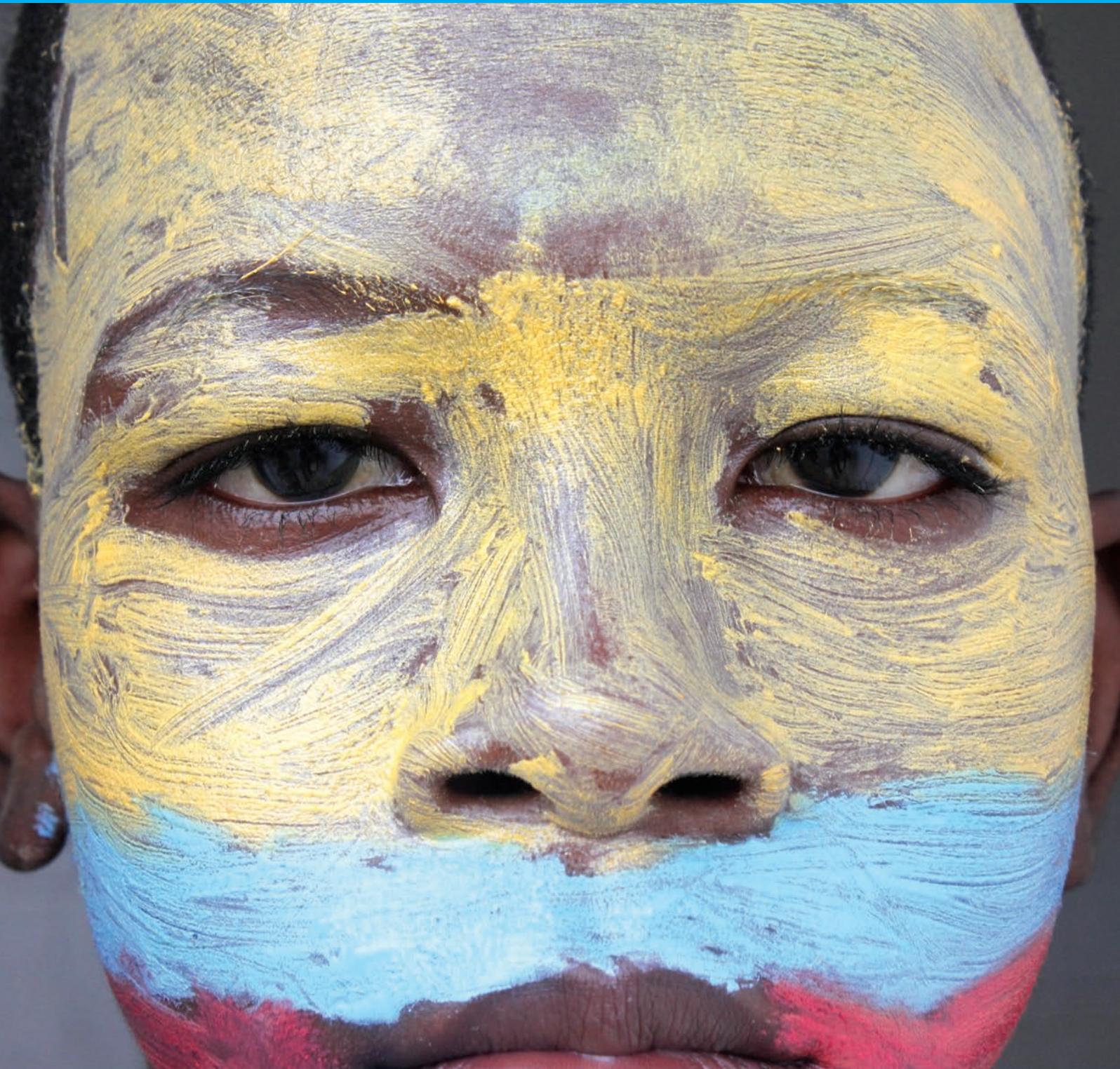




# Taking Care of Business

The impact of big business on people living in poverty



## Acronyms

CIDSE – International Alliance of Catholic development agencies working together for global justice

CORE – Corporate Responsibility Coalition

DFID – UK Department for International Development

ETI – Ethical Trading Initiative

GHG – Green House Gas

GDP – Gross Domestic Product

ILO – International Labour Organisation

IMF – International Monetary Fund

MDGs – Millennium Development Goals

NGO – Non-Governmental Organisation

NIDOS – Network of International Development Organisations in Scotland

OECD – The Organisation for Economic Co-operation and Development

UNCTAD – United Nations Conference on Trade and Development

UNFAO – United Nations Food and Agriculture Organisation

UNFCCC – United Nations Framework Convention on Climate Change

UN OHCHR – United Nations Office of the High Commissioner for Human Rights

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# Campaigning for change

Poverty and hunger don't happen by accident: they are man-made injustices. People are kept hungry, powerless and locked in poverty by global rules, practices and behaviours that only benefit the few. It doesn't have to be this way.

Working together as one human family, we can build a just world - where we all have the chance to live life to the full and where power is held by the many. As well as responding to the effects of poverty on the ground,

SCIAF works in solidarity with those living in poverty and acts as a voice for justice; challenging the practices and behaviours that cause poverty and hunger in the first place.

Only by addressing the root causes of poverty can we build a more equal world; where we all have the chance to live life with dignity and to the full. We believe that working for the common good of all people is more than an act of charity: it is a requirement of justice.



# Executive summary

The impact of business on people living in poverty is huge. As a generator of economic growth, a source of job creation and a payer of taxes, business can make an important contribution to tackling global poverty. As a result, global institutions and national governments have placed a high emphasis on private sector involvement in their development plans. The dominant understanding of development or 'progress' has become almost synonymous with striving to achieve economic growth.

The reality on the ground is more complex. Developing countries have had mixed success translating economic growth into poverty reduction, with many of the Millennium Development Goals (MDGs) remaining unmet despite coinciding with periods of economic growth across the developing world. Rather than using the economy as a tool to serve society, economic growth is now seen as an end in itself. Strategies to redistribute income generated by economic growth, therefore, have been less prominent within many development plans, as has the preservation of our natural resources.

Within this model, an imbalance has emerged between the needs and interests of some businesses and the needs of people living in poverty. While clearly there are positive links between business and efforts to reduce poverty, too many experiences around the world suggest that some businesses are not being held to account for the negative impact of their activities.

The Social Teaching of the Catholic Church offers a fresh perspective on our current economic model and dominant business practices; suggesting that

integral human development and human dignity must be placed at the heart of all our policy-making. As a Catholic charity, SCIAF believes that our understanding of economics and the place of the market must be shifted; instead of serving itself, our economic model must serve the needs of the common good.

As a first step, we must start to demand more transparency from business, particularly those that wield enormous political and economic power. Businesses, as part of society, must be open about their impacts on society, the environment and human rights; and should be held to account for their activities.

With this in mind, and using the experience of SCIAF partners in Colombia, we explore the role of big business and its impact on people living in poverty and on our planet. To be clear, SCIAF is not anti-business; rather, we are pro human dignity.

## Paper Structure

Part One of the paper examines what is meant by the term 'business' and what big business looks like. A justice and peace perspective on business and the economy is discussed in Part Two, followed in Part Three by a discussion of the positive and negative impact big business activities can have on people living in poverty. The experience of Afro-Colombian communities in Chocó, in the north-west of Colombia, is an important case study covered in Part Four and highlights the realities on the ground of business in action. Finally, in Part Five we make suggestions on the kind of good practice needed and how this can be promoted.

