

**Complaint to the UK National Contact Point
under the Specific Instance Procedure of the
OECD Guidelines for Multinational Enterprises
concerning GCM Resources (UK)**

**Submitted by
International Accountability Project & World Development
Movement**

19 December 2012

BRINGING A COMPLAINT UNDER THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

Q1. The identity of the complainant (or the identity of the lead complainant where a number of organisations or persons are involved) including your identity, the contact person, name of the organisation, contact details (including email).

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Q2. If you are bringing a complaint on behalf of others (e.g. on behalf of a local union or community), explain your interest in this case and mandate or reason for bringing

the complaint.

1. [International Accountability Project](#) and [World Development Movement](#) are bringing this complaint on behalf of the people of the four adjacent sub-districts (*upazillas*) of Phulbari, Birampur, Nababganj and Parbatipur, located in the district of Dinajpur in northwest Bangladesh. This includes entire villages of indigenous households belonging to the Santal, Munda, Mahali, and Pahan groups who are considered to be the oldest inhabitants of the South Asian sub-continent and have inhabited this region for over 5,000 years.ⁱ

2. The people of these four sub-districts have been fighting to halt a proposed open-pit coalmine known as the Phulbari Coal Mine Project for over six years. Massive demonstrations against the project involving tens of thousands of people in these four sub-districts and beyond began in 2006 and continue through today.

3. International Accountability Project (IAP) is a human rights organization seeking to end development-forced eviction and create global policy and practice for development that respects rights. IAP works with groups in the Global South to win policy change, boost local advocacy efforts, and support affected communities to advance development principles that prioritize human rights.

4. The World Development Movement is a UK-based, anti-poverty campaigning organization that works in solidarity with activists around the world to oppose injustice and challenge the policies and institutions that keep people poor. WDM researches and promotes positive alternatives that put the rights of poor communities before the interests of corporations.

5. IAP and WDM have each been working since 2008 in support of people in the four sub-districts in northwest Bangladesh whose homes, lands, and livelihoods are threatened by the Phulbari Coal Mine Project.

6. For IAP, this work has included: a detailed analysis of the draft Resettlement Plan for the project (Kalafut 2008ⁱⁱ), a field visit and interviews with people in the project area jointly undertaken in 2008 by then IAP Co-Director Jen Kalafut and Shefali Sharma, then South Asia Regional Coordinator for Bank Information Center; a four-page Phulbari Fact Sheet; an analysis of the Indigenous People's Development Plan for the project; a Background Paper and Urgent Appeal to ten United Nations Special Rapporteurs with human rights mandates violated or threatened by the project, submitted to the UN Special Rapporteurs in 2011. Some of these documents are cited in reply to Q5 (Sections I-V) of this complaint and all are listed in Annex I: Official Documents, Reports & Correspondence and Annex II: Reports, Selected News Articles & Videos.

7. For World Development Movement, this work has included: written evidence on the Phulbari Coal Mine Project submitted to the International Development Committee's

inquiry into sustainable development in a changing climate in November 2008; and a Memorandum on the project submitted to the Parliamentary Joint Committee on Human Rights (JCHR) inquiry on business and human rights on 1 May 2009; correspondence with the UK government and investors regarding their support for the project, which are detailed in the reply to Q6. below. This correspondence is attached to this complaint.

Q3. The identity and location of the company offices and why you consider this company is relevant to the UK National Contact Point. Provide relevant information on the company' corporate structure and location that you consider will assist the NCP in this regard.

8. GCM Resources plc is a London-based company domiciled in England and Wales. According to the company's website, "The Company (GCM) under its former name, Asia Energy PLC, was incorporated in England and Wales as a public limited company on 26 September 2003. Asia Energy PLC was admitted to the Alternative Investment Market (AIM) of the London Stock Exchange on 19 April 2004."

9. Asia Energy PLC was formed as a single-purpose entity, solely to implement the Phulbari Coal Mine Project and claims the coal deposit in the Phulbari region of Bangladesh as it's principal asset.

10. The company's 2008 contract for exploration of the coal deposit in Phulbari is in the name of its wholly owned subsidiary in Bangladesh, the Asia Energy Corporation (Bangladesh) Pty Limited (AEC).

11. As previously noted AEC/GCM was formed as a single-purpose entity, solely to implement the Phulbari Coal Mine Project and claims the coal deposit in the Phulbari region as it's principal asset.

12. Asia Energy PLC changed its name, first to Global Coal Management on 28 December 2006 and then to GCM Resources plc (GCM), the company that now has full management responsibility for the Phulbari Coal Mine Project, on 11 December 2007.ⁱⁱⁱ

13. The names Asia Energy Corporation (AEC), Global Coal Management Resources, and GCM Resources (GCM) are all used in project documents, official correspondence, and media reports referring to this company. In order to avoid confusion, we refer to the company as AEC/GCM throughout the remainder of this complaint, except where specifically citing from a document, report, or article that identifies the company using one of the names above.

Q4. Provide detailed information on the alleged breaches of the Guidelines and provide relevant information on developments. List the chapter(s) and paragraph(s) in the Guidelines that you consider the company to be breaching.

Summary of Complaint

14. In breach of the OECD Guidelines for Multinational Enterprises (“OECD Guidelines”), AEC/GCM has failed to:

- (a) Respect the internationally recognized human rights of those affected by their policies (OECD Guidelines, General Policies II.2)
- (b) Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved (OECD Guidelines, Human Rights, (IV.1)
- (d) Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur (IV.2)
- (e) Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts (OECD Guidelines, Human Rights, IV.3)
- (f) Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts (OECD Guidelines, Human Rights, IV.4)
- (g) Respect the human rights of those affected by its activities in a manner consistent with the host government’s international obligations and commitments (OECD Guidelines, Human Rights, IV.5)
- (h) Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate (OECD Guidelines, General Policies II.7)
- (i) Ensure that timely and accurate information is disclosed, including material information on foreseeable risk factors (OECD Guidelines, Disclosure III.2e)

15. Those affected and threatened by AEC/GCM’s activities and proposed Phulbari Coal Mine Project are the people of the four adjacent sub-districts (*upazillas*) of Phulbari, Birampur, Nababganj and Parbatipur, located in the district of Dinajpur in northwest Bangladesh. This includes an estimated 50,000 indigenous people, belonging to 23 different tribal groups who have inhabited this region for over 5,000 years, including entire villages of Santal, Munda, Mahili, and Pahan peoples.

Overview of the Phulbari Coal Mine Project

16. AEC/GCM's proposed project would excavate an open pit coal mine in the township of Phulbari, located in the district of Dinajpur in northwest Bangladesh. Project plans call for the mine to extract 572 million tons of coals from a series of 1,000-foot deep pits spanning a total area of over 14,660 acres. In addition to the mine, the project would: construct at least one 500 Mega Watt coal-fired power plant; construct one new rail corridor and realign an existing portion of railway; construct one new road and realign two existing roads; and divert two rivers in an effort to mitigate impacts of mining operations in reducing access to water.^{iv} The mine would have a projected lifespan of at least 36 years and extract 16 million tons of coal annually at peak production. One-fifth of the coal would remain in Bangladesh and be used for domestic energy consumption, with the remainder slated for export. The project has been stalled since 2006 by fierce and sustained opposition within Bangladesh and ongoing efforts to finalize a new national coal policy. However AEC/GCM has renewed aggressive efforts to move the project forward.

