



CENTRAL AFRICAN REPUBLIC:

URGENT NEED FOR GOVERNMENT TO SUSPEND GOLD MINING IN BOZOUM

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CENTRAL AFRICAN REPUBLIC:

URGENT NEED FOR GOVERNMENT TO SUSPEND GOLD MINING IN BOZOOM

“The ecological disaster observed on site justifies the immediate unconditional cessation of these operations”

Parliamentary investigation report

The actions of four gold mining companies could be putting at risk the human rights of thousands of people in the Central African Republic (CAR). The government there must suspend their operations while investigating the impact they are having and provide necessary assistance to local inhabitants. This investigation should involve community and civil society representatives as well as independent technical experts.

Amnesty International has reviewed three official reports that were published in 2019 that raised serious concerns about the gold mining operations. Two of these were based on investigations by the government, and the third by a group of parliamentarians. These recommended either that the mining operations be suspended, as the parliamentary report urged, or that a series of measures be put in place in order to address the social and environmental impacts, such as the alleged use of mercury. Despite these recommendations the four gold mines continue to operate.

Amnesty International has also analysed recent satellite imagery, photographs and videos, which appear to show that the four gold mines, which are all owned by the same person, have caused profound changes to the Ouham River, near Bozoum in the north western prefecture of Ouham-Pendé. The photographs and videos were taken in April 2019 and January 2020 by a Catholic priest based in Bozoum, Father Aurelio Gazzera, who has been documenting the damage caused by the mining operations.

These appear to show that the river has changed its colour and is more turbid, which can indicate pollution.¹ The photos also show that sections of the river have been diverted for the purposes of mining, a practice that can have negative impacts when rivers flood.²

Satellite imagery obtained by Amnesty International also appears to reveal significant alterations to the natural course of the Ouham River. The images show a small subsection of the impacted area where the river has been redirected and ponds have been constructed on or very close to the river's edge.

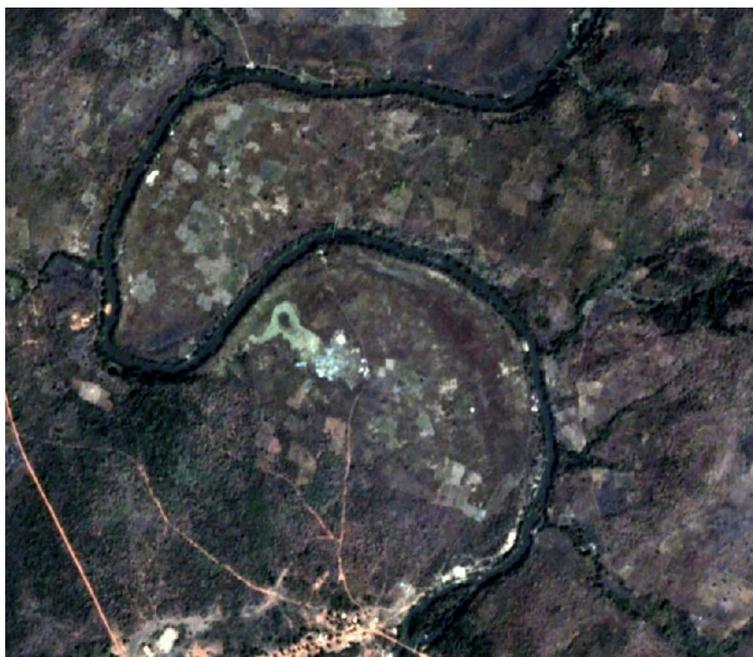
1. United States Geological Survey, *Turbidity and Water*, https://www.usgs.gov/special-topic/water-science-school/science/turbidity-and-water?qt-science_center_objects=0#qt-science_center_objects

2. Aboka Yaw Emmanuel, Cobbina Samuel Jerry, and Doke Adzo Dzigbodi, *Review of Environmental and Health Impacts of Mining in Ghana*, *Journal of Health & Pollution*, March 2018, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6221437/>