## Summary of recommendations

SCIAF calls on the international community, the EU and the UK and Scottish Governments to take action to hold big business to account:

- The Post-2015 process should encourage a fair balance between equity and growth, with a specific focus on tackling inequality
- Governments at all levels must take action to ensure companies act with due diligence and ensure strong corporate reporting mechanisms are in place. These should be backed up by clear guidance and robust monitoring
- Governments at all levels should develop strong action plans to implement the UN Guiding Principles on Business and Human Rights and monitor and evaluate their impact

- All Governments should proactively raise awareness and promote ethical practice by big companies
- The UK and Scottish Governments should proactively promote human rights and good business behaviour on trade missions and in diplomatic meetings with other governments; including in Colombia

SCIAF calls on companies to:

- Act with due diligence and report publicly on how they address their impacts on human rights and the environment
- Avoid investments where there are land disputes
- Be proactive in calling for better corporate reporting schemes across all sectors



Photo: Morgue file

# 1: What is 'business'?

The terms 'business' or the 'private sector' represent a huge spectrum of enterprises. 'Business' includes one-person micro-businesses, co-operatives and huge multinational companies like Nestlé or Shell. It also includes the 'formal' private sector and the 'informal' private sector. While the CEO of a large global company is an obvious actor in the private sector, so too is a young female garment factory worker. Many poor people are engaged in agricultural work and small-holder farmers are also actors within the 'business' sector. These actors can overlap and their impact on development will differ. What is clear, however, is that within this broad spectrum some enterprises and actors hold much more power than others.

For the purposes of this paper, SCIAF will explore the activities of large and multinational companies ('big business'). Multinational companies are entities that have operations in more than one country. The number of multinationals has increased in recent years and the enormous economic and political power of the largest of these companies makes them significant<sup>1</sup>. In 2012,

Forbes' biggest 2000 companies accounted for \$2.43 trillion in profits, \$159 trillion in assets and employed 87 million people worldwide<sup>2</sup>. The combined sales of the biggest 500 companies in the USA alone would make it the second largest economy in the world – far bigger than the economies of the UK, France or Germany<sup>3</sup>.

Some multinational companies dominate entire business sectors. Parts of the food industry, for instance, are controlled by only a handful of big firms. While five million small farms produce over 90 percent of the world's cocoa just nine companies control the supply<sup>4</sup>. Cocoa farmers are likely to receive just 3.5-6 percent of the retail value of a chocolate bar, while the share of profits for the manufacturers is approximately 70 percent, and for retailers about 17 percent.

For the most part, the largest multinationals are based in the global North. In 2012, the majority of the top 500 businesses were headquartered in just seven countries; the United States, Japan, China, UK, France, Germany and Canada<sup>5</sup>.

## IN FOCUS: Power, influence and the 'corporate veil'

The very structure of large companies often provides big businesses with distinct advantages and makes holding businesses to account difficult. In UK law, the principle of 'limited liability' means that shareholders of a company are not liable for a company's debt or for any civil or criminal offences committed by the company. This is also true if the shareholder in question is another company. This legal separation of a company from its subsidiary is known as 'the corporate veil'. This principle has led to large companies developing complex structures whereby the parent company can own a number of subsidiary companies that it may completely control but is legally separate from.

While corporate groups receive tax and financial benefits by having legal subsidiaries they can avoid responsibility for the harmful and illegal actions of these same subsidiaries. In instances where they are accused of abuse, companies can argue that such claims should be brought against a subsidiary where the alleged abuse took place. In the UK, the main issue has become about control and 'duty of care' of the parent company. Because of the complexity of the corporate group, it can be difficult to determine if the parent company has a duty of care<sup>6</sup>.

At the same time the enormous economic power of large and multinational companies often gives them important political influence and access, the likes of which is unavailable to poor communities. In April 2014, the Corporate Responsibility Coalition (CORE), published papers released by the UK Foreign Office in response to a Freedom of Information request exposing the kind of influence big business possesses. The papers show that the multinationals Shell and Rio Tinto lobbied the UK Government for support against human rights cases being heard in the US Supreme Court, under the Alien Tort Claims Act (which allows corporations to be sued for civil wrongs in US civil courts just as an individual). In both cases the UK submitted briefs to the Supreme Court in an effort to secure a ruling preventing future similar actions in the US. Communities often face major challenges bringing cases against companies locally, so closing avenues such as the US Alien Tort Claims Act would be a huge blow to those trying to access justice. In both cases, the UK's intervention appears to have been made in response to requests made by Rio Tinto and Shell<sup>7</sup>.

**!** The supply chains and relationships of multinational companies stretch across the globe and as such these companies have a huge influence on the lives of millions of workers, producers and consumers all over the world. It is only right that the impact of their activities is examined.



Photo: Paul Smith  
View of sunshine through the clouds from the Atrato River in Chocó, Colombia.

## 2: A justice and peace perspective

Inspired by the Social Teaching of the Catholic Church, SCIAF believes that every human being possesses a basic dignity and worth that comes from God. Respect for the inherent value of every person must, therefore, be at the heart of our approach to development.

Catholic social teaching has important implications for thinking about our economic model, business and development. Human beings cannot be seen merely as economic units and we must shift the focus away from the relentless pursuit of economic growth towards an approach that prioritises integral human development.

This concept of integral human development is not just about promoting the good of every person but about promoting the good of the *whole* person. Development using this approach addresses the person's cultural, economic, political, social and spiritual needs. It is this approach to development that underpins SCIAF's vision and all of our work with communities around the world.

Pope Paul VI, in his 1967 encyclical *Populorum Progressio*, introduced the concept of integral development: "*Development cannot be limited to mere economic growth. In order to be authentic, it must be complete: integral, that is, it has to promote the good of every man and of the whole man*"<sup>8</sup>.

In response to the 2008 economic crisis, Pope Benedict XVI built on these ideas of 'authentic human development' and human dignity in his encyclical *Caritas in Veritate*<sup>9</sup>. It offered a fresh perspective on the crisis; reminding us that the economy does not exist in a vacuum. Pope Benedict suggests that markets are not morally self-sufficient; rather, since the economy operates within society – and is influenced by social and political factors – it must be governed by an ethical framework.

Friendship, solidarity and trust should be part of every stage of the market, the practice of business and the way we work. There is an important role for states – “charged with vigilance for the common good” – as moral actors<sup>10</sup>; ensuring that economic life is accountable and draws wisdom from wider society. At the same time, business must assume greater social responsibility and “cannot concern itself only with the interests of the proprietors, but must also assume responsibility for all the other stakeholders who contribute to the life of the business”<sup>11</sup>.

The lack of ethical framework guiding today’s economy is causing significant problems. Pope Benedict writes, “the conviction that the economy must be autonomous, that it must be shielded from “influences” of a moral character, has led man to abuse the economic process in a thoroughly destructive way”<sup>12</sup>. In addition, “once profit becomes the exclusive goal, if it is produced by improper means and without the common good as its ultimate end, it risks destroying wealth and creating poverty”<sup>13</sup>.

In his Apostolic Exhortation, *Evangelii Gaudium*, Pope Francis has also reflected on our ‘light-touch’ approach to the economy. He said: “We can no longer trust in the unseen forces and the invisible hand of the market. Growth in justice requires more than economic growth, while presupposing such growth: it requires decisions, programmes, mechanisms and processes specifically

geared to a better distribution of income, the creation of sources of employment and an integral promotion of the poor which goes beyond a simple welfare mentality”<sup>14</sup>.