Project Timeline

17. The Australian mining company BHP Minerals began consultations on coal exploration with the Government of Bangladesh ("GOB") in 1987 and on 20 August 1994, entered into an exploration agreement with the government targeting coal deposits in the Phulbari region. In February 1998 BHP abandoned the project in light of environmental risks^v and the agreement was taken over by Bangladesh registered Asia Energy Corporation (Bangladesh) Pty Ltd, referred to herein as AEC/GCM.^{vi}

18. According to AEC/GCM's current executive director, Gary Lye, the company has undertaken feasibility studies in the Phulbari area under the terms and conditions of Contract 11/C-94, assigned to them in February 1998 by the Government of Bangladesh, and exploration licenses and a Mining Lease granted in March 2004.^{vii}

19. On 2 October 2005, AEC/GCM submitted a Feasibility Study and Scheme of Development (hereafter referred to as Scheme of Development) for an open-pit coalmine and associated infrastructure, anticipating a start of operations in 2006. However, the GOB has not approved the company's Scheme of Development, which is required for AEC/GCM to proceed with the project.

20. The Phulbari Coal Mine Project has remained stalled since August 2006, when paramilitary officers opened fire on as many as 70,000 people marching against the project in Phulbari, killing three people and injuring as many as 200. These events are documented in reply to Q.5 (Section V) below.

21. On 17 November 2005, the GOB formed an Expert Committee tasked with evaluating the Scheme of Development submitted by AEC/GCM, the Environmental Impact Assessment Report (EIA) on the project, and other relevant materials. The EIA was prepared by SMEC International Pty Ltd, described on the [Project Advisers page](#) of AEC/GCM's website as a consulting company contracted by AEC/GCM to prepare all social and environmental studies needed for environmental clearance of the Phulbari Coal Mine Project by the GOB. The Expert Committee's 163-page report was issued in 2006 in Bangla and covers numerous issues, including the legal and environmental aspects of the project.^{viii} Key findings of the Expert Committee are discussed in reply to Q5 (Sections II-IV) below.

22. On 26 August 2006 the Bangladeshi Rifles, a paramilitary force (since renamed), opened fire on an estimated 70,000-100,000 people marching in Phulbari to protest the proposed coal mine on 26 August 2006. Three innocent people were killed: Amin, age 13, Salekin, age 20, and Tariqul, age 21. Some 200 people were injured, with as many as twenty people suffering permanent and debilitating injuries.^{ix}

23. Four days of nation-wide protests and strikes ensued and were brought to an end only when a six-point agreement known as the Phulbari Agreement was signed on 30 August 2006. Two of the six points in the Phulbari Agreement call for the permanent expulsion of AEC/GCM from Bangladesh and implementation of a nation-wide ban on open-pit extraction, the method AEC/GCM intends to use to extract coal from the deposits at Phulbari.^x Events summarized here are discussed below in reply to Q5. (Section V).

24. In January 2007 emergency rule was imposed in Bangladesh and most civil liberties were suspended. Opponents of the Phulbari Coal Mine Project, including the National Committee to Protect Oil, Gas Mineral Resources, Ports and Power (hereafter referred to as the National Committee) report that AEC/GCM was very active in Bangladesh during this period, and the member secretary of the National Committee's local Phulbari unit, Mr. S.M. Nuruzuman, was arrested and publicly beaten in an open market place by the Bangladesh military in February of 2007.^{xi}

25. Following national elections in December 2008 and the lifting of emergency rule, AEC/GCM has persisted in its efforts to push the Phulbari Coal Mine Project forward. However it has not succeeded in securing government approval for its Scheme of Development and massive demonstrations against the project involving tens of thousands of people continue through today.

26. In September 2011 a new Expert Committee was formed and tasked with making recommendations on a new national coal policy, but has not yet released its report as of this date. Attempts to finalize and approve a new coal policy have repeatedly been obstructed by controversy over whether it will include a ban on open-pit coal mining,^{xii} the method of extraction proposed by AEC/GCM in the Phulbari Coal Mine Project.

27. Project opponents have repeatedly demanded that the new national coal policy include such a ban, demanding that the GOB fulfill the six-point Phulbari Agreement, signed on 30 August 2006 and cited above, which includes a nation-wide ban on open-pit extraction.

28. On 14 October 2012, Bangladesh's Home Ministry issued a circular instructing local officials and police to cooperate with AEC/GCM in carrying out surveys in Phulbari, signaling new efforts by AEC/GCM to push the project forward – as announced in the “Highlights” of the company's Annual Report for 2012.

29. Project opponents responded with protests and a two-day general strike that shut down the district, and have pledged to take tougher nation-wide action if their demands are not fulfilled by 31 December 2012. Their demands include withdrawal of the Home Ministry Circular, and fulfillment of those points in the Phulbari Agreement that have not yet been fulfilled: the immediate and permanent expulsion of AEC/GCM from Bangladesh and a nationwide ban on open-pit mining, the method that the company plans to use to extract coal from the deposits at Phulbari.

Obligations under International Law

30. As a multinational enterprise operating from an OECD adhering country, AEC/GCM should avoid infringing on the human rights of others, and avoid causing or contributing to adverse human rights impacts in the context of its activities. This is from Chapter IV. Human Rights, Sections 1 and 2 of the OECD Guidelines. In breach of these Guidelines, AEC/GCM's continuing efforts to force its proposed Phulbari Coal Mine Project forward in the face of massive and sustained opposition involving hundreds of thousands of Bangladeshi are already associated with severe violations of fundamental human rights, including the right to life, liberty, and security of person.

31. If allowed to move forward, AEC/GCM's Phulbari Coal Mine Project threatens to violate fundamental human rights recognized in an international framework of human rights that includes the Universal Declaration on Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the Equator Principles - which AEC/GCM claims it will uphold in implementing this project, as seen under [“Corporate Values and Principles”](#) on the company's website.

32. Human rights that have been violated or are threatened by AEC/GCM's Phulbari Coal Mine Project include the

- Right to food and to be free from hunger, ICESCR [Article 11 (2)]
- Right to safe drinking water, UNHCHR^{xiii}
- Right to adequate housing, ICESCR [Article 11 (1)]^{xiv}
- Right to freedom from extreme poverty, UNHR [Article 25 (1)]
- Right of self-determination, ICESCR [Article 1 (1)]
- Right not to be deprived of one's own means of subsistence, ICCPR [Article 2(1)]
- Right to the highest attainable standard of physical and mental health, ICESCR [Article 12 (1)]
- Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, ICCPR [Article 7] & UDHR [Article 5]
- Right to life, liberty and security of person and not to be subjected to arbitrary arrest or detention, ICCPR [Article 9 (1)] & UDHR [Articles 3 & 9]
- Right to freedom of opinion and expression, ICCPR [Article 19 (1)-(2)]
- Right of freedom of peaceful assembly and association, ICCPR [Article 21-22] & UDHR [Article 20]

33. International human rights law has also established that forced evictions are a gross violation of human rights (UN Commission on Human Rights, Res. 1993/77, para. 1) and are *prima facie* incompatible with the requirements of the ICESCR. General Comment No. 4 on the Committee on Economic, Social and Cultural Rights has further established that “all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.”