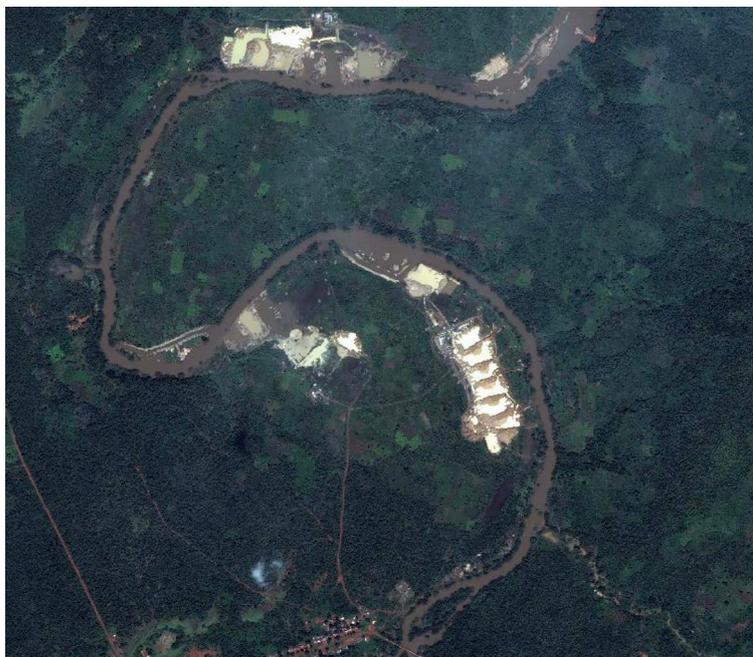
Comparing imagery from 2 January 2019 to imagery from 7 October 2019, significant environmental impacts related to mining are visible. The images show a small subsection of the impacted area where the river has been redirected and ponds constructed on or very close to the river's edge.

The town of Bozoum, which is 5km downstream from the closest of the mining operations has a population of 22,000. According to Fr Gazzera, several thousand rely upon the Ouham river for drinking water and for fishing and farming.

Considering these risks, Amnesty International considers that the authorities must take urgent action.



Ouham River, 2 January 2019
© 2020 Planetscope



Ouham River, 7 October 2019
© 2020 Planetscope

Compare these images online at: <https://public.flourish.studio/visualisation/1119225/>

METHODOLOGY

In preparing this public statement, Amnesty International reviewed the three aforementioned reports, press releases from the CAR government, media reports, communicated with Fr Gazzera, and wrote a letter to the President of the CAR outlining Amnesty International's concerns. Fr Gazzera provided Amnesty International with five videos and more than 60 photographs of the area. Amnesty International digitally verified these to ensure that the times and locations they were purportedly recorded at were accurate. Amnesty International also obtained satellite imagery.

OUHAM RIVER AND THE MINING TIMELINE

The photography taken from 2003 - 2020 show how the river has changed since mining began in 2018.

BEFORE MINING OPERATIONS BEGAN

2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017

AFTER

2018 2019 2020



The satellite image shows the Ouham River near Bozoum. The dots indicate where the river has changed. The black dots indicate photos that were taken before the mining operations commenced. The red dots indicate photos taken after the mining operations commenced. Compare the river before and after mining began at:

<https://public.flourish.studio/story/152416/>

The mines are owned by four related companies – Tian Xiang, Tian Run, Meng, and SMC Mao.³ Amnesty International has not been able to find any relevant publicly available information about these companies, such as their ownership structure, or whether they have ties to parent companies in China.⁴ According to a media interview in September 2019 she denied the use of mercury and pointed to supposed benefits for the local community provided by the companies.⁵

1. GOVERNMENT RESPONSE

Throughout 2019 the gold mining in Bozoum came under unprecedented scrutiny from various actors within the CAR government. Despite three official reports warning about their harmful actions, the Ministry of Mines and Geology has allowed the operations to continue.

FEBRUARY 2019: REPORT #1 – REGIONAL REPORT

On 13 February 2019, a group of regional government officials went to Bozoum to assess the damage allegedly caused by the activities of the four mines and to explore how permits were granted to them in the first place. The delegation reviewed the documents related to the companies and visited the four mining sites. Later in February, the delegation published a report.

Among its findings was that there was no consultation with the local population and no social and environmental impact study was carried out, as is required by Article 34 of the Environmental Code of the CAR.⁶ The report also found that no mechanism for compensation for land expropriated to build the mines was put in place. It noted that the pollution of the river has had a serious impact on fish stocks. Furthermore, according to the report, people dependent on the river as their source of drinking water could no longer drink the water.