Pope Benedict has called for a “deeper reflection on the meaning of the economy and its goals” and his teachings suggest that we need a dramatic shift in the way we understand the role of economics in providing for human flourishing<sup>15</sup>. We need to go ‘back to basics’ – reminding ourselves of basic truths; that the core purpose of economic life is not for the good of itself but for the good of human beings, to engage in a stable and productive society<sup>16</sup>. In other words, the economy is there to serve the needs of society and not the other way around. The economy, Pope Benedict suggests, “needs ethics in order to function correctly - not any ethics whatsoever, but an ethics which is people-centred”<sup>17</sup>.

With these teachings in mind, SCIAF believes more emphasis should be placed on what we want the economy to achieve. The true test of our economic success should be based on how effectively the economy is contributing to human well-being and flourishing. At the moment, however, the dominant measure of success or ‘progress’ is Gross Domestic Product (GDP) – a measure of a country’s economic activity. SCIAF believes that we must move towards a measure of development which replaces GDP with a measure based on well-being.

## IN FOCUS: Looking closer at our own lives

Challenging decision-makers and companies is vital to promoting responsible business practice. However, it is important to recognise how our individual behaviour can fuel the structures and practices that exploit people and damage the planet.

The world is currently using 50 percent more resources than the planet can sustain<sup>18</sup> and it is the world’s wealthiest 20 percent that are consuming 80 percent of the resources<sup>19</sup>. Land, water and other natural resources are being ‘grabbed’ by governments and big companies in order to sustain highly consumptive lifestyles, mainly in the global North. Our appetite for cheap clothing, food and electronic goods shows no sign of waning. Perversely much of the produce we demand is subsequently wasted. In the UK, for instance, more than 7 million tonnes of food and drink is thrown away every year - most of which could have been safely consumed<sup>20</sup>.

In *Caritas in Veritate*, Pope Benedict has reflected on the importance of individual choices – including those we make as consumers - as well as action needed by companies and states: “It is good for people to realize that purchasing is always a moral — and not simply economic — act. Hence the consumer has a specific social responsibility, which goes hand-in-hand with the social responsibility of the enterprise”.

For SCIAF, ‘looking closer’ at our own lives is important; we must all take steps towards living a more simple and responsible life, so that others can simply live. This might involve planning our meals more efficiently for instance or considering more environmentally friendly ways to travel to work. Demanding change of ourselves can be uncomfortable but if we are serious about tackling global poverty and injustice, it is an important part of the solution<sup>21</sup>.

**! A fundamental change in our understanding of the economy is needed to re-orient its purpose towards the common good. This will involve states moving away from their ‘light-touch’ approach to business and the economy, with governments preparing to regulate where needed and cooperate internationally to ensure companies are transparent and held to account.**



Photo: Paul Smith

### 3. The impact of business on poverty reduction

The impact of big business on development is a complicated picture. Big companies can play an important role in tackling poverty and hunger, not least as a generator of economic growth and a creator of jobs. However, like others, SCIAF has witnessed the harmful impacts of big business activities on people living in poverty.

#### Economic growth and jobs

National governments and international institutions have placed support for business at the heart of their development strategies, based primarily on the link between business and economic growth. In many developing countries, like Colombia, the aim of attracting foreign investment remains key to national development policies. The UK's approach to business and development has also focused on the links between business and economic growth<sup>22</sup>. According to DFID, it is "rapid and sustained growth" that is critical to making faster progress against the MDGs<sup>23</sup>. In January 2014, the Secretary of State for International Development, Justine Greening, said: "...Economic development is now a core priority right across the department and we are working with a whole range of new business partners... This shift of approach means, simply, that DFID's economic development role will be focused on making it easier to do business in

*developing countries*"<sup>24</sup>.

Certainly, the private sector as a whole – including large and multinational business - is key to creating economic growth and is a source of job creation. For many of those living in poverty, a central demand is either access to employment or the means to build a sustainable livelihood<sup>25</sup>. Oxfam research in Kenya found that export horticulture is one of the major earners of foreign exchange and provides up to two million jobs. The study concluded that: "export horticulture...has enormous potential to contribute to poverty reduction and the achievement of development goals"<sup>26</sup>. One study in Namibia and Zimbabwe also found that two to four jobs were created locally for every worker employed by a multinational company in those countries<sup>27</sup>.

Training and development of skills from such employment arguably provides additional value. Levi's, for instance, is training farmers in water harvesting and irrigation techniques in India, Pakistan, Brazil and West and Central Africa. Starbucks is also teaching farmers valuable agricultural techniques to protect the coffee plants from rising temperatures. In the face of climate change, such skills are vital in building resilient communities<sup>28</sup>.

## IN FOCUS: Colombia and the mining industry

In Colombia, the mining sector has been deemed a major driver of economic growth and an important part of Colombia's development plan. The goal of the Colombian Government is to double coal exports, quadruple gold exports and triple the mining area by 2021<sup>29</sup>.

This vision of Colombia as a 'mining country' was pushed forward during the presidency of Alvaro Uribe Velez and has been continued under the administration of President Juan Manuel Santos, who has incorporated it into the National Development Plan (2010-2014).

Under the Uribe administration the number of mining concessions granted was the highest in Colombian history. According to Colombia's Comptroller General<sup>30</sup>, by the end of 2010, almost 60% of Colombian territory was under concession or had applications pending.

The administration also put in place a number of favourable investment conditions for multinational companies. In Colombia, economic benefits to the State are realised through revenue collection

on surface rights fees, taxes and royalties. Mining companies operating in Colombia pay an annual licence fee for exploration and exploitation licences. With encouragement from the World Bank a series of tax reforms were initiated in order to lower Corporation Income Tax rates from 35.5 to 33 percent. In addition, the extractives sector has a complicated system of tax exemptions awarded to multinational companies<sup>31</sup>.

According to the UK Government, the UK is the second largest investor in Colombia, with recorded investments of \$6 billion over the last 10 years. In February 2014, the UK Government announced a new target of £4 billion of bilateral trade and investment with Colombia by 2020<sup>32</sup>. Major UK investors include Anglo American and BHP Billiton (coal and nickel), SAB Miller (beer) and British Petroleum (oil)<sup>33</sup>.

With major investments in the mining and hydrocarbon sectors, the exploitation of Colombia's natural resources has been of huge benefit to European companies - but what of the benefit to Colombia's population?

### Other big benefits?

Large companies also offer other important development contributions. They produce vital services and products that people living in poverty need. The telecommunications industry, for instance, has transformed lives by improving the ease of communication and introducing mobile banking and commerce<sup>34</sup>. New products – such as weather monitoring systems - designed to help poor communities respond to climate change are also extremely valuable<sup>35</sup>. Tax revenue and other payments generated from the activities of big business can make a vital contribution to government budgets, which are key to providing essential public services like health and education. In fact, donor governments increasingly promote the private sector itself as having the necessary scale, finance and expertise to deliver vital services and public projects.

Whilst these are important contributions to development, closer examination of the reality on the ground reveals a more complicated picture. Evidence demonstrating the effectiveness of the private sector in delivering public services and projects has been decidedly mixed<sup>36</sup>. Large companies can produce valuable goods and services but for this contribution to be meaningful poor people must be able to access and afford them. The presence of large companies can also crowd out smaller firms, leading to a loss of livelihoods<sup>37</sup>. Recent tax scandals have also illustrated the vast sums of money denied to developing countries by multinational companies who dodge their taxes.

In 2008, Christian Aid estimated that developing countries lose more than \$160 billion annually as a result of tax dodging<sup>38</sup> – as a comparison in 2012 aid from the OECD Development Assistance Committee (DAC)<sup>39</sup> totalled \$127 billion<sup>40</sup>.

