



Lines in the Sand

Lessons in Corporate Accountability from the
Barmer to Salaya Pipeline

December 2010

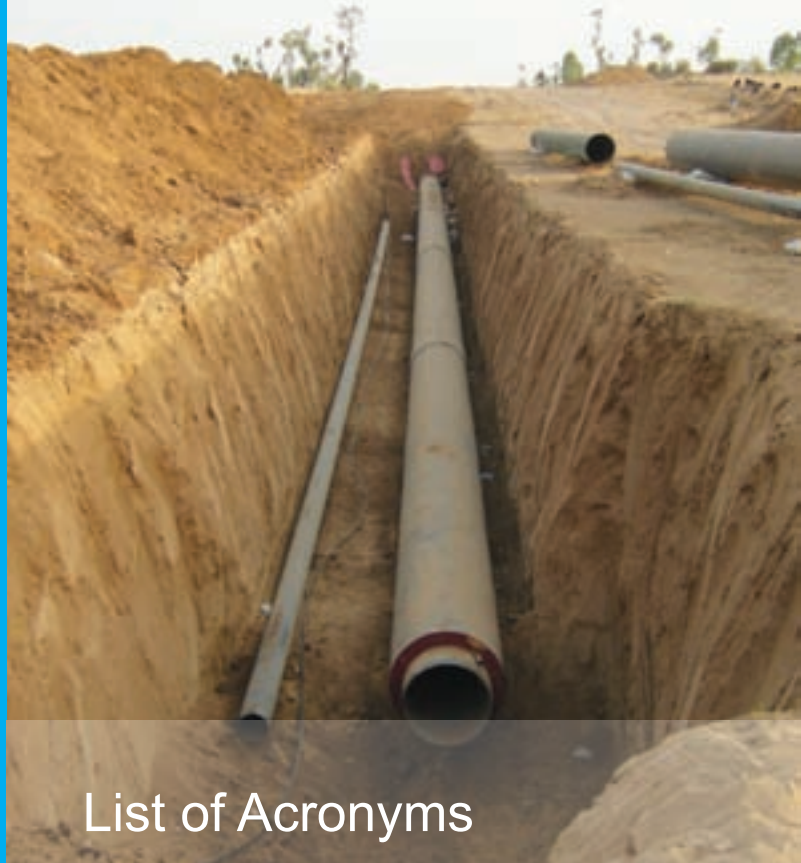
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List of Acronyms

CORE	Corporate Responsibility Coalition
CSR	Corporate Social Responsibility
DFID	Department for International Development
HRIA	Human Rights Impact Assessment
IFC	International Finance Corporation
ILO	International Labour Organisation
JCHR	Joint Committee on Human Rights
NCP	National Contact Point
NGO	Non Governmental Organisation
NHRI	National Human Rights Institution
OECD	Organisation for Economic Cooperation and Development
ONGC	Oil and Natural Gas Company
SIA	Social Impact Assessment
UDHR	Universal Declaration on Human Rights
UN	United Nations

Note – The names of individuals featured in case studies have been changed.

Introduction

The relationship between transnational corporations, international poverty and human rights has long been a source of debate and tension which have traditionally revolved around two approaches – the voluntary and the regulatory. Since the publication of the UN Special Representative on Business and Human Rights' 'Respect Protect and Remedy' report of 2008, the debate has moved on. Most people now agree that a range of responses is needed.

A key response has been Corporate Social Responsibility (CSR) initiatives. They comprise a broad range of generally voluntary programmes and policies where companies 'do something' (it is difficult to be more specific) about the social and environmental impacts of their business. Yet despite the rise in CSR initiatives, the activities of many companies continue to have a negative impact on local communities, especially those living in poverty in developing countries.

This report looks at Scotland's largest oil company, Cairn Energy, and the impact of its work in north-west India. Cairn Energy invests in CSR and takes it seriously. Its CSR approach is broad and encompasses not only projects funded to benefit local communities but also a substantial number of social & environmental policies that are applied to its planning, risk management and operating practices. Furthermore it has adopted a 'rights-aware approach' to parts of its work.

Is such an approach, cited by some as an example of good practice within the existing regulatory and voluntary frameworks, sufficient to ensure a fair and reasonable outcome for poor and vulnerable communities affected by Cairn Energy's business activities? The aim of this report is to find out.

Box 1: Our research

Along with local Indian partner organisations, SCIAF visited five communities in two regions affected by the activities of Cairn India (Cairn Energy's Indian subsidiary) in 2009 and 2010, gathering evidence from individual interviews and community meetings drawn from approximately 50-80 households in those areas. This report details what we were told by these local communities, analyses the issues raised by the evidence we found, and reaches a number of conclusions & recommendations.

We also met Cairn India CSR staff in their offices in Rajasthan and in Gurgaon, near Delhi, and have visited Cairn Energy at its headquarters in Edinburgh.

We hope this report contributes to a debate that will improve people's lives by reducing the negative impact of transnational and multinational companies on vulnerable communities, and will form the basis of a constructive dialogue with Cairn Energy as to how the impact of its activities could further be mitigated. We hope to use the report as part of a dialogue with the UK government on the appropriate framework for corporate accountability and to support our partners in India in their engagement with Indian decision-makers. Finally, we hope it contributes to the wider ongoing international discussion on business & human rights.

Women we met told us they had to walk further to collect water since the arrival of the pipeline



Section 1: Cairn Energy in India

India is fast becoming one of the world's biggest consumers of oil and natural gas. Its vast population and rapid rates of economic growth over the past decade have combined to make it the fifth largest consumer of oil in the world¹. In 2007, India consumed 2.8 million barrels of oil a day², and this looks likely to rise, despite the recent economic downturn.

Box 2: Marginalisation of the masses

Not everyone in India has benefited from the consistently high rates of economic growth that have fuelled India's rising demand for oil. 868 million Indians – 76% of the population – still live on less than \$2 a day, making India home to over a third of the world's poor³. Despite India's rapid economic growth, it is unlikely to meet the headline Millennium Development Goal of halving extreme poverty and hunger by 2015. Today, 46% of children in India are underweight⁴; 27.5% of Indians do not have enough to eat⁵; and only 33% have access to improved sanitation⁶.

India's growing demand for oil continues to vastly outstrip its domestic supply, leaving it heavily dependent on imports. Consequently, the discovery of massive oil reserves in the Thar Desert in Western Rajasthan in 2004 by the Scottish oil and gas company, Cairn Energy, sparked great excitement. It is expected that once production rates have reached their peak, Cairn Energy's discovery will account for over a fifth of India's domestic oil production⁷.

Cairn Energy is Scotland's largest oil and gas exploration and production company and a member of the FTSE 100. Its interests in India are run by Cairn India. Despite being a separate company, floated on the National Stock Exchange of India and the Bombay Stock Exchange in 2007, Cairn India remains a subsidiary of Cairn Energy and maintains strong links with its parent company. Cairn Energy holds a 62.37%⁸ stake in Cairn India, and Cairn Energy's Chief Executive, Sir Bill Gammell, is the Chairman of Cairn India.

