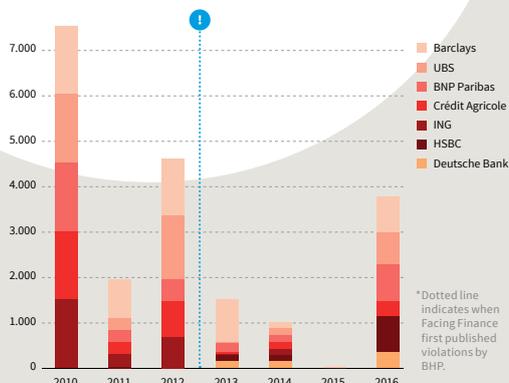


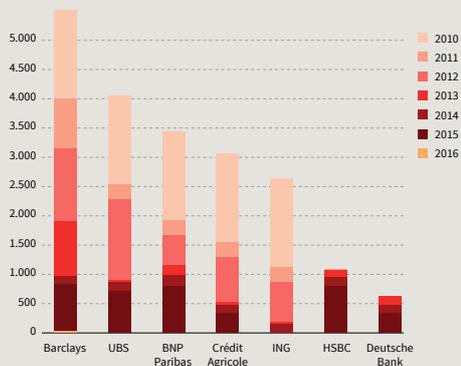
Company Responded to allegations	Yes (BHP and Cerréjon responded)
Significant concern	Social and environmental issues in projects where BHP holds a stake.
Potential Norm Violations	ILO, UN Declaration on the Rights of Indigenous Peoples (includes: Free, Prior and Informed Consent) and the UNFCCC. UNGC Principle 1
Company ranking on CHRB	60–69% (Good)
Voluntary Commitments	UN Global Compact, Voluntary Principles on Security and Human Rights, EITI, ICMM
Facing Finance Category	“Miner” Threat: Poor in Practice

BHP

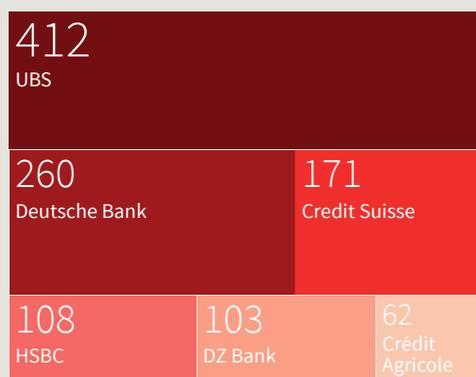
Capital provision by year — all loans and bond underwritings (€ Million)



Capital provision by bank — all loans and bond underwritings (€ Million)



Management of shares and bonds by top banks (in € Million):



Digging for Justice: Progress on previously reported cases

BHP is a global commodities producer of oil, gas, coal, iron ore, copper and uranium, headquartered in Australia.⁷⁹ In Dirty Profits 1 in 2012 Facing Finance reported on problems around BHP smelters in Mozambique (which have now been sold) and in relation to fracking and deep-sea oil drilling. The company continues with deep sea drilling in the form of increased investment in the Mad Dog⁸⁰ oil platform as well as in the Gulf of Mexico.⁸¹ Additionally BHP has purchased two oil blocks in 2013⁸² and is exploring deep sea drilling in the Foz de Amazonas Basin. Companies exploring here, including BP and Total, have faced substantial opposition by civil society⁸³ due to the risk from potential oil spills for the extremely sensitive ecosystem of mangroves and coral reefs⁸⁴, with the latest environmental impact assessment by Total having been rejected by Brazilian regulators as insufficient⁸⁵.

The Escondida Copper mine in Chile’s Atacama Desert⁸⁶, for which BHP is the controlling owner and operator, faced opposition from NGOs in relation to water use⁸⁷. After years of complaints by the “Agrupación en Defensa del Salar de Punta Negra”, BHP has, in July 2017, begun resolving these issues by halting water extraction from Punta Negra.⁸⁸ Some of BHP’s mining projects, such as Cerrejón and Samarço (see Vale page x), are undertaken in cooperation with other companies (so-called non-operated joint ventures).^{89 90} The dam tailings breach at Samarço has had substantial environmental impacts and can be seen as in violation of the UN Global Compact Principle 1.