34. AEC/GCM's Phulbari Coal Mine Project poses additional threats to the rights of indigenous people whose ancestral lands, villages, gravesites, and other sacred sites are located within its designated project area. Relevant internationally recognized treaties and frameworks include the Convention on Biological Diversity [Article 8], The Committee on the Elimination of Racial Discrimination [Article 5 (c)], and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

35. UNDRIP acknowledges that indigenous peoples have the right to:

- (a) Participate in decision-making in matters that would affect their rights, through representatives chosen by themselves in accordance with their own procedures, and to maintain and develop their own decision-making institutions [Article 18];
- (b) Access and use collective lands and territories determine and develop priorities and strategies for the development or use of their lands or territories and other resources [Article 32 (1)];
- (c) Be consulted about any project affecting their land or other resources and give or refuse their free, prior and informed consent (FPIC) to a proposed project [Article 32 (2)];

- (d) Maintain, protect, and have access in privacy to their religious and cultural sites
[Article 12]

36. As a multinational enterprise operating from an OECD adhering country, AEC/GCM is should also respect the human rights of those affected by its activities in a manner consistent with the host government's international obligations and commitments. This is from Chapter IV, Human Rights, paragraph one, of the OECD Guidelines, which states that enterprises should protect human rights within "the international human rights obligations of the countries in which they operate."

37. International human rights treaties to which Bangladesh is a state party, include the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination.

38. Moreover, Comment No. 38 on the OECD Guidelines for Multinational Enterprises 2011 Edition states that:

A State's failure either to enforce relevant domestic laws, or to implement international human rights obligations or the fact that it may act contrary to such laws or international obligations does not diminish the expectation that enterprises respect human rights. In countries where domestic laws and regulations conflict with internationally recognized human rights, enterprises should seek ways to honour them to the fullest extent which does not place them in violation of domestic law, consistent with paragraph 2 of the Chapter on Concepts and Principles.

39. As this makes clear, AEC/GCM should endeavor to respect the obligations of the GOB regardless of whether the state is doing so.

Q5. Provide detailed evidence and information that supports the allegations. Official documents, reports, studies, articles, witness statements can all be considered. The NCP requires enough information to substantiate what has taken place – anecdotal statements or unsubstantiated allegations are not sufficient.

40. On 28 February 2012 seven United Nations Special Rapporteurs issued a [joint UN press release](#) to call for an immediate halt to AEC/GCM's proposed Phulbari Coal Mine Project, warning "If this open-pit mine is permitted, it could displace hundreds of thousands of people and lead to the violation of fundamental human rights."^{xv} This group of seven of the UN's most senior human rights experts warn, "threatens the fundamental human rights of hundreds of thousands of people - including entire villages of indigenous people - and poses "an immediate threat to safety and standards of living."

41. "Those likely to be affected include entire villages of Santal, Munda, Mahili and Pahan indigenous peoples," the UN Special Rapporteurs note. Displacement on this scale, particularly of indigenous peoples, is unacceptable without the indigenous peoples' free, prior and informed consent, and poses an immediate threat to safety and standards of living," warned the Special Rapporteurs Raquel Rolnik (adequate housing) and James Anaya (indigenous peoples).

42. The Phulbari Coal Mine Project, the UN Special Rapporteurs warn, "would displace vulnerable farming communities, and threaten the livelihoods of thousands more by doing irreversible damage to water sources and ecosystems in the region."

43. "Nearly half the Bangladeshi population is food insecure, and nearly one quarter severely food insecure. Local food production should be strengthened, not sacrificed for industrial projects," said the Special Rapporteur on the Right to Food, Olivier De Schutter.

44. Focusing on threats to water, Catarina de Albuquerque, the Special Rapporteur on the Human Right to Safe Drinking water and Sanitation, warned "The water table may be lowered by 15-25 metres over the life span of the mine. Access to safe drinking water for some 220,000 people is at stake."

45. "Concerns have also arisen over repression of human rights defenders peacefully protesting the Phulbari Coal Mine and other energy sector developments. The legitimacy of the process is highly questionable," noted the Special Rapporteurs Frank La Rue (freedom of opinion and expression) and Maina Kiai (freedom of peaceful assembly and of association). "People must be informed throughout, and must not be intimidated out of exercising their rights to express their opinions and peacefully assemble."

46. "The Phulbari coal mine may entice developers," the UN human rights experts conclude. "But for many Bangladeshis the wholesale environmental degradation of the Phulbari region will exacerbate food insecurity, poverty and vulnerability to climate events for generations to come."

47. The human rights violations and threats highlighted in the UN press release on AEC/GCM's Phulbari Coal Mine Project are detailed in Sections I-V below. Evidence presented here substantiates that AEC/GCM is in breach of the OECD Guidelines identified below.

48. While some of the evidence below pertains to violations occurring before 1 September 2011, when the UK NCP applies the 2011 version of the OECD Guidelines, AEC/GCM's efforts to force the project forward beginning in 2006 and continuing through today were in gross violation of the standards established by Bangladesh's international human rights obligations and commitments.

49. Further, AEC/GCM's human rights due diligence requirements (Guidelines Section IV.5) are triggered by new actions initiated by the company in 2012 - which are highlighted in AEC/GCM 2012 Annual Report.^{xvi}

50. Due diligence requirements are also triggered by the company's certain knowledge of ongoing human right violations associated with the project since 2006, as a result of extensive coverage of these violations by national and international news media, numerous letters of concern from civil society organizations writing to bring human rights risks and violations to the attention of GCM and its shareholders, written evidence submitted to formal inquiries by World Development Movement, International Accountability Project, London Mining Network and others, questions posed about human rights risks and violations by shareholders at the company's annual general meetings, etc.

51. In breach of the OECD Guidelines for Multinational Corporations AEC/GCM's has failed to:

(a) Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments." (2008 Guidelines Section II.2)

(b) Respect the internationally recognized human rights of those affected by their policies (OECD Guidelines, General Policies II.2)

(c) Respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved (OECD Guidelines, Human Rights, (IV.1)

(c) Within the context of their own activities, avoid causing or contributing to adverse human rights impacts and address such impacts when they occur (IV.2)

(e) Seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts (OECD Guidelines, Human Rights, IV.3)

(f) Carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts (OECD Guidelines, Human Rights, IV.4)

(g) Respect the human rights of those affected by its activities in a manner consistent with the host government's international obligations and commitments (OECD

Guidelines, Human Rights, IV.5)

(h) Develop and apply effective self-regulatory practices and management systems that foster a relationship of confidence and mutual trust between enterprises and the societies in which they operate (OECD Guidelines, General Policies II.7)

(i) Ensure that timely and accurate information is disclosed, including material information on foreseeable risk factors OECD Guidelines, Disclosure III.2e)

I. The Rights to Food, Livelihood & Freedom from Extreme Poverty

52. Rights violated or threatened:

- *Right to be free from hunger, Article 11(2), ICESCR*
- *Right to an adequate standard of living, right to health and well-being, Article 25, UDHR*
- *Right to work, which includes the right of everyone to the opportunity to gain his living by work freely chosen or accepted, Article 6, ICESCR*
- *Right to a decent living for themselves and their families, Article 7, ICESCR*

53. Project plans call for the Phulbari Coal Mine Project, including the mine itself and associated infrastructure, to acquire 14,660 acres of land in Bangladesh's most fertile and productive agricultural region.^{xvii} Of this, roughly 80 per cent is comprised of verdant rice fields and fertile farmlands, which serve as the nation's granary and are vital to its food supply. Due to the region's elevation and location, Phulbari's land and food crops are also uniquely protected from the annual flooding that regularly destroys crops elsewhere in this lowland nation.