It is worth noting that at the time of publication (December 2010) Cairn Energy has announced a potential sale of up to 51% of the share capital of Cairn India to Vedanta Resources Plc, a transaction that may be completed over the coming months⁹.

Cairn India's key assets are the six oil and gas fields it manages in Barmer in Western Rajasthan that collectively make up Cairn India's Rajasthan Upstream Development. The Rajasthan Upstream Development covers over 3000km², an area roughly the size of Greater London and New Delhi combined¹⁰. As well as building the infrastructure needed to extract the vast amounts of oil that lie beneath the desert sands in Rajasthan, Cairn India has constructed a 600km long oil pipeline to evacuate the unrefined oil from Barmer in Rajasthan to Salaya on the Gujarat coast, where it will be processed. The first oil from Rajasthan was drawn in August 2009, and was transported to the coast by truck. The pipeline means Cairn India can evacuate the oil much more efficiently and in greater quantities.

Both Cairn India's Rajasthan Upstream Development and its Barmer to Salaya Pipeline are of great economic importance to India. The Rajasthan Upstream Development represents the single largest discovery of oil made by any company in India since 1985 and will result in direct financial benefits to the federal Government of India, which holds a 30% stake in the project through the state-owned Oil and Natural Gas Company (ONGC). Other economic benefits and development opportunities include the creation of local employment and wide scale investment in infrastructure in a previously underdeveloped area of Rajasthan.

These benefits are substantial and important, but they come with associated costs. The following section details how the construction of the Barmer to Salaya pipeline has had and continues to have a negative impact on some communities in Rajasthan and Gujarat. SCIAF visited five villages on the route of the pipeline, some both before and after the main construction work. This relatively small number of villages means that it cannot, of course, be assumed that similar problems existed along the length of the pipeline. However in undertaking our research we found that participants often raised similar, consistent concerns.



A number of families' access to water had been affected by the construction



Section 2. The Barmer to Salaya Pipeline

The Barmer to Salaya pipeline covers 600km, almost the distance between Edinburgh and London, and passes through 218 villages¹¹ and 2500 communities. In 2009 and 2010 we visited five communities living along the pipeline that have been, and continue to be, affected by its construction.

2.1 Impact on communities

Most of the negative impacts we witnessed stemmed from the acquisition of families' land by Cairn India and its partner, the state-owned ONGC, for the construction of the pipeline. Cairn India and ONGC acquired over 1800 hectares of land along the length of the pipeline, mostly on a temporary basis. However, even the temporary acquisition of land has had severe impacts on many of the communities we met in Rajasthan and Gujarat.

These communities are not alone. The acquisition of land for industrial development has had negative impacts on many impoverished communities across India. The legislation that governs land acquisition in India, and the Indian legal system, are often perceived as weak, especially on the protection of economic and social rights of those losing land. They are often seen as biased in favour of the Government and companies wishing to acquire land¹². **Consequently, a company acquiring land in India for industrial development may well comply with legal requirements, but still have a negative impact on local communities.**

Cairn India's approach to land acquisition

In addition to India's legal requirements on land acquisition, Cairn India has adopted international CSR standards. As a recipient of funds from the International Finance Corporation (IFC), the private sector arm of the World Bank Group, Cairn India is expected to meet the requirements outlined in the IFC's Social and Environmental Performance Standards.

Cairn India's land acquisition and compensation policy aims to "minimise to the extent possible, the impact of land acquisition upon the project affected people and households, and also to mitigate any impacts thereof upon the local communities"¹³. Cairn India has sought to address these impacts in two ways: by re-routing the pipeline away from people's homes and through monetary compensation.

The vast majority of land acquired for the pipeline is agricultural land. Cairn India and ONGC will typically acquire a strip of land 30 metres wide for the construction of the pipeline on a 'Rights of Use' basis for the 90 days¹⁴ it takes to construct the pipeline. This land is then returned to the owner but with some restrictions on future use. Cairn India acknowledges that the acquisition of agricultural land will have negative impacts on land owners and communities, particularly during the construction phase, and says that these impacts need to be minimised through monetary payments. ONGC is the body primarily responsible for land acquisition, while the Competent Authority (a body nominated by the respective State Government which is responsible for determining compensation) ensures people are compensated for the temporary loss of land, crops growing on the land, and any short term impacts on people's livelihoods as a result of land acquisition¹⁵.

As a result, Cairn India predicts that "the actual impact [of the pipeline] is expected to be minimal"¹⁶. However, our evidence suggests that the impact of the Cairn India and ONGC pipeline is far from 'minimal' for some households and communities living along its route. Often we found that the impacts were more varied, complex, interconnected and longer lasting than has been acknowledged and compensated for.

Impact on agriculture and livestock

Agriculture is the primary source of livelihood for most families living along the pipeline. While it may seem that only small pieces of land are being taken for short periods of time, they can represent a substantial portion of the land on which smallholders depend. We spoke to a small number of farmers who had not only lost crops, trees and plants from land acquired for construction, they had also lost crops on adjacent land and had seen the fertility of their land severely damaged. As a result they had smaller harvests with fewer surplus crops for sale. This caused a dramatic decline in income and food for domestic consumption.

In Gujarat, one community showed us how the construction of the pipeline had split farms in two, resulting in widespread damage. Irrigation channels and local access routes were cut. Farmers lost all the crops on the opposite side of the pipeline trench from the irrigation source because they could not be watered, and they lost crops on land acquired for construction. The timing of construction, which began just under a week before harvest, compounded the impact. We met farmers who had lost crops when they were at their most valuable, and many had already paid for additional migrant labour to help with the harvest. They did not know when they would be able to sow their crops again and feared that they would miss the time to plant for the coming seasons. They said their land had been so severely damaged that it could take many years for soil to regain its fertility. This, they claimed, will lead to smaller harvests and reduced income for years, and the consequences could be devastating.

Loss of soil fertility was also a major problem for farmers and local communities affected by the construction in Rajasthan. The Barmer district is one of the driest and most hostile climates in India, yet people manage to produce a limited number of crops. All the communities we met stressed the importance of cultivating and preserving the top two inches of soil as these are the most fertile; any disturbance will upset the fragile balance that allows families to grow food and make a living from the land. These communities told us that during construction, trenches were dug with no regard to the delicate makeup of the soil. Earth was scooped out and dumped on land next to the trench, mixing valuable topsoil with earth from 6 metres below the ground. Upon completion, the mixed soil was replaced in the trench, rendering that ground infertile. Farmers told us that the movement of trucks and other vehicles also eroded the fertility of adjacent land as they accessed the construction work.