BHP is a founding member of the ICMM and a participant of both the UN Global Compact and the Voluntary Principles on Security and Human Rights. Since 2012 BHP has improved its human rights policies, with a strong policy approach to sustainability regarding its host communities.⁹¹ The policy embeds human rights concerns throughout the organisation, but BHP has only recently started to improve governance processes for its non-operated joint ventures⁹². This has resulted in an overall categorisation of BHP as “Miner” Threat: Poor in Practice”.



▲ On September 28, 2017, the anti-riot police squadron (ESMAD) destroyed the farm of Eneida Díaz de Barbosa in Patilla, La Guajira, Colombia.
© Angelica Ortiz

Coal Mine, Colombia: A decades long struggle by communities and indigenous peoples.

The Cerrejón coal mine is Latin America's largest coal mine is located in the southeast of the department of La Guajira, close to the border with Venezuela. A joint venture between Glencore (33%), BHP (33%) and Anglo American (33%), the integrated coal mining and transport complex is operated by the company Carbones del Cerrejón Limited in the northernmost region of Colombia, La Guajira, by 2002 these companies owned it outright.⁹³ The Cerrejón coal mine has had substantial environmental and human rights violations in its three decades of operation. Dirty Profits reports in 2013 and 2014 highlighted the problems around forced resettlements and the mine's high-water extraction rates in the dry region of La Guajira.

The La Guajira region is home to indigenous Wayuu and afro-descendent communities⁹⁴, which have been victims of involuntary resettlements (forced relocation) by Latin America's largest coal mine. Since 2001, the communities of Tabaco, Roche, Chancleta, Patilla, Tamaquito and most recently Las Casitas, have been resettled.⁹⁵ The 2001 eviction of 1,200 Tabaco residents was found by the Supreme Court of Colombia to be in violation of the community's rights. Cerrejón was ordered to pay compensation and the municipality to rebuild the infrastructure of the town.⁹⁶ Sixteen years

later, while Tabaco residents have received some compensation and the land has been bought, no permanent settlement has been established, as no buildings or infrastructure has been developed.⁹⁷

According to Cerrejón, since 2008 all resettlements have been conducted in line with the guidelines of the IFC and World Bank⁹⁸ including participation and dialogue.⁹⁹ With the exception of the Tamaquito II communities, all the communities have been moved from rural village locations with large areas of communal land to semi-urban locations with small agricultural areas which lack communal land to graze cattle, collect their medicinal herbs, or practice their traditional way of life.¹⁰⁰ This has occurred despite continued requests during the participation process for arable land large enough for cattle and farming.¹⁰¹ As a consequence, many of the community members are left without a livelihood to sustain their families. Throughout the consultation process, residents felt forced to accept these conditions due to a lack of alternatives.¹⁰² Communities have also raised the issue of reduced access to water in their resettled areas. Several legal actions have been taken against Cerrejón

by resettled communities holding Cerrejón directly responsible for impacting their right to water and right to food.¹⁰³

Members of the community of Las Casitas, the most recent community to be resettled, were reluctant to leave¹⁰⁴, given the deep mistrust that relocation would provide for their livelihoods.¹⁰⁵ According to Cerrejón documents, all those eligible for resettlement have now been resettled.¹⁰⁶ In

early 2016, after two years of dissatisfaction with the new settlement and claims that Cerrejón had not complied with agreements, one of the families from Roche village returned home, only to be forcibly evicted by Colombian police.¹⁰⁷ In September 2017, a villager from the Patilla communi-

ty was evicted from her farm which she had previously rented from Cerrejón, without prior notice. The farm was destroyed by the Colombian riot police, and several of her animals that are essential to her livelihood are now missing.¹⁰⁸ As recently as January 2018 it has been reported that at least four community members speaking up against Cerrejón have faced threats and two community members have been killed for defending their territories.¹⁰⁹

The resettlement of communities has

"We should not have to live in poverty beside such a rich mine, where those who work there have everything... Our rights are ignored, but we cannot forget that arrived after we arrived."