3. The regional report, which was conducted in February 2019, confirmed that the companies obtained three-year operating licenses in December of 2018. The parliamentary delegation was unable to obtain the administrative documents from the companies. It also alleged that "...none of the permits granted to these companies have previously received the authorization of the National Assembly under art. 60 of the Central African Republic Constitution of March 30, 2016".

4. On 11 March 2020, Amnesty International called the representative of the company, to put forward our allegations and provide her with the opportunity to comment. The representative said that with respect to river pollution, there were some problems, but those had been resolved since the second half of last year. The felled trees, she claimed, were cut down within the parameters of the contract. She denied the use of mercury. She also pointed to the benefits to the local community, saying that she had built schools, and repaired roads and bridges. She also said she had bought clothes for local residents. She said that the issues were the result of some parliamentarians who were "out to cause her trouble".

5. Cyril, Bensimon. *Le Monde, Le combat du prêtre Aurelio Gazzera contre les mines d'or chinoises en Centrafrique*, 25 September 2019, https://www.lemonde.fr/afrique/article/2019/09/25/en-centrafrique-le-combat-d-un-pretre-italien-contre-les-mines-d-or-chinoises_6013048_3212.html

6. CODE DE L'ENVIRONNEMENT DE LA REPUBLIQUE CENTRAFRICAINE, 2007, <http://extwprlegs1.fao.org/docs/pdf/caf105925.pdf>

The report recommended that the companies take steps to provide safe drinking water to the communities, and that the central government conduct further investigations.

On 25 March 2019, the Ministry of Mines and Geology suspended the mining operations of the four companies for non-compliance with mining regulations, notably breaching regulations for environmental protection.⁷

However, two months later, **on 28 May 2019, the Ministry of Mines and Geology issued a press release stating that mining operations would resume** after a tripartite governmental investigation carried out by officials from the Ministry of the Environment, the Ministry of Water and Forests, and the Ministry of Mines and Geology found that: "...there really had been no elements that could cause environmental damage, contrary to allegations circulating and concerning water pollution in Bozoum".⁸

MAY- JUNE 2019: REPORT #2 – JOINT GOVERNMENTAL MISSION REPORT

At nearly the same time as operations were resuming, however, from 30 May to 2 June 2019, the CAR central government sent a team of experts to assess the situation, take water samples from the Ouham River near the mining sites, and "find appropriate solutions" to address the pollution.⁹ The delegation published its report of its findings on 25 July 2019 (hereinafter "**Joint Mission**" report).¹⁰

Besides noting extensive environmental damage (detailed below), including the detection of dangerous levels of mercury in the Ouham River, the report also recommended that the affected population be provided with drinking water (through the construction of wells) and that an environmental and social impact audit be carried out.

JUNE 2019: REPORT #3 – PARLIAMENTARY INVESTIGATION

A parliamentary investigation mission, which was carried out from 6 to 10 June 2019 was launched after numerous alleged complaints were received from Bozoum, and locations as far away as Bossangoa (120 km away from Bozoum) and Batangafo (230km from Bozoum), also on the Ouham River.¹¹ The report found numerous problems, including deforestation, pollution of the river affecting fishing, and the use of chemicals, including mercury. The report recommended that mining operations be immediately suspended, and that a multidisciplinary team of experts (coming from government, parliament, civil society and technical experts) further investigate.

On 27 July, the Ministry of Mines officially rejected allegations made by the parliamentary investigation, stating: "[T]he parliamentary investigation report on the deterioration of the environment in Bozoum is due to the political manipulation of opinion in the run-up to the elections." It dismissed

7. Ministère des Mines et de la Géologie, *Décision N 004/19/Mmg/Dircab/Dgm Portat Suspension Des Activités d'exploitation des Sociétés Tian Xiang, Tian Run, Meng Et Mao*. 25 March 2019, <http://mines.gouv.cf/sites/default/files/2019-03/DECISION%20DE%20SUSPENSION%20SOCIETES%20%20MINIERES%20DE%20BOZOUM.pdf>

8. The press release then defended the suspension in operations by saying that it was justified due to "some misunderstandings" at the time. Ministère des Mines et de la Géologie, *Reprise des Activités Minières dans l'Ouham-Pende*, 28 May 2019, <http://www.mines.gouv.cf/mission/96/reprise-des-activites-minieres-dans-louham-pende>

9. The experts came from the Ministry of Mines and Geology, the Ministry of Public Security, the Ministry of Environment and Sustainable Development, the Ministry of Water and Forests, the Ministry of Research and Technological Innovation, and the Laboratoire Hydrosociences Lavoisier at Bangui University.