All the communities we spoke to in Rajasthan said that if the contractors had carefully removed and stored the fertile topsoil, and replaced it after construction, much of the long term damage could have been avoided. In its 2009 Corporate Responsibility Report, Cairn Energy states that “the preservation of fertile top soil which is used in the restoration process has been a feature of the acquisition process, and facilitates a quick return to original land use”.¹⁷ However our evidence suggests that efforts taken to preserve the top soil were woefully inadequate.

As well as losing food crops, some families lost crops grown for fodder and had to sell off up to half of their livestock, often at reduced prices. One community told us that they had to sell goats at less than half the price they had paid for them. This is not just a one off loss - livestock represents a steady source of food and income. In Rajasthan, families rear goats and sell surplus milk and kids at market. One man told us that he depends heavily on income from the sale of kids. After selling off much of his herd, he now has none to sell.

The loss of crops, trees and plants and the reduction in soil fertility meant that the families we spoke to had already seen a substantial decline in crop production, which they believe is likely to continue for many years. Fewer crops and produce for sale meant they also had less to eat. Reduced food production forces families to spend more on everyday needs. This is creating a scissor effect, whereby families’ incomes are cut whilst at the same time they are forced to spend more. In some cases, this is seriously affecting their access to food and other basic needs.

Box 3: Aditya, Rajasthan

Over half of Aditya’s land was acquired for the pipeline construction. He used to cultivate the area of land outside his home but when we spoke to him he was considering migrating to Gujarat to earn enough to support his family. He had to sell two of his four buffalos and as a result his income has halved. The family can no longer buy as much food and other basic items.

He told us that nobody had consulted him directly, and he did not anticipate the extent to which the construction would affect him. Only when excavation began did he realise that he would no longer be able to cultivate or graze animals on the land that had been acquired. Aditya’s family received some compensation for the crops he lost directly, but he believes he is due twenty times more when he takes his wider losses into account.

Impact on access to water

We found that a number of families' access to water had also been affected by the construction of the pipeline. Some told us that their existing rainwater collection tanks fell in the path of the pipeline and had been removed by the contractors. Some had received compensation, but loss of access to water had a major impact on families, particularly on women. One community told us that their water supply line had been severed by the construction, and although the pipeline was complete, their access to water had not yet been reinstated.

A number of the families told us they are now forced to collect water from tanks further away. This means that women, whose traditional job it is to collect water, have to walk much further each day. One group of women told us they now have to walk up to an extra three to four kilometres, every day, and sometimes come home empty handed. Those who can afford it have to buy tankers of water from the nearest town, which cost between 1,000 and 1,500 rupees (approximately £14 - £21) per tank for about ten days of water. This is a huge drain on families' resources.

Box 4: Khandelwal, Rajasthan

We met Khandelwal as construction was just beginning. They told us they would lose half their land and their access to water. Their water collection system was due to be removed as it was sitting in the path of the pipeline. The loss of this system means they would have to fetch water from a well over 3km away, adding further stress to the family's women whose duty it would be to walk to the well each day. Tankers from the nearest town cost more than the family can afford.





Women attend a meeting with SCIAF to discuss the impacts of the pipeline

Impact on women

The construction of the pipeline has resulted in additional impacts on women. Traditionally they are responsible for most domestic tasks such as collecting water, caring for children, cooking, cleaning and looking after livestock, as well as income earning activities.

The reduction in access to water means some women whose families have been affected now have to walk much further each day to collect water, and work much longer to get their work completed. One group of women told us that before the construction of the pipeline, they used to finish all their work by 6-7pm, but now they do not finish until 11pm – midnight because they have to walk much further to collect water. They still have to get up again at 4am.

Families that we spoke to also said that the decline in income as a result of the pipeline construction has meant more men have to migrate to neighbouring cities and states to find work. This has left the remaining women to look after homes and families on their own, with an even greater daily workload.

Box 5: Amanpreet, Rajasthan

Amanpreet has lost land and her rainwater collection system as a result of the construction. Now she has to walk 5-6km a day to fetch water from another tank. If there is no water there she has to buy in water from the nearby town. Amanpreet's income has declined as a result of the construction and her husband and other men in her family have had to migrate to the neighbouring state of Gujarat to work, leaving her to look after the children. Although the construction had been completed when we visited her, contractors were still monitoring the pipeline outside her home, sometimes at night. Their presence made her afraid to go out and she feared for her own and her children's security now that her husband has migrated.

Compensation

Our evidence suggests that families and communities who were already poor have had their access to food and water, their livelihoods, and their income adversely affected as a direct result of the construction. Many of those we spoke to told us they believe they have not received adequate compensation to cover their losses. In our opinion this is partly because Cairn India and ONGC's policies and the Competent Authority, the body responsible for determining compensation paid to individual households, do not adequately take into account the scope, severity, and longevity of the impacts of pipeline construction on households and communities. Compensation payments are based on the premise that the impacts will be relatively minor and short term, restricted principally to the land acquired temporarily for construction.

Box 6: Devendra, Rajasthan

Devendra used to grow 20 sacks of grain a season but since the construction of the pipeline began, he is only able to grow 10 sacks. The reduction in fodder means he has had to sell one of his two buffalos and half his herd of goats. He lost his rainwater collection tank because it was in the path of the pipeline. His wife and daughters now have to walk long distances each day to fetch containers of water, which they carry home on their heads. When they cannot fetch enough water, they have to pay 1000-1500 rupees (approximately £14-21) for a tank of water and travel over 7km to the nearest town to get it. Devendra also told us he had to knock down his home because it was too close to the pipeline and rebuild it about 10 metres further back. This substantial cost, combined with the reduction in income, means he is considering migrating to the neighbouring state of Gujarat. He is worried about leaving his family.

Devendra told us that no one from Cairn India had come to speak to him. He received just 11,000 rupees (c.£150) for the land acquired, but he believes it is worth many times more than that. He told us that if the additional costs his family has incurred are taken into account, such as rebuilding his home, loss of crops, livestock, income and the extra money spent on food and water tanks, he is due a great deal more.

The construction is likely to have an impact on families for years; many told us their land is now unusable. When asked how much compensation they believed they were due, many said they should receive the full market value of the land. Instead, many had received a tiny fraction of this amount – a small one off payment for the temporary acquisition of the land, the crops and trees growing on it, and the loss of structures such as water tanks. One community suggested that families who had lost land should be paid some level of rent on a monthly or yearly basis for the land acquired for the period it remains unusable. They said this would go some way to compensate for the year round income they are losing while still unable to cultivate. They told us a one off compensation payment would do nothing to help them in the long term.

In our opinion, neither Cairn India and ONGC's approach to land acquisition nor the Competent Authority's compensation procedures acknowledge the full impact of the pipeline construction on local communities. As such, households are often not paid what we would consider to be a fair and reasonable level of compensation. This suggests that many local families and communities, who were already poor, have been left worse off because of Cairn India's pipeline development. Although neither Cairn Energy nor Cairn India has had a direct role in determining levels of compensation provided, we believe there may be scope to rectify some of the issues identified in this report by paying some additional compensation, over and above amounts set by the competent authority, to households that have lost out as a result of Cairn India's pipeline development.