54. The project's draft Resettlement Plan (RP) clearly states that there will be no land-for-land compensation for the tens of thousands of mostly farming and indigenous families with land-based livelihoods whose land would be destroyed to make way for the mine. Because these lands are located in Bangladesh's most fertile and productive agricultural region, the project also poses a serious threat to the right to food in a country in which nearly half of all people currently do not have enough food (exist below the nutrition poverty line) and nearly one quarter (23.9 per cent) of all people are severely food insecure (consuming less than 1,805 kcals/person/day).^{xviii}

55. Research commissioned by AEC/GCM shows that 80 per cent of all households within the project area "derive their livelihoods from essentially subsistence farming, based on rice cultivation."^{xix} Phulbari's farmers produce between two and four crops per year, including IRRI and Boro varieties of rice, the country's staple crop. Other important food crops cultivated include wheat, potato, maize, sugarcane, chilies, garlic, onion, mustard, and a wide variety of vegetables and fruits.

56. Data on land holdings in the region is summarized in the 2007 draft RP prepared by

AEC/GCM, which includes a survey of 109,227 people in 25,254 affected households. The survey found that nearly 55 per cent of all households own cultivation land, 35 per cent sharecrop another person's land, and 27.9 per cent lease-in land. Over 67 per cent of all households reported earning income from the sale of agricultural products.^{xx}

57. As cultivation lands in Phulbari are devoted to growing food crops, the percentage of households that depend on the lands they cultivate for their subsistence is far greater. Data on the contribution of cultivation to household food supply in the draft RP is inadequate, although it does confirm the fact that "agricultural practices place more emphasis on food security." In a survey with a sample of 9,815 project-affected households who cultivate land, villagers were asked whether the crops they produce are sufficient for their households needs. Of this small sample, "approximately one-third reported that their crops were sufficient for their subsistence requirements, 43 percent that their crops were sometimes insufficient, and 20 per cent at their crops were always insufficient."^{xxi}

58. Threats to the right to food are not limited to the loss of fertile and protected cultivation lands. In addition to destroying nearly 12,000 acres of productive agricultural land, the Phulbari Coal Mine Project would also destroy nearly 50,000 (49,801) fruit trees, the poultry farms where people now rear ducks and hens, the grazing lands that support their cattle and other livestock, and a network of rivers, canals, and beels (ponds or wetlands) that currently support over one thousand fisheries.

59. The loss of each of these vital resources further imperils the right to food and people's ability to meet their most basic subsistence needs. According to the draft RP, nearly 82 per cent of all households surveyed own fruit trees. There are 21 varieties of fruit trees in the designated project area, the most common being mango, jackfruit, guava, banana, coconut, plum, papaya, and lemon.^{xxii}

60. An even greater percentage of households have livestock that are a vital source of meat, milk, eggs, and cash income: 88.3 per cent own chickens; 64.5 per cent own cattle, 44 per cent own goats; 39 per cent own ducks; and 7.8 per cent own sheep; 4 per cent own buffalo; 3.6 per cent own pigeons; and 2.4 per cent own pigs.^{xxiii} Moreover, as seen in Bangladesh's 1996 Agricultural Census, there is a clear correlation between landholdings and livestock ownership, with most bovine, goats, and sheep being raised by households that own farmland.^{xxiv}

61. The draft RP also states "most household with access to ponds undertake fishing for subsistence requirements, while some persons rely on fishing as their major source of income." Of 8,869 households surveyed, 14 per cent have ponds that would be "affected by Project activities in the Mine Footprint area." These 1,244 households cultivate a variety of fish, with Rui, Katal, Silver Carp, Mrigal and Telapia being the most common, and all report the sale of fish from these ponds as a source of income.^{xxv}

62. The Phulbari Coal Mine Project also poses risks to at least three river eco-systems and the aquatic and land-based species they support, thereby threatening these vital sources of food as well. Project plans call the Khari Pul and Namissa rivers to be diverted in an effort to mitigate the effects of dewatering operations at the mine, which are expected to lowering the water table by as much as 15-26 meters in a region extending far beyond the mine itself (further details are provided in Section II on the right to water below). Plans also call for repeated dredging of the Pussur River to allow for the transport of coal.

63. Further threats to the right to food are posed by plans for the transport of coal, which threaten the Sundarbans Reserve Forest, a vast mangrove wetland that encompasses approximately 600,000 hectares of land and water contains over half of Bangladesh's remaining natural forest. The resources of the world's mangrove forests have been described as "[the rice bowl](#)" of communities who depend on them for food and their livelihoods. In this sensitive eco-system, sea grass beds and coral reefs provide shelter, food, and nurseries for shrimp and fish that are a vital source of protein. Bangladesh's mangrove forests support an extraordinary range of biodiversity, with 453 recorded species.^{xxvi}

64. Most households affected by AEC/GCM's proposed Phulbari Coal Mine Project will become landless. Despite the critical importance of land to the farming and indigenous households in Phulbari that now depend on these natural resources for their food and livelihoods, project plans clearly state that "Most households will lose their entire landholdings" and cultivation lands will **not** be replaced. The draft RP baldly states that: "Large tracts of cultivation land will be permanent {sic} acquired by the Project and most households will become landless."^{xxvii}

65. There is, quite simply, no available land to replace the 14,660 acres this project would destroy in Bangladesh, one of the world's most densely populated countries. This is implicitly acknowledged in the RP, which states: "the Project will not acquire replacement cultivation land for displaced households, because this will simply transfer the impacts associated with the loss of land to households in host communities."^{xxviii}

66. The complete absence of any land-for-land compensation of cultivation lands raises grave concerns in light of the fact that most households whose land will be destroyed if this project is allowed to go forward are farming and indigenous households with land-based livelihoods. Project plans calling for cash compensation show a deeply troubling disregard for the large body of research on development-forced displacement showing that reliance on cash compensation results in impoverishment.^{xxix} Moreover, the Phulbari Coal Mine Project would introduce these impoverishment risks in one of the world's most economically poor countries.