10. Le Tsunami, *RAPPORT RELATIF A L'ANALYSE PHYSICO-CHIMIQUE DES EAUX DES SITES ATTRIBUÉS AUX SOCIÉTÉS CHINOISES (JIANIN, MENG, MAO, TIANG-XIANG) POUR EXPLOITATION MINIÈRE*, 25 July 2019, letsunami.net/wp-content/uploads/2019/07/bozoum-rapport-Cor-Pr.E.-JM.pdf

11. UN Security Council, Letter dated 6 December 2019 from the Panel of Experts on the Central African Republic extended pursuant to resolution 2454 (2019) addressed to the President of the Security Council, UN Doc. S/2019/930, Annex 8.5

the parliamentary inquiry's claim that mercury was being used in mining operations and insisted that the colour changes to the river was "nothing serious".¹²

In late December 2019, CAR parliamentarians ordered a halt to further mining by the Chinese companies due to concerns about environmental degradation. This order is still to be signed by the President of the Assembly and thus has not yet come into effect.¹³

Meanwhile, the companies' activities are ongoing.

2. ALLEGATIONS OF HUMAN RIGHTS ABUSES

Amnesty International has not been able to verify all of the findings that these government reports have uncovered. Nevertheless, the organisation's team of digital experts have obtained satellite imagery of the affected area and verified the photos and videos as authentic. Based on the ongoing issues identified by the satellite images and photos, Amnesty International believes there is sufficient reason to be concerned that many of the potential adverse human rights impacts identified by the government and parliament's own reports may still be ongoing.

Amnesty International is therefore calling on the presidency of the CAR to launch a new independent investigation into the situation in Bozoum, particularly with respect to the human rights issues listed below, as a matter of urgency.

As a state party to several international and regional human rights treaties, the CAR has an obligation to respect and protect human rights in the context of business activities through regulation, oversight, investigation, adjudication and punishment. In particular, when human rights abuses occur, the CAR has an obligation to respond by investigating the allegations, holding the perpetrators to account and ensuring effective remedy for the harm caused as part of its duty to protect human rights in the context of business activities.

ALLEGATION 1: RISKS TO HUMAN RIGHTS DUE TO DIVERTING AND EXCAVATING THE OUHAM RIVER

According to the parliamentary report, the Joint Mission report, and a report by Fr Gazzera,¹⁴ the mining companies in Bozoum have diverted the Ouham River in several places in order to excavate the riverbed. Fr Gazzera took photos and videos in April 2019 that show disruption to the river.¹⁵ Amnesty International's team of digital verification experts subsequently geolocated these photos to confirm the accuracy of their purported times and locations.

According to Fr Gazzera, the companies used bulldozers and power shovels to build earth-filled dams to deviate the flow of the river and to reach the dirt, sand and gravel of the riverbed, which is then sifted in

12. Meeting with the Minister for Mines, Bangui, 10 September 2019. Radio Ndeke Luka, "République centrafricaine : Le gouvernement contredit le rapport des députés sur la dégradation de l'environnement à Bozoum", 28 July 2019, <https://www.radiondekeluka.org/actualites/politique/34240-rca-le-gouvernement-contredit-le-rapport-des-deputes-sur-la-degradation-de-l-environnement-a-bozoum.html>

13. Radio Ngedke Luka, *L'Assemblée nationale exige la fin de l'exploitation aurifère par les entreprises chinoises à Bozoum selon Augustin Agou*, 30 December 2019, <https://www.radiondekeluka.org/actualites/politique/34997-l-assemblee-nationale-exige-la-fin-de-l-exploitation-aurifere-par-les-entreprises-chinoises-a-bozoum-selon-augustin-agou.html>

14. Chinese mining companies left a Central African river 'in ruins', *France 24*, 11 April 2019, <https://observers.france24.com/en/20190411-central-african-republic-river-chinese-mining-companies>