2.2 Engagement with local communities

Because of the severe impacts associated with the acquisition of land, companies should engage with local communities prior to and during the acquisition and construction process. Indian law requires only that engagement with local communities should consist of prior notification of the intention to acquire land. It is up to ONGC to notify affected families and individuals.

Notification represents the weakest form of engagement with communities. Affected individuals and communities are simply informed of land acquisition in writing. There are many problems with relying solely on notification to engage with local communities. Notices are often inaccessible. They can appear in publications to which the majority of Indians do not have easy access, where people do not go on a regular basis, and they are written in legal jargon. Some of those affected by land acquisition are illiterate, or speak a local dialect rather than the national or regional language in which most notices are written.

International guidelines, such as the IFC Social and Environmental Performance Standards, also require that companies engage in consultation over and above the notification process. Defining consultation can be problematic. Generally, it implies that representatives of the company involved should explain and discuss land acquisition with affected communities and individuals, giving them an opportunity to air their opinions, without placing any obligation on the company to act on them.

The IFC requires that consultation with local communities must be part of an ongoing engagement process, the purpose of which is to build a constructive relationship with local communities. Cairn India has developed detailed policies that incorporate both the legal requirements and IFC's guidelines. The key commitments outlined in Cairn India's consultation policy include:

- Involving all affected stakeholders in a two way communication process;
- Providing relevant information prior to the consultation in an accessible manner;
- Making consultations a regular and ongoing process and consulting affected communities throughout all phases of the project¹⁸;
- Supplying information and consulting affected persons in a way that they are comfortable with and is accessible, including using alternate media and traditional folk methods of communication such as street plays and puppet shows.¹⁹

Cairn India's engagement with local communities

Taken at face value these policies and procedures appear relatively thorough. However, our research suggests that some local communities and families affected by the Barmer to Salaya Pipeline are not, in our opinion, being adequately notified or consulted.

In all the communities we visited in Rajasthan and Gujarat, we found evidence of inadequate notification. In Rajasthan we heard of examples in which individual notifications were not delivered to the relevant family but instead being handed arbitrarily to a member of the community who was then instructed to pass them on. This risks individual families not being informed that their land is being acquired, for how long, and what compensation they are entitled to. Our evidence showed that some of the communities living along the pipeline route had not been consulted in line with what we believe to be a fair and reasonable interpretation of the IFC performance standards and Cairn India's own policy.

Consultation in Gujarat

According to Cairn India, every affected community in Gujarat had been consulted according to IFC guidelines and Cairn India's policy²⁰. This is difficult to reconcile with first-hand accounts such as those from a community we visited in Gujarat. They told us that three years before the construction, company employees came to a farmers' milk cooperative in the centre of the village, took the signatures of the community members who happened to be there that evening, and declared the consultation to be complete. They said that no one from Cairn India had returned since then. As a result, we met people within this community who lacked any awareness of the project, including the risks associated with it, its likely impacts, how the company would address these risks and impacts, and compensation or grievance redress procedures.

Further, inadequate engagement throughout the survey process before construction meant that families did not receive adequate compensation for the crops and trees they lost as a result of land acquisition. It also appeared to result in community tension. We were told that the community asked contractors to stop the construction until the matter of compensation was resolved. They said that, as a result of this action, police came to the village and arrested and intimidated a number of community members. Had Cairn India engaged with all the affected families, it is likely that the community would have been more aware of the likely impacts of the project, informed Cairn India of the best way to mitigate them, received adequate compensation - and confrontation with the police could have been avoided.

Consultation in Rajasthan

When we met Cairn India in March 2009, they told us they had not yet begun their consultation with communities along the pipeline route in Rajasthan because they had only received permission from the Rajasthan State Government to go ahead with building the pipeline seven weeks previously. However, in all the communities we visited in Rajasthan in March 2009, Cairn India's contractors had entered people's land and marked out where the pipeline was to be located. In one community, construction work on the pipeline had already begun. None of these communities or any affected families we met had been consulted at that stage.

Since then, Cairn India told us that they have met all affected families a number of times. However, on completion of the pipeline, we revisited the same communities and met a number of families who told us that they were still not satisfied with Cairn India's consultation process. Some claimed not to have been consulted by anyone. Others had only spoken to the contractors building the pipeline or officials from the land owning authority, but not to a representative of Cairn India. In some communities, village leaders had been involved in Cairn India's consultation process but the necessary information had not been passed on to individual families whose land had been acquired.

As a result, a number of the communities we spoke to in Rajasthan did not fully understand the extent of the construction work. Even some of those who had been consulted were not aware of the full impact the construction would have on their land and livelihoods.

Cairn India's action in Rajasthan does not, in our opinion, meet the IFC's requirement for "free, prior and informed consultation" with affected communities. Cairn India has policies on consultation that, on paper, sound reasonable. However in practice Cairn India's apparent failure to adequately engage with communities and families affected by the Barmer to Salaya Pipeline appears to have contributed to negative impacts on local people.





Signs make people aware of the underground location of the pipeline

Section 3: Limits of CSR

The negative impacts experienced by local communities in Gujarat and Rajasthan as a result of the construction of the Barmer to Salaya pipeline have occurred despite substantial investment in CSR initiatives by Cairn Energy and its subsidiary Cairn India. These initiatives range from funding local community development projects to adopting policies on community engagement and human rights.

Box 7: Cairn India's CSR initiatives

Cairn Energy has a group-wide CSR strategy, based on what it identifies as its "core values of respect, relationships and responsibility"²¹. It covers various key areas of business practice including stakeholder engagement, community development, and human rights.²²

On human rights, Cairn Energy states that "Cairn is committed to developing an organisational culture which implements a policy of support for internationally recognised human rights and seeks to ensure non-complicity in human rights abuses. We support the principles contained within the Universal Declaration of Human Rights (UDHR) and seek to apply its principles within 'our sphere of influence' and activities. We apply a 'rights aware approach' in identifying human rights at issue in our activities, assessing where the issue occurs within the spheres of influence of our business, and defining action to be taken by the business to address them"²³.

In Rajasthan, Cairn Energy conducted a Social Baseline Survey in 2004, which identified the likely social impacts of their operations. Key rights issues Cairn Energy identified were access to water and issues associated with land acquisition. Cairn Energy states that it has adopted a 'rights aware approach' to water usage, and has sought to reduce water used for testing the pipeline and to use saline water where possible so as to minimise their impact on communities' access to water²⁴. Cairn Energy has also assisted the district authorities in locating freshwater resources and helped local communities collect and store rainwater through the provision of water tanks.