### The limits of growth

At the same time, a more nuanced understanding of economic growth is important. While economic growth in the global South is needed, we must acknowledge that growth alone is not sufficient to eradicate poverty. Despite coinciding with periods of economic growth across the developing world, when the MDGs expire in 2015 it is expected that many of the targets will have been missed<sup>41</sup>. Arguably, the goal on poverty reduction has been met due to the strong performance of one country, China<sup>42</sup>.

In 2011 the World Bank said: "While there is general consensus that economic growth is necessary for sustained poverty reduction, the effectiveness of growth in reducing poverty has varied across countries"<sup>43</sup>. According to recent research 80 percent of the world's population who live on less than \$2 a day (two billion people) now live in middle-income countries. As a comparison - in 1990 over 90 percent of people living on less than \$1 a day lived in low-income countries<sup>44</sup>. Poor people have not moved of course, rather certain countries have graduated to middle-income country status. This graduation, however, clearly is not eradicating poverty.

Rather, what is increasingly clear is that the distribution



Photo: Paul Smith

of income across the world is unequal; the average income of the richest 5 percent is estimated to be nearly 200 times that of the poorest 10 percent<sup>45</sup>. This degree of inequality means that the effect of global growth on extreme poverty – without a “*progressive shift in income distribution*” – is limited. According to UNCTAD, across most countries, the top income strata (in some cases only the top 1 percent) “*have been the biggest winners from boom conditions*”<sup>46</sup>.

Some countries, however, have had some success in translating economic growth into poverty reduction. In

Brazil, for instance, there has been a decline in extreme poverty and income inequality levels. Between 2002 and 2012 extreme poverty fell from 23.2 percent to 5.9 percent. There is clearly a long way to go and Brazil remains one of the most unequal countries in the world. However, the introduction of key distributive policies - such as cash transfers and increasing the minimum wage - has “*contributed significantly to social progress*”<sup>47</sup>. Distributing the income and wealth fairly during the growth process is something that appears to have been overlooked in many development policies.

## IN FOCUS: Inequality in Colombia

In recent years, the GDP of Colombia has been increasing, with the mining and agribusiness sectors contributing to Colombia’s status as an upper middle-income country<sup>48</sup>. For some, Colombia’s economic policy is to be praised. IMF Director, Christine Lagarde, for instance, has stated that “*Colombia has enjoyed a macroeconomic policy that has given a lot of stability to the country*”, also commenting that the global economy is not as healthy as Colombia’s<sup>49</sup>.

Despite this, a large proportion of Colombia’s

population - 32.7 percent in 2012 – is still living in poverty<sup>50</sup>. Moreover, Colombia remains one of the most unequal countries in the world<sup>51</sup>. In Chocó, Colombia’s poorest department, the proportion of people living in poverty in 2012 was 68 percent (a proportion which has risen from 64 percent in 2011)<sup>52</sup>. Similarly, while the overall incidence of extreme poverty in Colombia in 2012 was 10.4 percent, in Chocó, 40.7 percent of people were living in extreme poverty (a figure which has also risen from 34.3 percent in 2011)<sup>53</sup>.

“ Some people continue to defend trickle-down theories which assume that economic growth...will inevitably succeed in bringing about greater justice and inclusiveness in the world. This opinion, which has never been confirmed by the facts, expresses a crude and naïve trust in the goodness of those wielding economic power. ”

Pope Francis, *Evangelii Gaudium*

### Labour standards

While big businesses can be a source of jobs, it is important to examine working conditions and wages. Ultimately, the purpose of business is to make a profit. In many sectors, this desire has led to a race to the bottom where companies seek produce, raw materials and production at ever lower costs. Compromising on labour standards allows money to be saved. This clearly holds back the potential of big business to contribute to poverty reduction.

In Oxfam's research on the Kenyan horticultural sector payment of low wages was shown to be a significant problem. According to the study, the minimum salary required to meet basic needs and provide some discretionary income within the Nairobi area was \$120 per month, yet only 11 percent of workers interviewed were earning above that amount<sup>54</sup>. Such low salaries mean workers are unable to cover the cost of their basic needs and can encourage adults to send their children to work. The ILO estimates that there are 168 million children working worldwide, missing out on education and damaging their health<sup>55</sup>.

War on Want's research on the Bangladeshi garment industry is indicative of the shocking working conditions for some, with employees forced to work excessive hours in order to make ends meet<sup>56</sup>. The ILO has also estimated that about 2.3 million people worldwide die from work-related accidents and diseases every year<sup>57</sup>. The collapse of the Rana Plaza garment factory in Bangladesh in 2013, which killed 1,133 garment workers, is a shocking illustration of the human cost of putting profits above standards<sup>58</sup>.

### Human rights

Either directly or indirectly, big business has been implicated in the abuse of human rights all over the world. High food prices and a search for new and conventional energy and materials have led to a natural resources 'grab'. The World Bank has acknowledged that the demand for land has been "enormous", stating "Compared to an average annual expansion of global agricultural land of less than 4 million hectares before 2008, approximately

56 million hectares worth of large-scale farmland deals were announced even before the end of 2009"<sup>59</sup>.

This phenomenon is having a serious impact on women and men living in poverty. Denied access to land, the livelihoods of small farmers are being threatened and without secure access to food communities become more dependent on volatile food markets (since 2000 real food prices on international markets have surged<sup>60</sup>). Civil society has also highlighted various examples of indigenous communities being denied their territorial, cultural and spiritual rights where economic interests of big companies have overlapped with their land.

All over the world, those who attempt to defend their human rights and their environment are criminalised, threatened and killed. In some places, the trade in certain commodities – like tin, diamonds and gold - is fuelling conflict and propping up some of the world's most abusive regimes. It is estimated that in the last sixty years some 40 percent of all intrastate conflicts have had links to natural resources<sup>61</sup>. The global nature of today's economy means it is possible that European companies are involved in the trade, processing or manufacture of goods or industrial products made from 'conflict minerals'.

### Environmental degradation

Our current economic model – with its focus on economic growth and subsequent high consumption patterns - is causing serious problems like deforestation, water scarcity, pollution and climate change. Some companies are helping the world move towards more sustainable solutions (those which work in the area of renewable energies for instance) but some big businesses have been accused of causing damage to the planet. In the Niger Delta, for instance, civil society has highlighted how the operations of oil companies are causing major problems for local communities whose sources of food, water and livelihoods are destroyed by oil spills. Between January and September 2013 there were more than 600 oil spills and more than 2,500

between 2008 and 2012<sup>62</sup>. Oil companies have claimed the spills are mostly caused by sabotage but communities often argue that they are in fact a result of operational errors and equipment failures.

Investigations into the problem have been conducted by the oil companies themselves, with limited involvement of the affected communities<sup>63</sup>.

## IN FOCUS: The impact of Colombia's mining industry

In 2011, CODHES, a Colombian organisation working for internally displaced persons, explored the implications of economic interests – including mining – on Colombia and how they related to the decades-long conflict there. It concluded: *"mining areas are militarised and para-militarised: law enforcement protects the large private investment and paramilitaries suppress social protest and pressurise for displacement"*<sup>64</sup>. Land where mining concessions have been granted has in many cases been caught up in Colombia's conflict. Colombia's context, therefore poses high risks for multinational companies, which risk being seen to benefit from human rights abuse and conflict.

ONIC (the National Indigenous Organisation of Colombia) reports that when soldiers are brought in to protect 'mega-projects' in or near their territory there is an increase in violence, including against women and girls<sup>65</sup>. This impact on women has also been observed by Colombian journalist Jineth Bedoya who has said that *"violation against women is not just a result of the conflict...this is a business, a commercial opportunity"*. She explained: *"in Colombia today, those in charge of drug trafficking and the exploitation and trafficking of women are like a holding company. Most of them were paramilitaries, who agreed to disarm so they could consolidate their drug and business interests, and now they offer their services to a corporation; they may be the heads of security for a new multinational investment...Nothing is allowed to get in the way of the arrival of the multinationals"*<sup>66</sup>.

