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German Institute for Human Rights - Business and Human Rights Work

This document highlights achievements in the Transnational Collaboration between the German and Colombian National Human Rights Institutions.

COAL SUPPLY CHAIN

Colombia and Germany each represent one end of a coal supply chain. The German energy sector imports large amounts of coal from Colombia, while Colombia's population is exposed to various negative human rights impacts through regional mining activities.

To improve this situation, the Colombian Defensoría del Pueblo (Defensoría) and the German Institute for Human Rights (Deutsches Institut für Menschenrechte, DIMR), the National Human Rights Institutions (NHRIs) of Colombia and Germany, respectively, started cooperating in October 2015 to address business-related human rights issues arising from coal mining in Colombia. Both NHRIs wanted to improve their institutional capacity and strategies for a more effective implementation of the UN Guiding Principles on Business and Human Rights (UNGPs).

Over the last two decades, coal has gained considerable significance for Colombia, and now comprises around 13% of the country's exports. The largest coal mines are in the departments of Cesar and La Guajira and are entirely owned by foreign companies, the

largest of which are Drummond, Glencore/Prodeco, Murray and Caribbean Resources. Growth in Colombia's coal production came at the cost of negative impacts on the environment and human rights. Residents of the mining regions have suffered greatly from the destruction of livelihoods, resettlements and labour rights abuses.

Nevertheless, vast amounts of Colombian coal continues to be imported by Germany's energy groups – RWE, Vattenfall Deutschland, E.ON and EnBW, to name but a few. With growing coal demand and decreasing coal production in Germany, Colombia has become the second most important coal supplier to Germany's energy sector. This transnational background translates into shared responsibilities on both ends of the coal supply chain for the human rights issues in Colombia's mining sector.

In cooperation, the Defensoría and the DIMR implemented a set of measures that promoted exchange, common research and capacity building. Both NHRIs have the mandate to advise their respective governments and used this role to link the human rights issues in Colombia's mining sector to decision-making in Germany. To

realise this potential, the Defensoría approached companies operating in Cesar and La Guajira, as well as local civil society organisations and affected communities. The DIMR, for its part, approached German enterprises, civil society and its government.

As an independent actor, the DIMR was able to facilitate dialogue between the parties and soften hardened positions. The project is an example of good practice and can be replicated by other NHRIs in other sectors and scaled up, particularly if the supply chain is straightforward, as is the case in parts of the extractive sector. This project demonstrates that transnational NHRI cooperation can make a valuable contribution towards closing existing gaps in human rights protection across differing business and country contexts.

ACHIEVEMENTS

Dialogue: A multi-stakeholder conference in Bogotá in March 2016 initiated a dialogue among different stakeholders. The conference brought together representatives from mining companies, business associations, NGOs, communities, government officials, including the Presidential Office for Human Rights (Consejería), responsible for the National Action Plan on Business and Human Rights, and several of the Defensoría's regional offices. It contributed to a shared understanding of the human rights issues in Colombia's mining regions and increased awareness of their transnational dimension. Secondly, all stakeholders recognised the significance of the role that NHRIs can play as a convenors of multi-stakeholder platforms and in the prevention of business-related human rights violations.



Photo: Scott Wallace / World Bank Collection. Portrait of a coal miner in Colombia.

Exchange: The NHRIs of Colombia, Guatemala, Paraguay, Peru, Mexico, Ecuador and Bolivia met in Bogotá for a conference on human rights protection and risk assessment in the extractive sector. The conference was organised by the DIMR in cooperation with the Defensoría and the Colombian research institution CREER (Centro Regional de Empresas y Emprendimientos Responsables). This exchange among NHRIs in the Americas on common human rights issues in the extractive industries identified areas for joint action. NHRIs also acknowledged the key role they can play in facilitating dialogue between communities and corporations

Training: Engaging with business and human rights requires capacities relating to the UNGPs and monitoring. The Defensoría committed itself to train staff at its regional offices, and 35 of 36 regional bureaus took part in workshops conducted by the DIMR and CREER (El Centro Regional de Empresas y Emprendimientos Responsables).

Research: Field visits and qualitative interviews with stakeholders in the coal sector in the departments of Cesar and La Guajira were jointly conducted by the Defensoría and

the DIMR, with the support of CREER, to gather first-hand information from all stakeholders and enhance knowledge of existing human rights challenges. The interviews showed that key issues included: judicial and non-judicial grievance mechanisms in the coal sector, points of conflict between local communities and companies and their perceived root causes, existence and effectiveness of communication channels, preconditions for interaction based on trust among all stakeholders and the role of state entities and participation and consultation structures as perceived by local communities.

Furthermore, the DIMR has issued three publications regarding this transnational cooperation: (i) Calculated risk: economic versus human rights requirements of corporate risk assessments¹; (ii) Closing protection gaps in the human rights and business context - What transnational cooperation between the National Human Rights Institutions of Germany and Colombia has achieved²; and (iii) Analysis: Closing gaps in protection. Transnational cooperation on human rights: The case of the extractive sector in Colombia³.

IMPACT

Through strategic and coordinated efforts, the DIMR and the Defensoría both increased their institutional capacities and improved their

knowledge in the context of business and human rights. The Defensoría has gained a comprehensive overview of the perspectives and needs of all relevant stakeholders. The interviews and field visit revealed uncertainties on the responsibilities of different stakeholders and an urgent need to strengthen state monitoring, enforcement and grievance mechanisms at the regional level. As a result, the Defensoría has begun to develop an institutional action plan for business-related human rights abuses.

The DIMR, in turn, has used the results of the cooperation to develop two sets of recommendations. One set was presented to the German government and is addressed to German development policymakers. The other set was discussed with German civil society and representatives of businesses in the energy sector. The latter signalled that they are prepared to improve their due diligence processes by integrating more external human rights expertise, for example.



Photo: Nicolas Villaume. Cerrejón's open-pit coal mine.

¹ German Institute for Human Rights (2017). Calculated risk: economic versus human rights requirements of corporate risk assessments. <https://www.institut-fuer-menschenrechte.de/publikationen/show/analysis-calculated-risk-3/>

² German Institute for Human Rights (2017). Closing protection gaps in the human rights and business context - What transnational cooperation between the National Human Rights Institutions of Germany and Colombia has achieved. <https://www.institut-fuer-menschenrechte.de/publikationen/show/information-closing-protection-gaps-in-the-human-rights-and-business-context/>

³ German Institute for Human Rights (2017). Closing gaps in protection. Transnational cooperation on human rights: The case of the extractive sector in Colombia. <https://www.institut-fuer-menschenrechte.de/publikationen/show/analysis-closing-gaps-in-protection/>

The DIMR also facilitated a meeting between German energy groups and the Defensoría in Colombia. This resulted in recognition by the companies of the fact that NHRIs can be a key agent in assessing and addressing human rights risks. Both NHRIs have agreed to intensify their cooperation to further increase their institutional capacities. A transnational monitoring mechanism, a coordinated scheme to evaluate human rights impacts, and the issuance of joint statements on human rights issues were highlighted as areas for future cooperation.

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