectives: the improvement of circumstances of the workers and communities in mining areas, and transparency for individual end consumers on the origin of their electricity. ... [The NGOs] are concerned that three years of DCD discussions did not generate any improvements on the ground.'

2014

- ◆ 27 European NGOs and labor unions jointly publish a critical assessment of Bettercoal, stating amongst other things that it is not a multistakeholder initiative, does not guarantee individual energy companies' accountability, does not provide transparency in the coal chain and, last but not least, is sidestepping the responsibility of mining companies to remediate

victims of past human rights violations.

- ◆ In the summer the fears of civil society are confirmed when Bettercoal publishes a press release about the audit of two Drummond mines in Colombia. The CSOs conclude that given the non-transparent, non-multi-stakeholder set up and limited scope of the industry-controlled audit, 'the audit is a form of whitewashing and its conclusions cannot be trusted. Its sole purpose seems to be to reassure the Dutch government, energy producers and consumers, instead of addressing the real problems of the local communities, victim organizations and workers.'

- ◆ PAX publishes The Dark Side of Coal report, documenting the statements that link gross human rights violations to the coal supply sourced from Cesar.
- ◆ Minister of Economic Development Ploumen goes on a trade mission to Colombia with representatives from the energy sector, NGOs and trade unions. Drummond refuses PAX entry into its mine. Both Minister and energy companies acknowledge the victims and publically call upon the mining companies to pursue a road towards reconciliation.

2015

- ◆ As part of the 'coal covenant' between the Dutch government and the Dutch energy utilities and the subsequent action plan, both parties make efforts to contribute to addressing the victim's issue in the coal supply chain. The Dutch government aids the setting up of a UN research into possibilities for reconciliation in Cesar and the energy companies call upon the private mining sector 'to take part in a reconciliation dialogue, initiated by the Colombian government.'
- ◆ Drummond starts a case against human rights lawyers that had taken on the plight of the victims in Cesar, using laws that were designed to combat the international mafia and accusing NGOs of being part of a criminal conspiracy against Drummond.
- ◆ 49 international NGOs and trade unions express their concern over the hardline, antagonistic approach of Drummond and call upon it to change course and engage in 'a dialogue aimed at reconciliation.'
- ◆ Drummond and Prodeco together fire a total of 26 leaders of the regional section of the largest independent labor union Sintraminergica. The companies argue that they have been involved in an illegalized strike in 2012. This aggressive move hugely damages the already weakened independent labor movement.
- ◆ In the light of the peace process PAX writes open letters to Drummond and Prodeco/Glencore, asking them once more to alter their approach and take three steps to show their good will: a) to publicly support the peace process and the research the UN is conducting into the possibilities of reconciliation in Cesar, b) to have a private meeting with representatives of the victims and c) to publicly condemn the threatening of victims.
- ◆ Prodeco/Glencore replies, effectively stating that it will not take these steps. Drummond has so far not answered.