Cairn Energy and its subsidiary Cairn India have funded and implemented a variety of community development projects in India including:

- An education initiative designed to improve school infrastructure
- Community initiatives to improve water availability
- An enterprise centre that focuses on stimulating local economic activity through skills training and activities such as a dairy development cooperative
- A number of health initiatives including a child and maternal health programme.

Cairn India and Cairn Energy clearly invest in policies and activities designed to have a positive impact on local communities and promote community development. However we met several poor and marginalised communities in Rajasthan and Gujarat which have experienced negative impacts as a result of Cairn India's activities. Voluntary CSR initiatives – even those backed by substantial goodwill and resources – are no guarantee that adverse impacts are minimised and local people's rights will be protected.

The limits of CSR

Over the last decade, voluntary CSR programmes and other voluntary industry-led initiatives have become increasingly widespread, yet many companies and businesses, especially transnational and multinational companies, continue to be linked to human rights abuses²⁵. Some CSR initiatives amount to little more than corporate philanthropy, where companies simply fund and implement community development projects. While these types of CSR initiatives can benefit communities, on the whole they do little to prevent and protect individuals and local communities from the negative impact of companies' operations or human rights infringements.

Other CSR initiatives seek to instil within companies a responsibility to respect the human rights of individuals and minimise a company's impact on local communities. While these CSR initiatives have undoubtedly encouraged more ethical practice in companies like Cairn Energy and its subsidiary Cairn India, there remain serious limitations to what these voluntary initiatives can achieve²⁶.

There are various standards used by CSR initiatives, some more robust than others. Those based on international human rights instruments such as the UDHR are likely to be the most effective.

Box 8: Critique of International Finance Corporation's (IFC) Social and Environmental Performance Standards

The IFC's Social and Environmental Performance Standards aim to help the IFC and the companies it works with to "manage and improve their social and environment performance through an outcomes-based approach" yet they have been criticised for being too weak on minimum binding standards on human rights and the environment²⁸.

A major concern with the IFC Performance Standards is that they make no direct reference to the international human rights standards and conventions, including the UDHR, the International Convention on Economic, Social, and Cultural Rights, the International Convention on Civil and Political Rights, and ILO Conventions²⁹. The references to human rights that are included in the documents have been criticised as "vague and circular"³⁰.

The failure to ground the Performance Standards in international human rights standards means they remain weak in a number of areas, including community engagement. They require companies to engage in "free, prior and informed consultation". However, this term can be interpreted in different ways, to the detriment of local communities. At the very minimum the term 'consultation' should be better defined by the IFC. Some have gone further and suggested that "consultation" be replaced by "consent", a stronger, less ambiguous term that would effectively create a social licence for companies to operate³¹.

There are also concerns that IFC standards do not provide adequate transparency, accountability and oversight³². They have been described as heavily reliant on company-generated information and with no guarantee of effective supervision and verification of companies' activities³³. Even the IFC's own internal auditing body has raised general concerns relating to transparency and accountability, environmental and social impact assessments, and public consultation and disclosures³⁴.



Cairn India's pipeline project has been subject to regular auditing of social and environmental factors by the IFC, and indeed Cairn Energy's CSR initiatives go beyond IFC requirements. They cite international human rights instruments such as the UDHR; they state that they are committed to creating a culture that respects human rights; and they claim they have adopted a 'rights aware' approach to identifying and assessing rights issues³⁵. However, our research suggests that these policies have not protected some local communities from the adverse impacts associated with the construction of the Barmer to Salaya Pipeline. Our evidence leads us to conclude this is often because Cairn Energy's subsidiaries, partners and/or contractors are not consistently implementing Cairn Energy's policies.

A major weakness of CSR initiatives is their limited capacity to ensure consistent implementation and enforcement of international human rights standards. Most CSR initiatives rely on self-enforcement of voluntary codes and standards by companies, meaning that many companies which join voluntary CSR initiatives can fail to follow through on their commitments³⁶. Even with the introduction of external monitoring mechanisms and auditing and certification systems, progress remains slow³⁷. Further, the lack of adequate enforcement capabilities means that it is difficult to impose sanctions on companies which breach voluntary standards. It is possible that a company can sign up to a voluntary CSR initiative in the knowledge that its commitments will not be monitored and it is unlikely to face sanctions if it does not comply³⁸.

Voluntary CSR initiatives lack both the capacity to ensure that companies abide by the standards on which they are based, and the ability to sanction those companies which violate them. **Voluntary CSR initiatives must be complemented by a range of stronger measures in order to create a framework that would minimise impacts on local communities and ensure the widespread protection of human rights.**³⁹

'Protect, respect and remedy'

Voluntary CSR initiatives alone cannot address the primary structural cause of many human rights infringements by companies - what the UN Special Representative on Business and Human Rights, John Ruggie, has termed 'governance gaps'. Today, as a result of globalisation, there are gaps between the immense power, reach and impact of transnational and multinational companies, and the ability of states and local communities to manage their adverse impacts, particularly in developing countries⁴⁰.

Finding solutions that will adequately bridge these governance gaps presents challenges which voluntary CSR initiatives only partially solve. In April 2008, Ruggie outlined his "protect respect and remedy" framework, which identifies three pillars which now define the business and human rights debate:

- The state duty to protect against human rights abuses by business
- The corporate responsibility to respect human rights
- The need for individuals whose human rights have been breached to access suitable remedies

The adoption of Ruggie's framework by the UN Human Rights Council has established a number of principles that have re-orientated the debate on business and human rights.



Some livestock has been sold, resulting in a loss of income

First, it has undermined arguments that business has no relationship with human rights. Under the 'protect, respect and remedy' framework, businesses have a responsibility to respect human rights, meaning that companies must avoid the infringement of human rights and address any adverse impacts that might come about as a result of their activities⁴¹.

CSR is the primary way by which many companies have sought to address human rights issues. But piecemeal CSR initiatives are not enough. According to Ruggie, "CSR initiatives often deal with human rights in an ad hoc way that varies considerably across companies; typically they are decoupled from companies' internal control and oversight systems; and many are weak on external accountability practices"⁴². According to Ruggie, companies must not only comply with human rights elements of domestic law, they must also manage the risks of infringing rights through exercising due diligence. For Ruggie, due diligence means producing "a statement of policy articulating the company's commitment to respect human rights; periodic assessment of actual and potential human rights impacts of company activities and relationships; integrating these commitments and assessments into internal control and oversight systems; and tracking and reporting performance"⁴³.

Central to Ruggie's framework is the idea that neither action by business or states alone will bridge the 'governance gaps'. A range of responses is needed. While due diligence goes some way to ensuring businesses respect human rights, Ruggie argues that to overcome 'governance gaps', the other pillars of his framework – the state's duty to protect and access to remedies – must also be addressed. Indeed, ensuring that both the states where transnational companies are headquartered and where they operate fulfil their duty to protect human rights, and that those whose human rights have been infringed by transnational companies have access to remedies, are critical to ensuring that transnational companies are held to account for their actions. Only then will they be less likely to have a negative effect on local communities, particularly those living in poverty in developing countries.