15. Chinese mining companies left a Central African river 'in ruins', *France 24*, 11 April 2019, <https://observers.france24.com/en/20190411-central-african-republic-river-chinese-mining-companies>

search of gold. This has resulted in hills and holes in the riverbed.¹⁶ The banks of the river, which used to be lined with trees and other plants, now look like small mountains of gravel with water-filled holes.^{17, 18} Likewise, the parliamentary investigation also observed that the river was deviated “streams damaged to facilitate the movement of the machines” and that “the bed of the river was erected as a gravel mountain”.¹⁹

Local residents told the parliamentary delegation that the mining activities had resulted in a “massive felling of trees”.²⁰ There is a risk that this felling could lead to flooding. Studies have shown that trees around rivers can help alleviate the negative effects of flooding.²¹ The Joint Mission report, also, warned that diversions of the river could lead to flooding during high water periods.²² There is a need to understand how the felling of trees along the Ouham River may contribute to more intense flooding in the rainy season, in order to prepare against a potentially foreseeable natural disaster that may put a range of people’s human rights at risk, including their rights to life and health. The UN Human Rights Committee’s General Comment No. 36 on the right to life states that the duty to protect the right to life implies that “[s]tates parties should also develop, when necessary, contingency plans and disaster management plans designed to increase preparedness and address natural and man-made disasters”.²³ Amnesty International is concerned that in the absence of a thorough social and environmental impact assessment and robust mitigation measures, the felling of trees exposes local communities to intense flooding which could put their lives and human rights at risk.

ALLEGATION 2: PRESENCE OF MERCURY PUTS THE RIGHT TO HEALTH AT RISK

Article 7.2 of the Minamata Convention on Mercury, which the Central African Republic has signed but not yet ratified,²⁴ states: “Each Party that has artisanal and small-scale gold mining and processing subject to this Article within its territory shall take steps to reduce, and where feasible eliminate, the use of mercury and mercury compounds in, and the emissions and release.”²⁵

The Joint Mission report took water samples at four of the mining sites on 31 May 2019.²⁶ The results of these showed that water at three of the four sites far exceed internationally recognized safe standards:

16. These small hills and holes of water are viewable in the photos and videos verified by Amnesty International.

17. Chinese mining companies left a Central African river 'in ruins', *France 24*, 11 April 2019, <https://observers.france24.com/en/20190411-central-african-republic-river-chinese-mining-companies>

18. According to Fr Gazzera, people have died in the abandoned water pits. Amnesty International has not been able to verify his claim and has no further information. Cyril, Bensimon. *Le Monde*, *Le combat du prêtre Aurelio Gazzera contre les mines d'or chinoises en Centrafrique*, 25 September 2019, https://www.lemonde.fr/afrique/article/2019/09/25/en-centrafrique-le-combat-d-un-pretre-italien-contre-les-mines-d-or-chinoises_6013048_3212.html

19. UN Security Council, Letter dated 6 December 2019 from the Panel of Experts on the Central African Republic extended pursuant to resolution 2454 (2019) addressed to the President of the Security Council, UN Doc. S/2019/930, Annex 8.5

20. UN Security Council, Letter dated 6 December 2019 from the Panel of Experts on the Central African Republic extended pursuant to resolution 2454 (2019) addressed to the President of the Security Council, UN Doc. S/2019/930, Annex 8.5

21. Science Daily, *Flooding alleviated by targeted tree planting and river restoration, scientists discover*, 10 March 2016, <https://www.sciencedaily.com/releases/2016/03/160310214139.htm>

22. Le Tsunami, *RAPPORT RELATIF A L'ANALYSE PHYSICO-CHIMIQUE DES EAUX DES SITES ATTRIBUÉS AUX SOCIÉTÉS CHINOISES (JIANIN, MENG, MAO, TIANG-XIANG) POUR EXPLOITATION MINIÈRE*, 25 July 2019, letsunami.net/wp-content/uploads/2019/07/bozoum-rapport-Cor-Pr.E.-JM.pdf

23. Human Rights Council, 30 October 2018, General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

24. UN Environment Program, *Status of Signature, and ratification, acceptance, approval or accession*, <http://www.mercuryconvention.org/Countries/Parties/tabid/3428/language/en-US/Default.aspx>