A citizen of Provincial, Luz Angela Uriana Epiayú, artist and human rights activist¹²⁵

proved painful, but wider communities outside the mine area must contend with the loss of economic and social ties with communities that have been resettled, health issues from excessive and dangerous coal dust, as well as blasting from the mine. The air pollution has caused serious respiratory problems for children living in the indigenous community of Provincial, one of the last remaining communities in the immediate vicinity of the mine, which Cerrejón fails to address.¹¹⁰

In addition to the concerns about the lack of Free, Prior and Informed consent regarding the displacement of several indigenous communities, the mine's operations have aggravated water issues in an area of already high water stress. Industrial activities, including coal activities, have worsened water scarcity in the La Guajira region.¹¹¹ While Cerrejón reports extracting 7% of its water from the Rancheria River and working on preserving this river basin,¹¹² the river basin in the lower stretches is often dry.¹¹³ In December 2015, the Inter-American Commission on Human Rights required the government to ensure access to water for Wayuu people of La Guajira, after 4,700 children allegedly died due to severe drought over the past eight years.¹¹⁴

Further, Cerrejón has recently diverted at least 3km of the Arroya Bruno, a tributary of the Rancheria river.¹¹⁵ While Cerrejón claimed there was sufficient consultation with the only community impacted by the works,¹¹⁶ at least five communities are critically dependent on this water and have requested prior consultation¹¹⁷. Given the serious water scarcity in the region, the communities are convinced that any diversion of the river will result in ecological damage and an inability to support their livelihoods.¹¹⁸ A recent court decision has ordered the company to halt the diversion of the river.¹¹⁹

Facing Finance received a response from Carbones del Cerrejón Limited in relation to these issues. Cerrejón notes that involuntary resettlement is used as a last resort but has been necessary in these cases to protect residents from the negative impacts of the mine. In addition, they note that residents were involved in a participatory approach to resettlement and that sufficient water is available to all communities¹²⁰.

The resettlements around Cerrejón have made it increasingly difficult for local people to hunt, fish, or raise livestock. The loss of community sovereignty over their territories also potentially violates their right to health, water, a healthy environment, and possibly even the right to life itself. Colombia is one of 22 countries which has ratified ILO Convention 169 which protects tribal people's right to land, consultation and consent¹²¹ and requires governments to consult with native inhabitants before implementing extractive projects. However, the Convention still sets out the state as final decision maker, thus being able to overrule the disagreement of the affected indigenous communities.¹²² Additionally, mining developments in rural Colombia have been marked by an absence of the state, leaving the extractives industry as a major player, while the Colombian government does not appear to investigate possible violations. Cerrejón has been at pains to note that it conforms to the IFC Performance Standards. Firstly, it is important to recognise that these standards are not as stringent as those of the UN Guiding Principles on Business and Human Rights or the "UN Declaration on Rights of Indigenous Peoples" and may still expose communities to human rights violations. Secondly, it can be argued that even these standards were not met, as the standards for instance include that indigenous people should have continued access to natural resources or culturally appropriate replacement forms of livelihood.¹²³ In contrast, the participation that occurred in La Guajira provided little options for negotiation outside of logistical issues. The consultations that were carried out have therefore arguably not been to the standard of qualifying as Free, Prior and Informed Consent under the UN Declaration on the Rights of Indigenous People.¹²⁴ BHPs involvement in the human rights violations at the non-operated joint ventures of both Cerrejón coal mine and Samarco Mineração (in relation to the tailings dam failure) interfere with BHP's self-created image as a responsible company. The Swedish Pension fund, AP4, has excluded BHP in relation to its role in the Samarco tragedy (see appendix).

→ With information provided by London Mining Network