More recently a report from Colombia's Comptroller General made a connection between the areas where serious human rights violations are occurring and areas of mining and oil extraction: *"according to figures from Funtraenergética<sup>67</sup> (2011), '80 percent of the human rights violations occurring in Colombia, are taking place in the mining and oil municipalities (35 percent of the national total); 87 percent of forced displacement occurs in these municipalities and those which receive royalties for mining and energy production; 78 percent of crimes against*



Photo: CCA/ICP

*trade unionists, 89 percent against indigenous peoples and 90 percent against Afro-descendant peoples, are committed in mining and energy areas"*<sup>68</sup>.

The OECD has highlighted concerns around the impact of extraction on Colombia's environment. It states that Colombia's rich biodiversity is under threat – noting that between 30-50 percent of Colombia's natural ecosystems have been 'transformed' in some way. Along with mining the report also highlights cattle-ranching and hydropower as particular threats. It warns that agriculture and mining are *"the two key sectors where significantly strengthened efforts to reduce pressures on biodiversity are urgently needed"*<sup>69</sup>.

The economic benefits of Colombia's mining strategy have also been questioned, with mining companies appearing to contribute little to local economies. Mining has advanced technologically and once the construction stage is complete relatively little employment is generated. With regard to taxes generated by the sector, Guillermo Rudas points out that the tax exemptions awarded to multinational companies have resulted in Colombia gaining very little from the extractives sector. In fact, in the years 2007-2009, the Colombian Government appears to have paid corporations to take away its coal<sup>70</sup>.

**!** Economic growth and job creation matter to developing countries but so does fairness and dignity. Increasingly the seemingly simple link between economic growth and poverty reduction is being challenged. At the same time, the experience of SCIAF partners suggests that in the pursuit of economic growth, the interests of big business are being put above the needs and rights of vulnerable communities and the planet. While big business has the potential to impact positively on people living in poverty we must be realistic about the negative impacts that can occur when it is not properly regulated and held accountable.



Photo: Simon Murphy

## 4: Business in action: the case of Cocomopoca

Since 2008 SCIAF has worked with a partner called Cocomopoca; an Afro-Colombian organisation, made up of 43 communities based along the Atrato River, in the department of Chocó in north-western Colombia. After decades of civil war and violence, Cocomopoca communities are now facing the latest threat to their land - the mining industry.

As a result of powerful economic interests, ineffective land laws and a legacy of conflict, communities have struggled to realise their rights as an ethnic community and to defend their way of life. As a consequence, hunger, fear and instability have all increased. The struggle of Cocomopoca is indicative of similar struggles around the world; it is a case study of business in action

## IN FOCUS: Chocó

Chocó is one of the most bio-diverse places on the planet and is rich in natural resources including gold, platinum and copper<sup>71</sup>. The Afro-Colombian communities in Cocomopoca territory have lived there for some 200 years and, like elsewhere in Chocó, traditional mining of gold and platinum is an important part of their livelihood. This mining

is small-scale and responsible - alternated and supplemented by other sources of livelihood such as farming, fishing, hunting and small-scale logging<sup>72</sup>. Despite its vast natural wealth, Chocó is the poorest department in Colombia, with 68 percent of the population living in poverty<sup>73</sup>.

and illustrates the consequences of placing the interests of business above the needs of people.

### A legacy of conflict and injustice

Colombia's decades long conflict has left thousands dead or disappeared and millions displaced. It is estimated that 5.7 million people – equivalent to the entire population of Scotland – have been displaced<sup>74</sup> and between 1980 and 2010 some 6.6 million hectares of land has been abandoned or taken from its owners<sup>75</sup>. The last agricultural census in Colombia dates back to 1971 and there is no updated land registry<sup>76</sup>. It is in this context that multinationals are being awarded mining concessions by the Colombian Government. Without thorough due diligence, including consultation with those who might be affected by business activities, there is a real danger that in taking up concessions these companies will become implicated in human rights abuse.

### A fight for rights

In 1999, Cocomopoca applied for a collective land title for their ancestral territory, an area of approximately 172,000 hectares. The communities expected the land title to be granted within 6 months as the legislation sets out. In fact, the process took twelve years, with the Catholic Church and NGOs, including SCIAF, joining the struggle.

Finally, in September 2011, Cocomopoca communities were granted collective land titles to 73,000 hectares – just under half of their 172,000 hectares of ancestral land. Law 70 (1993), the law under which Cocomopoca were awarded their land, recognises their right to live in their territory according to their cultural customs and way of life. While the award of the collective title was a significant victory, the communities have discovered that whilst anything above the land belongs to them, anything below the soil, which in this case contains valuable natural resources, belongs to the state.

### External interest

The enormous mining potential of Chocó has long attracted the interests of various actors – including national and multinational mining companies. In an attempt to manage the mining in their territory, in 2004 Cocomopoca presented several requests for small-scale mining titles. These were all denied.

Between 2002 and 2012, however, the state issued 47 titles on 181,636 hectares to individuals and companies seeking mining concessions in the department of Chocó<sup>77</sup>. Many of the mining titles awarded to companies in Chocó overlap with the ancestral territory of Afro-Colombian communities. The company that appears to have the most interest – either directly or through its subsidiary companies and joint venture partners – is the multinational AngloGold Ashanti (AGA)<sup>78</sup>.

Based on a Freedom of Information request obtained by Colombian NGO Tierra Digna in January 2014, it is believed that the AGA group has been awarded up to 21 mining titles that overlap with Cocomopoca territory, amounting to up to 17,303 hectares. AGA, however, has told SCIAF: *"there are a total of 14 mining titles in the name of AngloGold Ashanti (AGA) that partially or completely overlap with the collective land of this ethnic community. Nevertheless, we must note that the titles in question are managed by Glencore, with which AGA has a Joint Venture. Therefore, any type of mining activity undertaken on this land is embarked upon by Glencore"*. Gaining a clear understanding of the number of concessions granted in Cocomopoca and to whom, has been difficult. For some time, Cocomopoca has faced significant challenges in accessing information which has hampered the communities' attempts to defend their rights. Cocomopoca are still analysing the complicated information accessed from Freedom of Information requests.

Also of concern are the two Resolutions passed by the Colombian Government in 2012 which declare 17.6 million hectares across Colombia as 'Strategic Mining Areas' (this includes areas in Chocó); to be auctioned to multinational companies. The Resolutions quoted a decision made by the Directorate of Prior Consultations of the Ministry of Interior which suggests that the winners of a concession would only be required to consult with communities once they had won the contract. This clearly threatens to circumvent the right of Indigenous and Afro-Colombian Peoples to prior consultation<sup>79</sup>.

## IN FOCUS: AngloGold Ashanti and Colombia

AngloGold Ashanti (AGA) is the third largest gold-mining company in the world, whose shares are traded on stock exchanges including London and New York. Until 2009, Anglo American owned a significant stake in AngloGold Ashanti<sup>80</sup>. AGA operates in various countries around the world and in 2012 the company announced \$924 million worth of profits – the second highest on record<sup>81</sup>.