A community water tank beside the proposed route of the pipeline



Section 4. The State's Duty to Protect

Under international law, the principal duty to protect and promote human rights lies with the state. Where transnational companies are concerned there are often two (or more) states involved: the host state, where the company's operations take place, and the home state, where a company has its headquarters.

While it is important that host country governments do all they can to ensure transparency, accountability and oversight of transnational companies operating within their borders, there are many instances where states are either unable or unwilling to protect and promote the human rights of their citizens. Governments may lack understanding of the full extent of the problem, or lack appropriate expertise and capacity to deal with it⁴⁴. They may lack the political will to protect and promote human rights. Decision makers may prioritise the interests of political elites or economic growth over the protection of rights⁴⁵. The need to attract Foreign Direct Investment or fear of damaging an "investor friendly" reputation might contribute to a lack of political will.⁴⁶

In the case of Cairn Energy, government revenue from mineral royalties, wealth creation, energy security, jobs and infrastructure development associated with the Rajasthan Upstream Development and the Barmer to Salaya pipeline represent significant public goals. Against such a background, the protection of human rights and the welfare of citizens in vulnerable communities may be overlooked.

Where host country governments are unwilling or unable to prevent a transnational company becoming complicit in human rights issues, the responsibility of the home state, where the company is headquartered, is critical⁴⁷.



The role of the home state

Strong, effective legislation in home states, like the UK, can play an important role in complementing action in host countries to ensure that companies promote and protect human rights. In recent years the UK Government has introduced legislation which acknowledges that UK companies have social and environmental, as well as financial, responsibilities. Unlike previous company law, the Companies Act (2006) requires companies to consider the impact they have on the community, employees and the environment⁴⁸. Company directors now have a legal responsibility to consider their company's social and environmental impacts, not just maximise profit. Publicly listed companies also have a responsibility to report openly on their social and environmental risks to their shareholders⁴⁹.

Box 9: The UK Companies Act (2006) reporting requirements in practice

As a publicly listed company, Cairn Energy is required to publish a report each year that includes information on environmental matters, the company's employees, and social and community issues.

In line with current UK legislation, Cairn Energy's 2009 Corporate Responsibility Report provides such information but it is limited, particularly on social and community issues. The report outlines Cairn Energy's CSR initiatives including its approach to human rights and some of the actions it has taken to respect the human rights of local communities in India. However some of the assertions made in the report are not easily reconciled with the evidence we found on the ground, most notably Cairn Energy's assertions that they have consulted all families affected by the pipeline construction and that adequate measures were taken to preserve the soil fertility of land acquired on a Right of Use basis.

While the Companies Act (2006) requires companies to report on social and environmental risks, it does not set any firm reporting rules. Companies can choose what to include. There is no requirement to have information on social and environmental risks verified or independently audited in the same way as financial accounts.



The strengthening of reporting requirements should be part of a wider requirement that all UK companies practice 'due diligence' where companies are required to demonstrate that they are aware of and are addressing the social and human rights impacts associated with their activities at home and abroad. This could also include the mandatory adoption and disclosure of Social Impact Assessments (SIAs) or Human Rights Impact Assessments (HRIA). Directors' duties contained in the act should also be strengthened so that directors are required to take action to prevent negative social and environmental effects of company actions, not just consider their potential impacts.

Despite its limitations, the Companies Act (2006) remains a significant piece of legislation. It is home country

legislation with extra territorial implications. Extra territorial legislation has a vital role to play in complementing initiatives to protect human rights in states where a transnational company is operating.⁵⁰ Consequently it is important that the promotion of extraterritorial legislation is included in John Ruggie's final recommendations, which are due to be submitted to the Human Rights Council in 2011.

Ultimately, the most effective way to clarify the legal responsibilities of companies operating overseas and protect human rights would be a binding international human rights framework⁵¹. The establishment of an effective international regulatory framework for multinational and transnational companies would ensure that all companies are bound by certain minimum standards, regardless of where they are from, headquartered, listed or operate⁵². The UN norms, ILO standards and Organisation for Economic Co-operation and Development (OECD) guidelines on multinational enterprises could provide a starting point for an international human rights framework, but to be effective, both standards and implementation need to be stronger. Such a framework would take a long time to establish, but it should remain the ultimate goal for the promotion and protection of human rights worldwide. The UK Joint Committee on Human Rights (JCHR), which published a significant report on business and human rights in 2009, also believes that an international approach is key: "the impact of business on human rights is a global issue that ultimately requires a global solution... We believe that an international agreement should be the ultimate aspiration of any debate on business and rights."⁵³

While any overarching international system is a long way off, there remains a pressing need for more effective regulation at a UK level. Despite progress made in the Companies Act (2006) the government is overly reliant on voluntary measures and host country regulation. In the same year as the Companies Act became law, DFID released a White Paper that implicitly rejected stronger regulation at a UK or international level and recommended that voluntary codes of practice should encourage companies to work legitimately in developing countries⁵⁴. The UK Government's policy was criticised by the JCHR as unduly focussed on voluntary measures.⁵⁵

The JCHR is supportive of stronger UK action on business and human rights. It states that "we are concerned that the reluctance of states to take unilateral action coupled with failure to commit to an international solution will mean little progress is made."⁵⁶ The JCHR also states that such action would not undermine the competitiveness of businesses headquartered in the UK⁵⁷.



Men attend a meeting with SCIAF to discuss the impacts of the pipeline

Section 5. Access to remedies

A range of solutions will be required to provide a comprehensive response to business and human rights issues, including access to remedies. An individual, or community, whose human rights are infringed, should be able to access an effective remedy such as compensation, a guarantee of non repetition, a change in the law or a public apology. Effective remedies are important as they not only enable an individual to right a wrong; the redress mechanisms that deliver them can hold companies to account and deter future wrongdoing through effective sanctions. According to the Corporate Responsibility (CORE) Coalition, a broad system of effective redress mechanisms would help “to create an institutional infrastructure through which [international human rights] standards can be monitored and enforced, as well as providing a means of redress in case of violation”⁵⁸.

However, according to John Ruggie “the current patchwork of [redress] mechanisms remains incomplete and flawed”⁵⁹. It is incapable of consistently performing its key functions – to provide individual redress and hold companies to account. Redress mechanisms come in many forms, ranging from judicial mechanisms such as law courts to a wide range of non judicial mechanisms including company grievance mechanisms, National Human Rights Institutions (NHRIs) and OECD National Contact Points.

Accessing remedies in developing countries

Conventionally, infringements of human rights by transnational companies are dealt with in the state in which the infringement has occurred⁶⁰, often termed the host state rather than a company's home state, which is where it is headquartered. However, this is often not possible.