67. The impacts are likely to be devastating for those most directly affected by the destruction of their lands and livelihoods, and pose a clear and extreme threat to their right to food. In short, if allowed to move forward, the Phulbari Coal Mine Project would destroy the very resource that people rely on to feed themselves and their families, while transforming hundreds of thousands of productive farmers into landless people with no clear prospects for other means of subsistence or employment.^{xxx}

68. The critical importance of land to people threatened by the project is evidenced by their replies when asked to select three factors that would be most important to them in restoring their livelihoods following displacement. Of all households surveyed, fully 95 per cent of all landowning households selected purchasing replacement land as their primary priority.^{xxxii}

69. The agricultural lands and grazing lands, fruit trees, ponds, rivers, and mangrove forests threatened by the Phulbari Coal Mine Project each constitutes a vital source of food in Bangladesh, particularly in light of Phulbari's importance as a food-producing region and the fact that the country has yet to achieve food security. The threatened destruction of these irreplaceable resources would violate the right to food for hundreds of thousand of people and must not be allowed to go forward.

70. We are unaware of any research by AEC/GCM to assess how its planned destruction of these resources will impact food security within the Phulbari region itself or the nation as a whole. This is a critical and unacceptable omission.

II. The Right to Water

71. Rights Threatened or Violated

- *United Nations General Assembly water rights resolution to expand the Universal Declaration of Human Rights to access to clean water and sanitation approved July 28, 2010.*
- *General Comment No. 15 of the United Nations Committee on Economic, Social and Cultural Rights on Articles 11 and 12 of the 1966 International Covenant on Economic, Social and Cultural Rights.*

72. The Phulbari Coal Mine Project poses similarly grave risks to the United Nations recognized right to water, with severe adverse impacts on rivers and groundwater vital for household and agricultural use within the township of Phulbari, surrounding villages and local farming communities located more than 10 kilometers from the mine's footprint.

73. Over half of all people in the township of Phulbari report that they do not currently have enough water.^{xxxiii} Experts are concerned about potential desertification of the entire northwest region, where underground water levels have been gradually falling and are not being replenished by seasonal rainfall. According to one source, about 30

per cent of the tube wells in the area have already become inoperative as a result of declining underground water level.^{xxxiii}

74. In such circumstances, any reduction in access to water or water quality will have very serious or even catastrophic consequences. Nonetheless, AEC/GCM's project plans call for huge pumps to operate continuously night and day over the 36+ year life of the mine, draining water from 1000-foot deep pits, and sucking water from the surrounding villages' wells and irrigation canals. The extracted water will be used for mining operations (dust control and coal washing).

75. According to an English language summary of the Expert Committee Report on the Phulbari Coal Mine Project issued in 2006^{xxxiv}, these "dewatering" operations at the mine will lower the water table by 15-25 meters, affect a vast region that extends more than 10 kilometers beyond the mine's footprint, and reduce access to water for 220,000 people.^{xxxv}

76. A.K.M. Shamsuddin, a petroleum and mining consultant, warns of "disastrous" consequences for Bangladesh, including desertification of the country's entire northwest region, if the Phulbari Coal Mine Project is allowed to go forward:

Extraction of Phulbari coal adopting open-pit mining method can be disastrous for the north-western region in particular and Bangladesh in general due to dewatering of arsenic contamination free source of drinking and irrigation groundwater from DupiTila formation from a depth of 250 to 300 meters to the tune of 800 million liters per day over a period of 38-years. Dewatering in the Phulbari mining area may not only disturb but also damage the aquifer, making the area a desert like place.^{xxxvi}

77. The risk of tube wells and irrigation canals running dry as the water table drops is painfully tangible to people in Phulbari, who have witnessed the suffering of people in 15 nearby villages, who have already lost access to water as a result of the huge quantities of water currently being pumped out for coal mining operations at the Barapukuria mine, located roughly ten miles from Phulbari.

78. Violations of the right to water and sanitation posed by the Phulbari Coal Mine Project are not limited to threats posed by the lowering of the water table. Experts studying the technical aspects of the project warn that there is a high risk of acid mine drainage contaminating a network of rivers extending far beyond the project area and poisoning water resources and soil for centuries to come.^{xxxvii}

79. Emissions and coal dust generated by at least one planned 500 mega-watt coal-fired power plant will also pollute water resources, as well as soil and air, with mercury, lead, and other heavy metals and toxins. As noted in Section I on the right to food, plans to divert two rivers in an effort to mitigate the impact of dewatering operations and

repeatedly dredge a third river to allow for the transport of coal threaten these river eco-systems and the communities that rely on them.^{xxxviii}

80. Mining researcher Roger Moody carried out a detailed analysis of the Environment and Social Impact Assessment (ESIA) and Summary Environmental Impact Assessment for the Phulbari Coal Mine Project in 2008. In a written report commissioned by the Bank Information Center (BIC), Moody writes that “The success of the mine is contingent on a huge number of practical measures to change the hydrology of the mining-affected areas, not just its ‘footprint’.^{xxxix} Despite the complex and technically challenging measures proposed by AEC/GCM to mitigate impacts on water availability and quality, Moody writes, trials have not been carried out to test their feasibility.

81. Moreover, Moody warns, many of the measures proposed by AEC/GCM- such as diverting the Khari Pul River which cuts through the mine’s footprint – is a “potentially hazardous” undertaking, the consequences of which are addressed ambivalently in the study (where they are addressed at all).” Further risks are posed by the challenge of controlling potentially damaging seepages from overburden, coal dumps, and runoff from the pit, and preventing the discharge of wastewater with harmful effluents.

82. Despite the enormous threats the Phulbari Coal Mine Project poses to the right to water in a region in which people already do not have enough water to meet their needs, Moody writes (p. 18), the project lacks “a functional water management plan”, and critical components are “left to speculation,” including whether water removed from the mine will contain acidic or toxic materials and what treatment would be required before they are released for household or agricultural use. Also unaddressed are revisions that would be required if a proposed coal-fired power plant is approved, despite that fact that this would “exert huge new demands for water.”

III. The Right to Adequate Housing & Livelihood And Protections against Forced Evictions

83. Rights Threatened or Violated

- *Right to an adequate standard of living, right to health and well-being, Article 25, UDHR*
- *Right to adequate housing, Article 11(1), CESCR*
- *right to be protected from unlawful forced evictions which are gross violations of a range of internationally recognized human rights (UN’s Basic Principles and Guidelines on Development-based Evictions and Displacement, A/HRC/4/18 [paragraphs 1, 6 & 13; and UN Commission on Human Rights, Res. 1993/77, [paragraph 1]*

84. The number of people that AEC/GCM would forcibly uproot and evict from their homes and lands in order to make way for the Phulbari Coal Mine Project and associated changes to infrastructure is contested. On the lowest end of the spectrum,

the draft RP for the project commissioned by AEC/ GCM^{xi} states that the project would affect a total of 50,691 people in 11,466 households. Of this 85 per cent would be displaced and resettled. The remaining 15 per cent would be “economically impacted” - but, the draft RP assumes - would not be displaced as a result.^{xii}

85. In contrast, the 2007 Summary of the Expert Committee Report concluded that nearly 130,000 people would be directly affected, and as many as 220,000 people may be displaced over time as their tube wells and irrigation canals run dry.^{xiii}