AGA is a company of increasing significance for some communities in Colombia, having acquired a number of mining concessions in the country. Its principal projects in Colombia are Quebradona, Gramalote and La Colosa<sup>82</sup>. Speaking of its operations in Colombia, AGA has called the country a 'diamond in the rough'<sup>83</sup>. In its 2013 Annual Integrated Report, AGA identified Colombia as a 'top group strategic opportunity', setting out how one of its strategies is to "Work to ensure that 'social licence to operate' is realised"<sup>84</sup>.

As part of its online Sustainability Report for 2013, AGA has stressed the importance of good communication as part of its operations in Colombia. An online case study states: "According to Nick Winer, Vice President, Greenfields Exploration, managing the social aspects of exploration is critical, particularly in Colombia where extensive illegal mining activities have created a negative perception of the mining sector. Over nearly ten years in Colombia, AngloGold Ashanti has seen first-hand that establishing a two-way and transparent dialogue with stakeholders is essential, particularly when entering new areas. It is just as critical to maintain communication – particularly with communities in the areas where exploration teams are working for extended periods".

Describing the various phases of activity, the web article continues: "When an area of interest is identified," said Nick, "and before any reconnaissance begins, before any geologists set foot on the ground, we perform a risk analysis to determine the social, environmental and security sensitivities of the project." Once the desktop survey is completed,

a security officer and a social officer visit the area to meet with the local authorities and community leaders"<sup>85</sup>. AGA insists: "We strongly believe in proactive and transparent interactions with all local communities".

AGA is a member of and a signatory to the International Council on Mining and Metals (ICMM), the principles of the United Nations Global Compact (UNGC), Extractive Industries Transparency Initiative (EITI) and the Voluntary Principles on Security and Human Rights (VPSHR) and the World Gold Council's Conflict-Free Gold Standard (WGC CFGS). According to AGA, it "endeavours to comply with the principles advocated by those bodies and reports on this compliance".

Various NGOs, however, have raised concerns about AGA's activities and their impact on communities and the environment. While SCIAF welcomes AGA's recognition of the importance of communication with communities in Colombia – at every stage of activity – this seems at odds with testimony from community leaders and community members in Cocomopoca territory; none of whom had been consulted about possible activity.

Tierra Digna has also highlighted AGA's complex corporate group and associated partners and has suggested this is leading to dominance within the gold industry bordering on monopoly<sup>86</sup>. In addition, AGA has been accused of using legal but unethical measures to avoid paying its fair share of tax by requesting mining titles in a fragmented manner. Rather than requesting titles for the total area of mining interest, on some occasions their requests do not exceed 2,000 hectares. This practice allows companies to reduce the amount of tax paid for ground rent, which is set at a lower rate for smaller titles<sup>88</sup>. AGA has told SCIAF that all of its applications for mining titles are related to areas of geological interest and conform to the rules of the Colombian mining code.

### Violence, intimidation and displacement

Chocó's strategic position has made it a key region for drugs and arms trafficking and since the 1980s various armed actors have clashed over the control of the territory<sup>89</sup>. For those living in Chocó, this violence has led to human rights abuses, forced displacement, economic blockades, restriction of movement and forced recruitment into armed groups<sup>90</sup>. Many of those living in Cocomopoca territory told SCIAF that they believe that violence has intensified due to the stores of natural resources and the subsequent economic interest in the area<sup>91</sup>.

During Cocomopoca's fight for their collective

land title, significant displacement has taken place. According to a census conducted by Cocomopoca, the population of the territory has fallen from 17,000 in 1999 to 12,000 in 2011. Many of those displaced from their land are thought to have moved to nearby cities and towns including Quibdó and Medellín. As many explained to us, life in the cities is tough; with no means to earn a living, rural communities are joining those living in urban poverty. For those who have stayed in the territory, there is a real sense of fear about what the future will bring. Illegal mining is already having an impact on food security as well as damaging the environment.

“ We believe that the people of Colombia have the right to progress, they have the right to access services, benefit from the social and cultural rights in their territory without the need for so much death, without the need for violence. People must have access to progress but not over the blood and bones of so many people. ”

*Father Luis Carlos Hinojosa, Director of the Social Pastoral department of the Diocese of Quibdó*

Those defending their territorial rights in Cocomopoca have also been subject to intimidation. Community leaders in Cocomopoca territory have received anonymous death threats and just days after SCIAF visited the communities in June 2013, the Legal Representative of Cocomopoca, Américo Mosquera, was threatened anonymously. As a security measure the Colombian Government has provided mobile phones and bullet-proof vests for Américo and his colleagues. In a country where in 2013 alone 78 human rights defenders were assassinated, it is questionable whether these measures are sufficient<sup>92</sup>. Tierra Digna, which has been working closely with the community on realising their territorial rights, has also recently been threatened anonymously, forcing the organisation to relocate offices.

The people of Cocomopoca feel abandoned by their government. One community leader explained: “We

vote here and after voting we are abandoned. Now they remember very little that we elected them to be the members of Congress. They come just to get our vote.”

Of particular concern is the security pledged by the Colombian Government for mining projects. In January 2014, Congressman Iván Cepeda highlighted a number of security contracts signed between the Colombian Ministry of Defence and mining companies, in which mining companies receive protection from the Colombian military<sup>93</sup>. The Congressman highlighted the contrast between the security offered to local communities by the Government and that received by multinational companies<sup>94</sup>. While multinationals such as AGA may not be directly involved or aware of the hostilities in Cocomopoca territory they risk being implicated in human rights abuses and benefitting from the consequences of armed conflict.



Photo: Simon Murphy

“ For our communities land is everything. In the territory there are rivers. In the territory there are forests, there are animals. The territory is the place where one lives. And it is a harmonious territory, where you live in a total relationship with nature. Traditionally the communities have used the natural resources sustainably. Because they understand that when the resources run out, life also runs out. ”

Father Sterlin Londoño,  
Diocese of Quibdó

## Testimony from Cocomopoca

### Américo Mosquera, Legal Representative of Cocomopoca

Américo is the legal representative of Cocomopoca. While Américo is proud to represent the organisation, he told SCIAF that the role has been a big responsibility and a huge weight on his shoulders.

He explained the importance of the land and the river to the people of Cocomopoca: “...the rivers are our source for everything. We use them for travel... so the women can wash and clean clothes... It gets to a point where you think of the land as you think of your mother. If you lose your mother you lose everything.”

Américo believes that companies like AngloGold Ashanti will make good on their mining concessions



Photo: Paul Smith



Photo: Paul Smith

if they are allowed to. The implications for the community, he believes, would be devastating: "We think they could have a big impact. Why? If every one of the national and multinational companies uses the right the Government has given them, then, where are we going to live? So, the Government is pushing us towards the largely populated areas... There was a time when Government told us: 'No you have to stay by the source of the rivers', now they tell us 'You have to leave the river source'. This will increase the amount of poverty in the big cities".

Americo believes that the interests of businesses are being placed above the needs of the communities: "The State doesn't take responsibility... If the Government wanted to, they could improve our situation. At the moment we see ourselves obligated to beg for fundamental rights that the Colombian Government should guarantee, but they are not complying with these".

Since taking over as the legal representative of Cocomopoca, Américo has received a number of threats. "When I succeeded Nicolasa [the previous legal representative], I was threatened. The people making threats don't identify themselves. I am constantly getting text messages where they say to me "you will be first," "grass, you are against the mining."

## Community Member\*

The community member is 27 years old and a parent. They explained their hopes and fears about living in Cocomopoca territory: "I was born here. My children were born here. My family has always lived here. This area means a lot to me. The land is so important for us because it gives us everything we need to make a living. The food, the mining... The best thing about living here is that we get everything from the river and the forest. If I didn't have any money and I lived in the city, I would go hungry.