25. Minamata Convention on Mercury: Text and Annexes, 17 September 2017, <http://www.mercuryconvention.org/Portals/11/documents/Booklets/COP1%20version/Minamata-Convention-booklet-eng-full.pdf>

26. The samples were analyzed by the Laboratoire d'Hydrosciences Lavoisier, a UNESCO Chair in Water Management.

- 0 µg/l at the site corresponding to Tiang-Xiang²⁷ company
- 25.5 µg/l at the site corresponding to Meng
- 26 µg/l at the site corresponding to Jianin²⁸
- 4.2 µg/l at the site corresponding to Mao

The concentrations of three of these samples far exceed internationally recognized safe standards. The WHO Guidelines for Drinking-water Quality suggest that governments achieve mercury levels of 1 µg/l or below through water treatment,²⁹ Exposure to higher levels carries grave health risks, particularly for certain populations, including children. The World Health Organization (WHO) considers mercury to be one of the top 10 chemicals or groups of chemicals of public concern.³⁰

The government must urgently treat the water sources in the area to ensure that people are not exposed to the health risk associated with higher concentrations of mercury. Furthermore, any investigation into the human rights concerns in the region should investigate the cause of this mercury contamination.³¹

ALLEGATION 3: COMMUNITY'S CONTINUED RELIANCE ON RIVER AS WATER SOURCE WITH TURBIDITY AND POLLUTION MAY IMPACT THEIR LIVELIHOODS AND THE RIGHT TO WATER

RIGHT TO WATER

The Committee on Economic, Social and Cultural Rights states that “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.”³²

The Joint Mission Report stated that the mining operations had “greatly altered the turbidity [haziness] of the water downstream”. While turbidity in rivers can be caused by naturally occurring elements (such as soil or clay), it can also indicate that water has become polluted, with significant implications for the environment and the people who depend on the ecosystem for their livelihood.³³

27. It is presumed that “Tiang Xiang” spelling refers to “Tian Xiang” and is a typographical error.

28. The Joint Mission report lists this company as Jianan. This is inconsistent with other documents, such as the suspension order or the parliamentary report, in terms of the names of the fourth company.

29. World Health Organization. “Guidelines for Drinking-water Quality: Fourth Edition Incorporating the First Addendum”, 2017, <https://apps.who.int/iris/bitstream/handle/10665/254637/9789241549950-eng.pdf;jsessionid=F763906FAB367F7E3F0321B28A11CBDA?sequence=1>

30. Mercury is toxic to human health and poses a particular threat to the development of the child in utero and early in life. See: World Health Organization, Mercury and health, 2017, <https://www.who.int/news-room/fact-sheets/detail/mercury-and-health>. The Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste has warned of the dangers of mercury with respect to vulnerable populations. Human Rights Council, 2 July 2012, “Report of the Special Rapporteur on the human rights obligations related to environmentally sound management and disposal of hazardous substances and waste, Calin Georgescu”, A/HRC/21/48, https://ap.ohchr.org/documents/alldocs.aspx?doc_id=20560

31. A representative of the mining companies who spoke to the parliamentary inquiry delegation denied that mercury was used in the company’s mining operations. The CEO of the four companies also told the French newspaper Le Monde that mercury was not being used at the mining sites. Cyril Bensimon. Le Monde, 25 September 2019, “Le combat du prêtre Aurelio Gazzera contre les mines d’or chinoises en Centrafrique”, https://www.lemonde.fr/afrique/article/2019/09/25/en-centrafrique-le-combat-d-un-pretre-italien-contre-les-mines-d-or-chinoises_6013048_3212.html

32. Human Rights Council, 20 January 2003, General Comment No. 15 (2002) the Right to Water (arts. 11 and 12 of the International Covenant on Economic, Social, and Cultural Rights), para 2

33. WHO, “WATER QUALITY AND HEALTH - REVIEW OF TURBIDITY: Information for regulators and water suppliers”, 2017, https://www.who.int/water_sanitation_health/publications/turbidity-information-200217.pdf

The Joint Mission report also noted that spillage of mechanical waste and oil had added to the river pollution.³⁴