86. In 2008, IAP carried out a detailed analysis of the draft RP, commissioned by the Bank Information Center (BIC), and found that it significantly underestimates the actual number of people the project would displace.^{xiiii} Notable examples of ways in which the actual scale of displacement has been artificially understated in the draft RP include:

- It fails to consider any displacement resulting from immediate and long-term environmental impacts, including the drop in the water table affecting which, as noted above, is estimated to affect 220,000 people.
- It classifies as “displaced” only those households that would lose all of their land, excluding from its estimates of displacement all people in 1,487 households within the project area who are classified as “affected by loss of land but non-displaced.” However, it cannot safely be assumed that economically poor households can lose a portion of their lands without being displaced by the adverse impacts on their livelihoods.
- It excludes 3,500 people living in 11 communities that would be bisected by the mine, meaning that half of the village will be inside the mine footprint itself, preferring to take a wait and see position on whether disturbances from mining operations, including “excessive noise levels” and dust, will render their homes sufficiently uninhabitable so as to necessitate relocation.
- It classifies as “non-displaced” persons in 110 households potentially affected by changes in transportation infrastructure on the grounds that “these households would be relocated within their existing villages.” (Annex 1, p. 8). This is indefensible, as “relocation” within one’s village does constitute displacement. Moreover, project plans for realigning existing rail corridors and constructing a new line have not been finalized, making it impossible to determine the actual displacement impacts.
- It fails to address possible displacement in host communities, despite calling for the resettlement of nearly 50,000 people. It is unrealistic to assume that resettlement can be carried out without any additional displacement in host communities in light of Bangladesh’s extremely high population densities.
- It inexplicably excludes any estimate of displacement resulting from construction of a port coal terminal to be developed on the coast in Khulna for the export of coal.

87. This analysis of troubling inadequacies in estimating the number of people who

would be displaced by the Phulbari Coal Mine Project is hardly exceptional. On the contrary, there is a large body of research on development-induced displacement and resettlement that shows that obligations to fully account for and resettle people displaced in the name of the “greater public good” are often unfulfilled.^{xliv} Resettlement and rehabilitation schemes are commonly neglected, under-funded, and poorly planned and implemented, and international financial institutions, private sector banks, and governments alike routinely fail to uphold their obligations to fully account for all those displaced and re-settle them adequately in a manner that does not violate their right to adequate housing and other human rights.

88. In light of what is known about the risks of forced displacement and, in particular, the risk that projects will understate or minimize the actual scale of displacement, we should expect to see a very careful accounting of displacement in a project that will, by the financier’s estimate, destroy lands currently occupied and cultivated by tens of thousands of people. Instead, what we see in the draft RP for AEC/GCM’s Phulbari Coal Mine Project are glaring inadequacies in accounting for all the risks of displacement.

89. This failure to adequately account, plan for, and finance actual displacement impacts means that there is a very high probability that the project will violate the UN-recognized rights to adequate housing as well as the rights to an adequate standard of living, health, and well-being if allowed to go forward despite these inadequacies in project planning and funding.

IV. The Rights of Indigenous Peoples

90. Rights threatened or violated:

- *Self-determination, Shared Article 1, ICCPR and ICESCR and Article 3, UNDRIP*
- *Free, prior and informed consent for any relocation, Article 10, UNDRIP*
- *Collective rights to lands and territories, Article 26, UNDRIP*
- *Control over development priorities, Article 32, UNDRIP*
- *The UN’s Rio Declaration on Environment and Development, Agenda 21*
- *Consultation and Disclosure, Principle 5, Equator Principles*

91. Land to be acquired for the Phulbari Coal Mine Project include entire villages of indigenous households belonging to the Santal, Munda, Mahili, and Pahan groups who are believed to be descendants of a pre-historic ‘Pre-Dravidian’ people and are considered to be the oldest inhabitants of the South Asian sub-continent.^{xlv}

92. As with AEC/GCM’s estimate of the total number of people the project would displace, the company’s estimates of the number of indigenous people that would be displaced are vague, tentative, and disputed.

93. According to AEC/GCM's Indigenous People's Development Plan for the project (hereafter IPDP), indigenous households make up 7.3 percent of all households to be displaced.^{xlvi}

94. The IPDP (p. 7) states that 2,328 indigenous people in 529 households from 23 villages are "likely to be displaced." Of these, 513 households in 21 villagers are located within the mine's footprint. An additional 110 indigenous households from seven villages "could be affected by transport infrastructure", including realignments of railways and roads, and households that "may be affected by developments in the western extension of Phulbari town may also comprise indigenous people, although numbers are likely to be few."

95. In contrast, Bangladesh's National Indigenous Union (*Jatiya Adivasi Parishad or JAP^{xlvii}*), a platform of indigenous people living in Bangladesh's northwest region, estimates that 50,000 Indigenous people belonging to [23 different tribal groups](#) would be evicted or impoverished by AEC/GCM's Phulbari Coal Mine Project.^{xlviii}

96. Indigenous people have participated in organizing and marching in massive rallies and demonstrations against the Phulbari Coal Mine Project since 2006. Efforts to force the Phulbari Coal Mine Project forward without their consent threaten to violate their rights to self-determination and contravene the spirit of the United Nations Rio Declaration on Environment and Development.

97. Seeking international support for protection of their rights, the President of Bangladesh's National Indigenous Union, Rabindranath Soren, traveled from Bangladesh to New York in May of 2011 to participate in the 11th session of the United Nations Permanent Forum on Indigenous Issues and meet with the United Nations Special Rapporteur on the rights of Indigenous Peoples, James Anaya.

98. Soren presented the UN's most senior expert on indigenous rights with two documents that he authored: Phulbari Coal Mine Project and Indigenous Peoples and Right to Food and Indigenous Peoples in Bangladesh. The first document details the threats that AEC/GCM's proposed Phulbari Coal Mine Project poses to the rights, lands, and livelihoods of tens of thousands of indigenous people: "50,000 indigenous peoples belonging to Santal, Munda, Mahali, Oraon, Pahan, Ghatoal, Bhuimali, Karmokar, Turi, Hari, Rai and Rabidas ethnic groups, of 67 villages in Phulbari, Nababganj, Birampur and Parbatipur *upazilas* (sub-districts) will be potential victims of the project."

99. "Human rights specifically guaranteed to Indigenous Peoples that would be threatened if the Phulbari Coal Mine project were allowed to go forward," the document notes, "include the right to self-determination, the right to free, prior and informed consent, the right to access and use collective lands and territories, and the right to participate in the definition of plans and priorities for the development of their lands."

100. Demands made by *Jatiya Adivasi Forum* in this 2012 document are:

- “(a) Cancel open-pit extraction of coal project that threaten diverse impact on localities;
- (b) Cancel all anti-national interest agreement made with foreign company for coal extraction;
- (c) Ensure adequate compensation to the affected people of this project;
- (d) Uphold its human rights obligations in all proceedings and decisions related to the Phulbari coal mine;
- (e) Uphold right to food, health, a healthy environment, housing and an adequate standard of living.”