People living in developing countries often find it difficult to hold transnational companies to account because of poverty, lack of access to information and the relatively weak position of developing countries in the wider international political economy. As a result, developing country states often lack the capacity or the will to hold large transnational companies to account. People in developing countries face numerous barriers to accessing justice within their own state, including legal, practical and financial barriers, and lack of political will⁶¹. These barriers can make it very hard for individuals and local communities to gain redress and hold companies to account for their actions.

None of the communities we met in India have sought to access justice. This is principally because they were either unaware of how to access justice or were put off by the many barriers communities can face when seeking to access justice.

Communities seeking to access justice for corporate infringements of human rights in India can face many obstacles: the weakness of Indian law, the economic importance of infrastructure projects like the Barmer to Salaya pipeline, lack of access to information, and the cost of pursuing a claim through the justice system. To take a case to a junior court would cost approximately £60 to £125 per family, and to the high court, over £6,000. This is a huge amount in a country where most of the population live on less than £1.30 a day. Further, the legal aid system appears erratic, making pursuing a case through the courts virtually impossible for most Indians.⁶² Together, these obstacles effectively rule out the possibility of redress through the Indian Court System for many.





Redress mechanisms in the home state

While gaining effective redress for human rights infringements in the state where the violation took place is preferable, it is not always possible. In order to build a strong system of redress mechanisms, those who have had their human rights infringed by a company should have the option to seek redress in the company's home state, if it is not possible to gain redress in the state where the violation took place.

The preferred redress mechanism for many would be through the judicial process; however, for this to be possible in the UK, stronger regulation would be necessary. There are many procedural, practical and political hurdles associated with the introduction of stronger regulation designed to make it simpler for overseas claimants to pursue a remedy in the UK courts. There appears to be no great appetite for increased regulation amongst many decision makers in the UK and abroad.

In the meantime, other non-regulatory solutions could make companies more accountable, and may be more politically acceptable. One solution would be to develop strong, non-regulatory redress mechanisms in home countries. As citizens in developing countries often find it difficult to use the justice system in their own country to either prevent human rights violations, or to receive fair treatment and compensation when human rights violations occur as a result of transnational companies' operations⁶³, some argue that there should be a means of redress in the home country, where the transnational company is based.

The principle non regulatory redress mechanism in the UK is the OECD National Contact Point (NCP). OECD NCPs are mechanisms based in OECD member states⁶⁴, designed to investigate allegations of misconduct by multinational companies from OECD territories and promote their compliance with the OECD's voluntary guidelines for multinational companies. While the OECD's NCPs have established the principle for holding multinational companies to account in their home states, they have been widely criticised for lacking the necessary transparency, resources and legal force to ensure compliance with international human rights norms and act as an effective remedy⁶⁵.

Another solution would be the establishment of a specialised Commission for Business Human Rights and the Environment, which would have the power to investigate, sanction and provide remedies for abuses committed by UK companies abroad⁶⁶. The commission would also operate as a dispute resolution body with a specific mandate to hear, investigate and settle grievances against UK companies relating to abuse in other countries. Once a grievance is settled, it may also be able to offer remedies to affected parties. They might include financial compensation, the publication of an apology and explanation, and orders to companies which have breached specific rights. The commission would also have coordinating, capacity building and informational roles.⁶⁷



Box 10 – Response to this report from Cairn India

Cairn fully respects and values organisations, such as SCIAF, voicing their opinion. Overall as Cairn takes its CSR responsibilities very seriously, the Company values these reports and the insights that are provided by such an independent review.

Cairn works with a number of NGOs both in India and internationally, including the IFC. The findings in this research did not reflect the feedback Cairn has received from a number of other NGOs on this programme and therefore Cairn was somewhat concerned by the report's findings. Cairn is fully committed to continue to work with SCIAF to enable the Company to address the concerns raised in the report directly with the local communities.

Throughout the pipeline development, Cairn and its contractors aimed to minimise any impact on the 2500 local communities' livelihoods potentially impacted by the development. However, Cairn recognises that there will always be some unavoidable impact and where these did occur here, Cairn believes that these were appropriately compensated.

Specifically with regards to protecting existing water sources, the Company and its contractors took extreme care. In 0.4% of cases the bore wells could not be spared and in these cases the land owners were duly compensated for the land use as well as the cost of replacement bore wells.

The compensation on land acquisition/right of use, crop loss etc. is determined by the competent legally authorised body who have a mandate for determining the compensation allocated to individuals and for developing the appropriate process to be followed. Cairn as a company has no influence on this, but has fully complied with the legislation and regulation.

Land owners were compensated for damage to crops, irrigation systems or any other encumbrance as determined by the relevant legal authority. In addition, temporary irrigation systems and access across the pipeline corridor were provided to villagers during pipeline laying. During trenching, top soil and bottom soil were stored separately and were restored in a similar way to ensure the safeguarding of the fertility of the land.

The areas of the ROU (Rights of Use) that were reinstated in time for the current crop growing season have demonstrated good fertility and crop growth. This is shown in the attached photographs of the ROU at locations Gangajala and Sapada in Gujarat.

Focused CSR initiatives from Cairn have impacted the lives of people in 250 villages along the pipeline route. The focus has been clearly in helping farmers to improve their health, education and economic development for a better livelihood. These initiatives include the likes of the Thomson Reuters Mobile SMS programme that provides latest weather and crop price information, the MCX programme – providing quality Agri products through a network of partners by the Department of Post and Health OPD's providing easy access of health care to the community. Such commitments have been acknowledged by IFC and other international organisations for the last three years who have appreciated our approach in social responsiveness. As a benchmark, IFC has short listed one of our CSR programmes along the pipeline for their financial evaluation tool.

Cairn India is always looking for ways to ensure our CSR activities provide the maximum benefits to the communities in which we operate and we have over 15 years experience through our previous Indian operations in working to improve these communities. However, we welcome inputs from SCIAF on suggestions to further this shared goal.

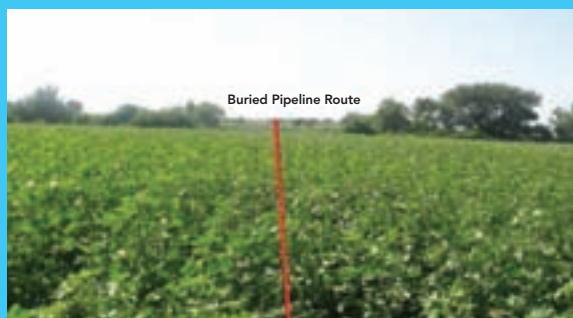


Photo: Cairn India

Conclusion

Cairn Energy and its subsidiary Cairn India have developed CSR initiatives that go above and beyond the legal minimum; demonstrated a willingness to take such issues seriously; and invested substantially in a wide variety of CSR policies and activities. Despite this, we met a number of families and communities whose livelihoods, standards of living and human rights had been severely affected by the construction of the Barmer to Salaya Pipeline. We believe that this is largely because voluntary CSR initiatives, like those adopted by Cairn Energy and Cairn India, are inherently limited. This example is all the more powerful precisely because Cairn Energy and Cairn India clearly take these issues seriously. Working within the limits of the existing framework, the impact on vulnerable and marginalised people can still be substantial.