The parliamentary investigation conducted four meetings with local residents in Bozoum and Bossangoa, who reported that the water in the Ouham River is polluted as a result of the mining activities.³⁵ People living in the village of Boyélé told Fr Gazzera they now have to travel 10 km to the town of Bozoum to get large containers of water and they had developed skin rashes after using the water.³⁶ According to Fr Gazzera, although some people are able to access water through wells, many local people continue to rely on the Ouham River as a source of water for drinking and washing.³⁷ In the water samples taken by the Joint Report, high levels of mercury and high levels of turbidity were recorded at three of the four sites.³⁸

The turbidity, pollution, and other changes to the Ouham River may be having an impact on the local residents' livelihood. Residents have told Gazzera that fish in the area are dying in the river.³⁹ The parliamentary investigation described an "ecological disaster" at the mining areas with imminent danger to protected species and aquatic resources, with mining activities having caused pollution that affected fishing. River water was polluted at the three mining sites the parliamentary delegation visited.⁴⁰ The depletion of fish in the river may affect local people's right to food and the livelihoods of fisherfolk.⁴¹

3. CONCLUSION

Satellite images, photos, videos obtained Amnesty International clearly show that the Ouham River has been affected in the areas surrounding the mine. These changes, when taken together with the three governmental reports and Fr. Gazzera's information, raise concerns that the human rights of the local people could be at risk if robust mitigation measures are not put in place.

The Ministry of Mines and Geology dismissed the findings of the parliamentary investigation on the grounds that they were a politically motivated attempt to shift public opinion. This dismissal is unsatisfactory, however, since the impacts, which affect thousands of people, have been documented from multiple sources.

Most worryingly, these problems are ongoing. There is thus an urgent need to improve the situation.

Under international human rights law and standards, the CAR has an obligation to respect and protect the full range of human rights. In particular, the CAR must take steps to prevent risks to people's health

34. UN Doc. S/2019/930, Annex 8.5.

35. UN Doc. S/2019/930, Annex 8.5

36. Chinese mining companies left a Central African river 'in ruins', France 24, 11 April 2019, <https://observers.france24.com/en/20190411-central-african-republic-river-chinese-mining-companies>

37. Gazzera testimony to Amnesty International

38. Le Tsunami, *RAPPORT RELATIF A L'ANALYSE PHYSICO-CHIMIQUE DES EAUX DES SITES ATTRIBUÉS AUX SOCIÉTÉS CHINOISES (JIANIN, MENG, MAO, TIANG-XIANG) POUR EXPLOITATION MINIÈRE*, 25 July 2019, letsunami.net/wp-content/uploads/2019/07/bozoum-rapport-Cor-Pr.E.-JM.pdf

39. The photos and videos that Amnesty International has verified show dramatic changes to the river.

40. UN Doc. S/2019/930, Annex 8.5.

41. The Special Rapporteur on the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment has noted that environmental degradation can have a severe impact on fisherfolk who rely on the natural environment for a living. Human Rights Council. "Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment", A/HRC/34/49, 17 January 2017, <https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/Annualreports.aspx>

from unsafe and toxic water conditions and ensure that people affected by exposure to these toxic substances have access to the health care they need. A failure to do so may constitute a violation of the rights to water and health.

Companies also have a responsibility to respect human rights wherever they operate in the world. The scope and meaning of this responsibility has been clarified in the UN Guiding Principles on Business and Human Rights (UN Guiding Principles).

The responsibility to respect human rights requires that companies: “Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur” In order to meet this responsibility, companies should put in place: “a human rights due diligence process to identify, prevent, mitigate and account for how they have addressed their impacts on human rights” and “processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.”⁴²

In 2015, an official Chinese state body, the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCC MC) published guidelines for Chinese companies to follow in order to source minerals responsibly.⁴³ This was based on principles established by the UN Guiding Principles and was in line with similar guidance issued by the OECD.⁴⁴ The Guidelines aim to provide “...guidance to all Chinese companies which are extracting and/or are using mineral resources and their related products and are engaged at any point in the supply chain of minerals to identify, prevent and mitigate their risks of contributing to conflict, serious human rights abuses and risks of serious misconduct, as well as to observe the UN Guiding Principles on Business and Human Rights during the entire life-cycle of the mining project”. In terms of scope, the Guidelines note that the term “Chinese company” means “...legal (for-profit) entities which are registered in China or overseas companies (including subsidiaries) which are wholly- or majority-owned or controlled by a Chinese entity or individual.”⁴⁵

The CCCMC guidelines note that, “the primary responsibility of companies is to ensure that they do not intentionally or unintentionally cause, contribute to, or benefit from human rights abuses.”⁴⁶ The guidelines specifically warned of risks linked to gold mining⁴⁷ as well as the environmental impact of mercury, which it lists as a “Type 2” risk, indicating “(ri)isks associated with serious misconduct in environmental, social and ethical issues”.⁴⁸

The companies operating the four gold mines must therefore take steps to identify whether they are causing or contributing to human rights abuses, prevent further abuse and mitigate and account for how they have addressed these abuses. This should include remediation for any affected individuals and communities.

42. OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework* (UN Doc. HR/PUB/11/04), 2011, Principles 13 and 15

43. CCCMC, *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, 2015, <https://mneguidelines.oecd.org/chinese-due-diligence-guidelines-for-responsible-mineral-supply-chains.htm>

44. OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, 3d edition, 2016, www.oecd.org/daf/inv/mne/OECD-Due-Diligence-Guidance-Minerals-Edition3.pdf

45. CCCMC, *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, 2015, p. 6

46. CCCMC, *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, 2015, p. 6

47. CCCMC, *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, 2015, p. 10

48. CCCMC, *Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains*, 2015, p. 20

4. RECOMMENDATIONS

Amnesty International therefore urges the executive branch of government of the CAR to take immediate action to:

- Suspend operations and launch an investigation to determine whether any laws (human rights, environmental, health and safety, administrative, mining, criminal) have been broken and whether human life and health are at risk as a consequence of the activities of the aforementioned mines. To ensure that the investigation is independent and impartial, the investigating team should be multi-disciplinary in nature, composed of members civil society and community representatives, scientists, technical experts, and government officials.
- If it is determined that there is imminent or ongoing risk to life and health of the communities in the mining areas, take urgent action to protect their lives and health, which may include providing safe drinking water, ensuring access to health care, and fencing off the dangerous sections of the river banks.
- If it is found that the mining operations have caused or contributed to human rights violations, take urgent steps to provide access to effective remedy for the affected people including restitution, just satisfaction and guarantees of non-repetition
- Where it is found that the mines were operating in the absence of thorough environmental and social impact assessments, ensure that these are done as a matter of urgency and robust mitigating measures against human rights and other risks are put in place.
- Consider ratifying the Minamata Convention on Mercury and developing a National Action Plan (NAP) to reduce, and where possible, eliminate the use of mercury in artisanal and small-scale gold mining.⁴⁹

To the government of the People's Republic of China, if it found in subsequent investigations that there is a link between these four mining companies Mao, Meng, Tian Run, and Tian Xiang have any ties to parent companies in China, the government should:

- Assist the government of the CAR in ensuring that Chinese businesses are not involved with human rights abuses in the CAR. To this end, the government could offer assistance in conducting any further investigations.
- More broadly, and in line with its duty to protect human rights, China should amend Article 5, Paragraph 1 of the Company Law of the People's Republic of China to add "respect human rights throughout all business operations" in relation to the statutory obligations for Chinese companies.

With respect to the four mining companies, Mao, Meng, Tian Run, and Tian Xiang, it is important to note that companies have a responsibility to respect human rights wherever they operate in the world. As the UN Guiding Principles make clear, this responsibility exists independently of a state's ability or willingness to fulfil its own human rights obligations.⁵⁰

49. See: United Nations Environment Program (UNEP), *GUIDANCE DOCUMENT Developing a National Action Plan to Reduce and, Where Feasible, Eliminate Mercury Use in Artisanal and Small-Scale Gold Mining*, 2018, https://wedocs.unep.org/bitstream/handle/20.500.11822/25473/NAP_guidance2018_EN.pdf?sequence=1&isAllowed=y

50. UN Guiding Principles on Business and Human Rights, Principle 11 and commentary

Amnesty International urges Mao, Meng, Tian Run, and Tian Xiang to:

- Suspend operations while the government launches a new investigation and provide full co-operation to this investigation.
- Publish all information relating to the design of the mines and any environmental and social impact assessments that they have conducted, as well as any water testing or other relevant activities.
- Adhere to business and human rights guidance provided by the China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters (CCCIMC), particularly its Guidelines for Social Responsibility in Outbound Mining Investments and the Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains.
- Take remedial action if human rights abuses have occurred at any point.



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