101. At the UNPFII, Soren also co-submitted a [Report on Human Rights Situation of Indigenous Peoples in Bangladesh](#) To Prof. James Anaya, Special Rapporteur on the [Rights of Indigenous Peoples](#), which documents gross human rights violations against Indigenous Peoples in Bangladesh that “continue unabated,” and cites AEC/GCM’s Phulbari Coal Mine Project in detailing threats to customary indigenous lands in Bangladesh.

102. In December of 2010, Soren initiated outreach to [Cultural Survival](#), a Boston-based human rights organisation that advocates for the human rights of indigenous Peoples, with a letter formally requesting Cultural Survival’s assistance in halting the proposed Phulbari Coal Mine Project.

103. Cultural Survival responded immediately by launching a [Phulbari Global Response campaign](#) to avert a “humanitarian and ecological catastrophe,” and called for an immediate halt to the Phulbari Coal Mine Project on the grounds that it would forcibly remove thousands of indigenous people from their homes and farmlands and thereby violate the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

104. On 27 January 2011, the Director of Cultural Survival’s Global Response Program, Paula Palmer, addressed a letter to Bangladesh’s Prime Minister Sheik Hasina summarizing what is at stake for the indigenous people threatened by the proposed coalmine:

Even in the face of reported government threats and repression, Indigenous residents of Phulbari continually express their opposition to the mine and their refusal to be forcibly displaced. To them the mine means ethnocide. If their small communities are broken apart and dispersed, they may not be able to maintain the cultural traditions, religious practices and languages that have sustained them for thousands of years, as is their right.

105. In a letter to Cultural Survival dated 8 March 2011, [then] then GCM Chief Executive, Steve Bywater takes the position that the forced relocation of Indigenous people can be carried out without violating their right to FPIC: "Our resettlement programme will recognize the right of all affected people to free, prior and informed consent for any development project."

106. "People will be given a choice," Bywater later adds - although here he is referring quite narrowly to compensation options. What Bywater fails to address in making this claim is the fact that no one is being offered the option of avoiding eviction and resettlement.

107. Borrowing a definition of forced displacement from the International Finance Corporation – whose Performance Standards AEC/GCM claims it will comply with^{xlix} - "resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that results in displacement." The UN Human Rights Council has affirmed forced evictions as a *prima facie* violation of this human right and massive forced evictions are recognized as gross violations of human rights and are *prima facie* incompatible with the requirements of the ICESCR

108. Similarly, addressing the fact that AEC/GCM's project would destroy 138 mosques, temples and churches, 692 graveyards, and 2 ancient archaeological sites,^l Bywater states

"All cultural property within the mine footprint including sites of archaeological, historical and religious significance, graveyards and cremation sites will be managed in accordance with the appropriate social and religious norms, prior to the occupation of any land for mining purposes."

109. However, this is a hollow claim in light of the fact that there are no social and religious norms governing the removal and/or destruction of indigenous sites of religious significant; to the contrary, social and religious norms demand that such sites be respected and protected.

110. There is a wealth of evidence to contradict Bywater's claim that AEC/GCM's Phulbari Coal Mine Project will respect indigenous people's rights, including the right to free prior and informed consent. This evidence is detailed below. To briefly summarize, Bywater's claim is contradicted by:

- The leadership and participation of indigenous representatives and people massive protest against the mine which began in August 2006 and continue through today, as already noted above;
- A letter from community leaders and representatives to the Asian Development Bank detailing AEC/GCM's failure to engage with them in transparent and meaningful consultation.

- The numerous and grave concerns raised by indigenous people during the limited consultations on the proposed project that have occurred - as documented in the Indigenous People's Development Plan for the project - despite an atmosphere of political repression and intimidation;
- A formal letter of appeal from President of Bangladesh's National Indigenous Union (*Jatiya Adivasi Forum*) to Cultural Survival in December 2010, urgently requesting support from this indigenous rights organisation to halt AEC/GCM's proposed mine;
- Letters and reports prepared by the President of Bangladesh's National Indigenous Union and presented to the 14th session of United Nations Permanent Forum on Indigenous Issues in 2011.

111. Bywater's claim that GCM will uphold the rights of indigenous people is contradicted by a letter from community leaders in Phulbari addressed to the President and Executive Directors of the Asian Development Bank (ADB). This letter, dated 15 December 2007, is signed by indigenous leaders and associations, and specifically refutes the company's claim that there is wide community support for the project stating: "we believe that this project will increase the poverty of the local population as well as cause environmental disaster."^{li}

112. This letter, hereafter referred to as "community letter to the ADB," is signed by 42 community leaders representing a diverse array of local organisations in the four sub-districts covered by this complaint. In addition to indigenous leaders and associations, signatories include representatives of temples and mosques, peasant and other worker's unions, and organisations of women, educators, and freedom fighters.

113. The community letter details damage resulting from AEC/GCM's efforts to push the Phulbari Coal Mine Project forward, charges that the company has failed to fulfill its obligations to inform and consult with affected communities, disputes AEC/GCM's claims regarding participation in consultations that have taken place, and unequivocally calls upon the ADB to immediately withdraw all support for the project.

114. Addressing damage to relations with the community generated by AEC/GCM's non-transparent efforts to push the Phulbari Coal Mine Project forward, the community letter states that AEC/GCM's "misrepresentations about consultations and opinions about the mine" have produced "mistrust" and "made it highly unlikely" that affected communities will accept their company's on plans for involuntary resettlement or its Indigenous People's Development Plan.

115. Echoing these charges, the Summary of the Expert Committee Report (2007:10) states that the Committee found that "the local population is suspicious about whether their opinion against the coal mine has been accurately reported by the [Asia Energy] surveyors."

116. The letter further states that “communal harmony between the indigenous people and the Bengalis {...} as well as different religious groups that has long existed in the area was threatened by the dubious activities of the company.”

117. “Potential project affected people have been given minimal information in Bengali about environmental and social impacts associated with the mine,” the community letter also states. “Project information mainly consists of propaganda by the company in the form of brochures,” and “we are unaware of any EIA [Environmental Impact Assessment] having been translated or even summarized in the local language.” Bangla language materials posted on AEC/GCM’s website, the letter notes, were unknown to people threatened by the project.

118. This letter detailing the community’s complaints regarding AEC/GCM was written in 2007. To the best of our knowledge, AEC/GCM has yet to produce a Bangla or Santal language version of the draft RP, disseminate a draft Environmental Impact Assessment or Indigenous People’s Development Plan. In an analysis of the project’s draft Resettlement Plan, Kalafut (2008: 24) states that project information is limited and inadequate:

“AEC has only produced brochures, informational sheets and video about the project that seem more suited to public relations and advertisement than to provided needed details to the affected population about the terms of resettlement.”

119. Moreover, survey data in the draft RP indicates that over one-third of the affected population is non-literate. According to the community letter to the ADB, this understates the actual percentage of non-literate people, which make up about 60 per cent of the population in the region. Disregarding the need to make information about the project readily accessible for non-literate community members, the project’s Public Consultation and Disclosure Plan (CDP) stipulates that the office will only receive questions in writing and only respond to them in writing.^{lii}

120. AEC/GCM did establish a public information office for the Phulbari Coal Mine Project, and the company’s IPDP lists specific dates and locations for consultation at “open village-based ward meetings” in four Unions on ten dates between December 2004 and January 2005. The IPDP (pp. 19 & 20) also cites two focus group discussions on two dates in March 2005, both in a single Union, as well as “meeting” to discuss relocation sites with an unspecified number of “representatives of affected Santal and Munda communities in the Mine Footprint.”