If big mining companies come it will be very difficult. If they come with big diggers it will destroy our environment. It will pollute the rivers and kill the fish. It will contaminate the soil. It will bring more mosquitos. I'm afraid that this will happen. Right at the entrance

\*names have been removed to ensure the safety of interviewees

to the river there are two diggers and I'm afraid they will come here. That will mean only bad things for us. We don't want them. In other parts, there have been diggers and the people who live there have nothing left. They have destroyed everything".

## Community Leader\*

The community leader spoke to SCIAF about the importance of the land to the community: "The territory for us, the Afros, who have lived in this territory for about 200 years, has a very important meaning, because it is where we carry out all of our everyday activities. It is where we take our sustenance; it is everything. It isn't specifically the land as such, but it is where we carry out mining, agriculture, and fishing. It is where we have developed all of our culture."

The leader explained why they felt mining must be undertaken responsibly: "Because gold is a mineral, or a metal, it is not renewable. Once it is extracted, it doesn't come back again like a plant does. Today there is less gold, because before, we weren't thinking about getting rich, but just getting the minimum we needed to survive. Nowadays they [medium and large scale miners] do it thinking about getting very rich."

They explained how many communities had already been displaced by Colombia's internal conflict and having returned to their land are facing the new threat of mining: "Well we have already experienced forced displacement because of the presence of illegal armed groups in our territory. But also now, with all these licences from the Government to the multinationals, there could be more displacement, maybe similar or bigger than what we have already experienced. Some people aren't worried because they are not aware of the impact a company like this can have, because they don't have a lot of knowledge about everything that has happened to other countries where there have been excavations. But those of us who have a better understanding, we find ourselves worried because we would have to leave everything that we have spent years struggling for, we have cared for, we have preserved for future generations."

**!** While no multinational company has started to exploit the mining concessions they have been granted in Cocomopoca territory, communities have observed explorations in their territory. Neither the mining companies that benefit from mining concessions nor the Colombian Government have been able to guarantee respect for the basic rights of the communities to participation, access to information or prior consultation<sup>95</sup>.

Due to this lack of consultation, SCIAF understands that as of April 2014 some mining concessions granted in Cocomopoca territory are being challenged in Colombia's Constitutional Court.

This is a positive development for the communities in Cocomopoca territory and a testament to their persistence and courage in spite of threats and intimidation. Their struggle highlights the need for companies to understand the context they are operating in and the serious implications - for communities and business - when companies do not. In addition, there is a clear need for government and corporate transparency, communication and information, as well as monitoring processes to ensure companies are behaving in the way they claim to be.



Photo: Paul Smith

## 5: Towards a better balance

SCIAF believes that our approach to business and development should be one that focuses on integral human development and human dignity. The Social Teaching of the Catholic Church is clear that states should play a role in examining our current economic model and business practice and reorienting it towards the common good.

Given the influence big business has on people living in poverty and the planet, it is only right that companies should be held to account for their activities. This is particularly important in fragile and conflict-affected countries where communities are more at risk of abuse<sup>96</sup>.

### The international context

By becoming parties to international treaties, states assume obligations and duties under international law to respect, protect and fulfil human rights. At an international level various sector specific and voluntary measures also set out the action states and business should take to ensure companies operate responsibly.

Despite these measures, human rights and environmental abuses continue to take place and human rights defenders, trade unionists and environmental defenders continue to be threatened and killed. It is clear that stronger action at a European and national level is needed if international principles are to be put into practice.

### A shift in our approach

Any action on business practice will require politicians to shift their mind-set away from the dominant 'do not interfere' approach. Action must also be informed by the recognition that a shift in the way we understand the economy and its purpose is needed. SCIAF agrees with those who believe that 'business as usual' is not an option and continued growth and consumption in high income countries is not desirable<sup>97</sup>. To bring living standards closer together many of those in the global North need to consume much less. Achieving this while allowing growth in incomes and consumption for those

living in poverty is a major challenge.

A key opportunity to challenge 'business as usual' is within the new development framework that will replace the MDGs when they expire in 2015. This new framework, which will dominate development policy-making, has to encourage a fair balance between equity and growth. An alternative measure of progress is also needed to reorient economic action towards human wellbeing rather than pursuing growth as an end in itself.

### 'Due diligence' and the UN Guiding Principles on Business and Human Rights

In 2011, the UN Human Rights Council adopted the UN Guiding Principles on Business and Human Rights (the Guiding Principles). The Guiding Principles elaborate on the 'Protect, Respect, Remedy' Framework, which sets out:

- 1) The state duty to protect human rights
- 2) The corporate responsibility to respect human rights
- 3) The need for greater access to remedy for the victims of corporate abuses.

The Guiding Principles recommend that 'human rights due diligence' is the central approach taken for implementing the second pillar of the framework. Due diligence entails a company's responsibility to identify and assess human rights risks, prevent and mitigate adverse human rights impacts and account for how it addresses any impacts<sup>98</sup>. The Guiding Principles set out an active role for companies – asking them to have a clear policy that looks at all potential human rights impacts, to put this policy into practice and to report on its effectiveness<sup>99</sup>.

In response to the Guiding Principles, the European Commission has called on all EU Member States to develop action plans for implementing the Guiding Principles and in September 2013, the UK became the first member state to do so.

“ If companies start to develop in the most important and productive parts of the land, how can the communities have food security in the future? And if they don't think about the environment how can the people live a healthy life? ”

Monsignor Hector Fabio Henao, Director of Caritas Colombia

While the publication of the UK's action plan is welcome and SCIAF supports the plan's expectation that UK companies respect human rights throughout their global operations, the real test will be whether the plan makes a difference to workers and communities around the world.

If it is to make a positive impact, the UK Government must take a coherent approach to implementing the plan, with high-level involvement across all departments, particularly in Business Innovation and Skills, the Ministry of Justice and DFID. There must be a concrete timetable for the proposed actions set out in the plan and a clear indication from Government on how it intends to evaluate the effectiveness of these actions. The Corporate Responsibility Coalition (CORE), of which SCIAF is a member, has recommended that the Government adopt what has been described as a 'smart mix' of legislation and voluntary initiatives<sup>100</sup>.

In Scotland, the Scottish National Action Plan on Human Rights was published in December 2013. Supported by the Scottish Government, the action plan includes an important recognition that Scotland's human rights obligations do not stop at its borders. The document includes measures to establish a specific plan on business and human rights, which SCIAF welcomes.

As part of the plan the Scottish Government should take an active role in raising awareness and producing guidance for Scottish and Scottish-based companies. It is important that where the Government provides support to businesses it is based on a commitment that companies will undertake due diligence and meet the highest ethical standards. Scotland's public sector procurement, for instance, worth some £9 billion annually, is an opportunity to encourage good behaviour.

### The principle of Free, Prior and Informed Consent

A key part of a due diligence approach must be to include affected people in decision-making processes, providing prior and exhaustive information.

The requirement for indigenous peoples' free, prior and informed consent comes from the rights of indigenous people, which are recognised under international and regional human rights treaties and declarations, including the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169 concerning Indigenous Tribal Peoples in Independent Countries. The bodies responsible for interpretation of these measures have clarified that these rights place a duty on states to obtain indigenous peoples' free, prior and informed consent before any activity begins or any concessions are issued in or near their territory<sup>101</sup>. In 2003, the Special Rapporteur on the situation of human rights and fundamental freedom of indigenous peoples, described free prior and informed consent as "the right to say no"<sup>102</sup>.

While the responsibility to conduct consultation falls to the state, the UN Guiding Principles clarify that the corporate responsibility to respect human rights "exists

*independently of states' abilities and/or willingness to fulfil their own human rights obligations"*<sup>103</sup>. Where states are unwilling or unable to conduct free prior and informed consent, companies must act with due diligence to identify indigenous peoples and any impact on their rights<sup>104</sup>.