CSR initiatives cannot ensure that companies minimise their impact on local communities and respect human rights, largely because they cannot force companies to abide by the standards on which they are based. This means that companies may still have a negative impact on local communities even if they have detailed and robust CSR policies in place. One example is the apparent failure of Cairn India adequately to consult local communities, as detailed earlier in this report. This occurred despite the existence of a relatively strong CSR policy on consultation, based on the IFC performance standard requirements.

Reliance on CSR initiatives alone is not enough to address the structural cause of many human rights infringements by companies – what the UN Special Representative on Business and Human Rights, John Ruggie, has termed ‘governance gaps’. Ruggie’s proposed framework for furthering the business and human rights debate – the ‘protect, respect and remedy’ framework – also highlights the fundamental importance of the state’s duty to protect and the ability to access remedies, in overcoming ‘governance gaps’.

The main pillar of the Ruggie framework is the state’s duty to protect. Under international law, states have the primary responsibility to promote and protect human rights, yet there are many states which are either unwilling or unable to protect the rights of their citizens. In cases where a host state is unable or unwilling to hold a transnational company to account, additional responsibility falls to the home state. The most effective way of holding companies to account in home states like the UK is through stronger regulation. However, there are also non regulatory solutions. The development of redress mechanisms such as a UK Commission for Business Human Rights and the Environment, as proposed by the CORE coalition, could provide an effective body for holding UK based companies, accountable for their actions overseas.

Ultimately, the best mechanism for ensuring the protection and promotion of business and human rights would be the development of a binding international framework on business and human rights. Until such time as an international framework of that kind emerges, we believe that existing voluntary measures must be complemented by a range of stronger solutions such as the introduction of extra territorial legislation and effective remedies like the proposed UK Commission. Such unilateral action by home states like the UK need not, as the JCHR established, endanger the competitiveness of UK business. Stronger legislation and the introduction of the UK Commission for Business and Human Rights and the Environment would help to create a clear and effective human rights framework for UK businesses which operate overseas.



Recommendations

Cairn Energy should:

- Encourage its subsidiary, Cairn India, to provide additional retrospective compensation to those affected by the construction of the Barmer to Salaya pipeline, reflecting the wider impacts on local communities. Given the long lasting nature of some of these impacts, compensation should be paid in the form of monthly or annual payments until such time as these negative impacts have diminished.
- Encourage its subsidiary, Cairn India, to improve its ongoing policies on compensation to make them more responsive to the true nature of the impacts felt by local communities wherever it operates. Where impacts are predicted to be long term, compensation should be paid in the form of monthly or annual payments until such time as these negative impacts have diminished.
- Broaden and streamline its use of SIAs and HRIAs so that they are routinely conducted as part of every project Cairn Energy and its subsidiary Cairn India undertakes. SIAs and HRIAs should be conducted well before, during and after each project with a view to ensuring compliance with human rights and minimising negative impact on local communities. It would also necessitate integrating human rights and social impacts into internal decision making, control and oversight systems and would improve accountability. The findings of each SIA and HRIA should be publically disclosed on Cairn Energy and Cairn India's websites. This should form part of a wider commitment to meet the due diligence requirements outlined in the UN Special Representative on Business and Human Rights in his April 2010 report.
- Improve its monitoring and evaluation systems for social and human rights impacts by including regular independent audits of social and human rights impacts of Cairn Energy and Cairn India's operations.

- Encourage Cairn India to strengthen its policies on community engagement. As a minimum, this should include adopting a stronger definition of 'consultation' and involve an independent review and audit of Cairn India's engagement with local communities as standard to ensure consultations are carried out in line with Cairn India's policies, and the requirements of funding bodies such as the IFC.

The IFC should:

- Review its Performance Standards and ground them in international human rights standards and conventions such as the UDHR, the International Convention on Economic and Social Rights, the International Convention on Civil and Political Rights and the ILO Conventions.
- Improve the existing requirement for companies to engage in free, prior and informed consultation with local communities, contained in its Performance Standard on Land Acquisition and Resettlement, by adopting stronger definitions of 'consultation' and community engagement, and ensuring this requirement is fully enforced, by making independent review and audit of companies' compliance with the Performance Standards mandatory.
- Improve the monitoring, reporting and evaluation of reporting requirements of its Performance Standards by making regular independent reviews and audits of social and environmental impacts mandatory, making them less reliant on company-based reports.

The UN Special Representative for Business and Human Rights, Professor John Ruggie should:

- Consider the importance of measures such as extra territorial legislation in addressing 'governance gaps' in the final report to the Human Rights Council. This could include a recommendation for the introduction of mandatory reporting and disclosure requirements for companies operating overseas on their social and human rights impacts, which would be subject to regular independent audits.
- On conclusion of his mandate, push for a follow-up special procedure such as a UN Special Rapporteur or intergovernmental working group specifically covering business and human rights, to ensure that the current discussions, framework and any guiding principles are implemented. This should also include the provision of sufficient resources to ensure the full implementation of the framework, the capacity to investigate particular cases and the power to make recommendations to states and companies.

The UK Government should:

- Strengthen the Companies Act (2006) by:
 - Requiring companies to exercise due diligence over their social and human right impacts. This would require companies to conduct compulsory HRIAs and SIAs, which would help ensure compliance with human rights standards and minimise negative impacts of projects on local communities; and integrate human rights and social impacts into a company's internal decision making, control and oversight systems, which would help improve accountability;
 - Tightening reporting requirements to include mandatory reporting on clear social and human rights standards, and introducing independent auditing requirements;
 - Strengthening directors' duties so that company directors also have a legal responsibility to take action to minimise the negative social and environmental effects of their companies' operations.
- Establish a UK Commission on Human Rights and the Environment as proposed by the CORE coalition with the power to investigate, sanction and provide remedies for abuses committed by UK companies operating overseas.
- Work at the international level to establish a binding international framework on business and human rights, which would hold companies to account no matter where they are headquartered.

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- ⁶⁶ Zerk, Jennifer (2008) *"Filling the Gap: A New Body to Investigate, Sanction and provide Remedies for Abuses Committed by UK Companies Abroad* (Corporate Responsibility Coalition)
- ⁶⁷ CORE (May 2009) *The reality of rights: Barriers to accessing remedies when business operates beyond borders* (LSE)



SCIAF (Scottish Catholic International Aid Fund),
19 Park Circus, Glasgow G3 6BE.

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