### Transparency and reporting

A lack of transparency and information is a major obstacle for monitoring the impact of business activities. If citizens are to hold their governments and corporations to account, information concerning business impact on society, the environment and human rights must be reported publically.

States must ensure that companies - listed and non-listed - are more transparent and citizens can access relevant, accurate information about their activities and their impacts. The UN Guiding Principles are clear that businesses, as part of a due diligence approach, should be prepared to communicate publicly how they are addressing their human rights impacts and should report formally where human rights impacts could be severe<sup>105</sup>. A robust reporting model is, therefore, needed, with companies open to regular audits. Where companies wilfully ignore risks they should be publicly sanctioned.

Currently, the European Commission estimates that only 2,500 out of 42,000 large European companies formally disclose non-financial information each year. However, progress towards corporate transparency is being made. From 2016 new EU rules will introduce mandatory reporting for large listed companies on their social, environmental and human rights impact. For some European countries, this is a significant step forward.

The European Commission has also proposed a voluntary self-certification scheme for importers of 'conflict' minerals (in this case gold, tin, tantalum and tungsten). For SCIAF, this proposal is disappointing. Voluntary measures have so far proven ineffective at changing behaviour so an opt-in scheme is unlikely to impact on the way most EU companies source natural resources.

In the UK, listed companies are currently required by law to report annually on social and environmental issues under the Companies Act (2006). Evaluation of current practice, however, has shown that many companies are not providing adequate information on the impact of their activities<sup>106</sup>. In October 2013, this law was changed so that listed companies now have to also report on their human rights impacts. It is clear, however, that these provisions need to be strengthened. Privately owned companies are not covered by this legislation and the explicit requirement for listed companies to report on how they have had regard to 'the need to foster the company's business relationships with suppliers, customers and others' is to be removed from the Act. CORE has highlighted the need for good quality guidance, developed via a multi-stakeholder process, to help companies adopt international principles in their reporting. In addition, compliance



“ The British Government can do a lot. It can demand that businesses carry out the consultation process... it can demand that there is transparency around company activities... And it can demand that communities – as owners of the territory - are taken into account and that their suggestions are heard. ”

*Father Sterlin Londoño, Diocese of Quibdó*

needs to be monitored and reporting requirements properly enforced.

### Access to justice

Where corporate human rights or environmental abuse has taken place, it is extremely difficult for communities to access remedy. This has been acknowledged within the UN Guiding Principles, which call for greater access by victims to effective remedy, both judicial and non-judicial.

While there are well-developed mechanisms which enable UK consumers and workers to hold companies to account for malpractice, it remains very difficult for overseas communities to access remedy. The UK recently took a regressive step by making changes to

the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which is the legislation that communities have been using to bring cases against UK multinational companies. Changes made will mean that success fees and insurance costs will come out of the damages awarded to victims (rather than being paid as part of the costs by the multinational company). This effectively makes bringing a case in the UK more costly and less viable.

The UK Government must ensure that people who have been adversely affected by UK-linked companies can hold them to account in the UK, through the courts and via accessible, effective non-judicial mechanisms which can provide remedy.

 **It is clear that voluntary measures to promote ethical business practice have not been sufficient to protect people living in poverty or the planet from corporate abuse. Now is the time for governments to end their 'light-touch' approach to business and ensure that companies give human rights, labour standards and the environment the consideration they deserve.**



Photo: Paul Smith

## 6: Conclusion

The impact of big business on people living in poverty is significant but complicated. Clearly, big business can make an important contribution to development; big companies are a source of jobs and training and they can bring important goods and services to many who need them. But the activities of some companies are having a very different impact on peoples' lives. All over the world, big business has been implicated – either directly or indirectly – in human rights abuse, poor labour standards, tax-dodging and environmental degradation.

So while we must acknowledge the positive impact of the private sector, we must also be realistic about the negative impact of business when it is unregulated and where safeguards are not put in place. In Colombia, the interests of big business are the latest threat to communities' land, livelihoods and way of life. The struggle of Cocomopoca is a case study of big business in action and the risks for those living in poverty.

The Social Teaching of the Catholic Church offers us a useful perspective for thinking about business and development. *Caritas in Veritate* reminds us of some basic truths; that the core purpose of economic life is not for the good of itself but for the good of human beings. In other words, the economy is there to serve the needs of people and not the other way around.

A shift is needed at the heart of our economic model. Governments must move beyond their 'do not interfere', 'light-touch' attitude. They must ensure companies are open about their activities and held accountable for their impact on people and the planet.

SCIAF does not believe that all companies behave irresponsibly or that all business is somehow 'bad'. We live in a world, however, where the number of billionaires is increasing while 1 in 8 people around the world remain hungry<sup>107</sup>. Our current economic and business model is working for some – but it is not working for the world's poorest people.



Photo: Val Morgan, SCIAF

# Key Recommendations

## Recommendations to the international community and the European Union

- The post 2015 process should encourage a fair balance between equity and growth, with a specific focus on tackling inequality
- The European Parliament and Member States must agree strong legislation on 'conflict minerals' to ensure EU companies conduct due diligence on their supply chains and do not inadvertently fund conflicts. Lessons should be learnt from the EU Timber Regulation (EUTR) which requires companies importing and trading timber products to carry out due diligence on their supply chains and prohibits placing timber on the EU market if it was illegally harvested

## Recommendations to the UK Government

- The UK Government should require all large companies to implement human rights due diligence processes in accordance with UN Guiding Principles 17-21. This is particularly important for business enterprises whose operations or operating contexts pose risks of severe human rights impacts
- All large companies, listed and non-listed should be required to report on their social, environmental and human rights impacts and risks, and the steps they are taking to mitigate these, throughout their operations and supply chains. This should be backed up by clear guidance and robust monitoring
- The UK Government must strengthen the UN Guiding Principles Action Plan by involving all Government departments; setting clear deadlines and establishing how it will evaluate the effectiveness of the proposed actions
- The UK Government should carry out a review of access to remedy for victims of corporate human rights abuses, as set out in its UN Guiding Principles implementation plan

## Recommendations to the Scottish Government

To promote high standards of conduct among Scottish business, the Scottish Government should:

- Create an implementation plan for the UN Guiding Principles in Scotland, in consultation with relevant stakeholders including civil society
- Raise business and human rights issues in its engagements with other governments
- Identify ways to support human rights defenders in countries such as Colombia
- Require companies tendering for public sector procurement opportunities and government support to carry out human rights diligence processes and adhere to tax transparency measures
- Engage with the business community in Scotland to raise awareness of the UN Guiding Principles and promote their uptake

## Recommendations to Companies

- Implement human rights due diligence processes in accordance with UN Guiding Principles 17-21. This is particularly important for business enterprises whose operations or operating contexts pose risks of severe human rights impacts
- Undertake risk analysis on social, environmental and human rights impacts of business activity. Where risks are found prevention and mitigation measures should be put in place. Completing an impact assessment before projects should be part of this process; this should also include consulting affected parties
- Avoid investments where there are land disputes. Additional and detailed checks from independent sources should be undertaken by corporations before a project, including with local human rights/ environmental groups
- Be proactive in calling for better corporate reporting schemes across all sectors so as to ensure a fair playing field amongst business

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“ We can no longer trust in the unseen forces  
and the invisible hand of the market. Growth in  
justice requires more than economic growth ”  
Pope Francis, *Evangelii Gaudium*

July 2014

Scottish Catholic International Aid Fund

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