121. However, according to the 42 community representatives in Phulbari who signed the community letter to the ADB, NGO officials whom the company claims were present in fact never participated in these consultations. According to these community

representatives, people who have actually participated “have either been bribed or intimidated into attending these meetings.”

122. Samina Luthfa, formerly a graduate student at Oxford University who carried out seven months of field research in Phulbari for her doctoral thesis on the subject of resistance to the Phulbari Coal Mine Project, strongly supports this allegation, reporting that public meetings and consultations for the project have been minimal, inadequate, and fraudulently documented.

123. During her ethnographic fieldwork, Samina frequently visited 54 villages of eight unions covering all four sub-districts covered by this complaint. Among those villages, most villagers had reported that there had been no consultation at all. Twenty villages had reported that consultation meetings were thwarted by public dissent, generated by the fact that company employees were trying to use attendance signatures as evidence of consent to mining.^{liii}

124. Similarly, a 21 December 2007 emergency appeal issued by the International Secretariat of the World Organisation Against Torture (OMCT) states that communities threatened by the proposed Phulbari Coal Mine Project “have been neither adequately consulted nor fully informed regarding this significant project.”^{liv}

125. Addressing the lack of adequate information to affected communities in accessible languages and forms, the community letter to the ADB states^{lv}

We have been informed that information and a consultation should have been provided to us as project affected people, when the EIA fieldwork began and when the draft was complete, in the appropriate local language and form. However, the majority of people in the area have no idea whether such consultations took place and who was present and whether documentation/information was provided in a manner that would enable input.

126. The community letter indicates that the level of contact and consultation undertaken by AEC/GCM does not even remotely approach obligations for timely and adequate disclosure, or for meaningful, engaged, transparent, and participatory consultation called for by FPIC.

127. Moreover, to the best of our knowledge, AEC/GCM have been unable to resume consultations with communities threatened by their Phulbari Coal Mine Project since the company’s personnel were forced to flee the country under armed escort in August of 2006.

128. When consultations have occurred, indigenous people have expressed concerns about the numerous and very grave threats posed by the project. Prominent concerns cited in the IPDP (pp. 8, 9, 41-45) include:

- Loss of inherited traditional land and its implications for people's current livelihoods and ways of life.
- The rights of people with no legal title to land. According to the IPDP (p. 8), 10.2 per cent of indigenous households use government land to which they do not hold formal title and the actual percentage is likely to be far greater.
- Disruption to current occupations and income-generating activities, particularly in relation to agriculture and forestry;
- Loss of natural resources such as firewood and leaves used as energy sources;
- Whether compensation will be sufficient to maintain present livelihoods;
- What the compensation packet will comprise, how compensation rates will be determined, the value of compensation for non-land assets including trees and tube wells;
- Method and timing of compensation disbursements;
- Mine employment opportunities;
- Destruction of churches, temples, and graveyards;
- Community relations. The IPDP (p. 9) notes that a "commonly raised concern was that community bonds, support structures, networks and social security will be disrupted through relocation, and any movement will impact on religious activities, culture and traditional values";
- Strong preference to be relocated separately, with members of the same indigenous group, either in one village or in a neighbouring larger village;
- Project impact on existing infrastructure and services, such as transport, water, electrical supply, health, education, and markets.

129. Note that while 94.1 percent of indigenous households cited replacement lands as a preference for restoring their livelihoods (IPDP: p. 9), the draft RP is clear that there will be no land-for-land compensation of cultivation lands in this project.

130. Summarizing "Attitudes to the Project," the IPDP (p. 9) contends that "indigenous people have appeared supportive of the Project" despite the gravity of the concerns summarized above. As evidence of support, the IPDP cites the participation of an unspecified number of indigenous people in the consultation process, attendance at meetings, and willingness to respond to various surveys.

131. This is faulty logic. It cannot be assumed, as this does, that participation in consultations constitutes evidence of support for the project; to the contrary, participation is equally likely to be evidence of concerns generated by the project. Moreover, people attending meetings are a select group, which means that they do not necessarily represent the entire affected population.^{lvi}

132. Significantly, even AEC/GCM's IPDP (p. 9) notes that "there has been an underlying concern around their minority (and thus vulnerable) status, and what their future holds in the Project were to go forward."

V. The Right to Freedom from Assaults on Physical Integrity, Arbitrary Detention, and Protections for Human Rights Defenders

133. Rights threatened or violated:

- *Right to life, liberty and security of person, Article 3, UDHR*
- *Right to freedom of opinion and expression, Article 19, UDHR*
- *Right to freedom of peaceful assembly and association, Article 20, UDHR*
- *Right to be free from arbitrary arrest, detention or exile, Article 9, UDHR*
- *Right to the freedom from torture, and cruel, inhuman or degrading treatment or punishment, Article 5, UDHR*
- *Right to equality before the law, Article 7, UDHR*

134. Massive public protests against AEC/GCM's Phulbari Coal Mine Project involving as many as 100,000 people began in August of 2006 and continue through today. People resisting the project have suffered harassment, death threats, arbitrary arrest and detention. They have also been publically beaten, severely wounded, and three have been killed.

135. As previously noted in Project Chronology, the Bangladeshi Rifles, a paramilitary force (since renamed), opened fire on an estimated 70,000-100,000 people marching in Phulbari to protest the proposed coal mine on 26 August 2006. Three innocent people were killed: Amin, age 13, Salekin, age 20, and Tariqul, age 21. Some 200 people were injured, with as many as twenty people suffering permanent and debilitating injuries.^{lvii}

136. 26 August has henceforth been commemorated as Phulbari Day, an annual day of mourning for the victims of this violence, and a memorial has been constructed at the site of their deaths. Footage of bullets being fired into the crowd of protesters, their flight, and one of the victims who paid with his life for the simple act of protesting AEC/GCM's proposed project can be seen in these two videos^{lviii} taken at the scene of the protest and shootings:

[Phulbari Coal Mine Social Movement: The Blood-soaked Banner of Bangladesh, Part 1](#)

[Phulbari Coal Mine Social Movement: The Blood-soaked Banner of Bangladesh, Part 2](#)

137. This indiscriminate use of lethal violence generated a four-day general strike with nationwide protests erupting across Bangladesh. AEC/GCM was forced to suspend its operations and its personnel fled the country under police escort after demonstrators torched the homes of known or suspected supporters.^{lix}

138. The strike was brought to an end only when the government signed a six-point agreement on 31 August 2006 known as the Phulbari Agreement, which includes commitments to immediately and permanently expel AEC/GCM from the country and to institute a national ban on open-pit mining.^{lx}

139. On 31 August 2006, the GOB also ordered an investigation into the shootings of innocent people in Phulbari but the report was never made public.^{lxi} Shortly thereafter, on 11 January 2007, Bangladesh declared a political emergency and an interim military-backed caretaker government was installed. During this period of emergency rule, most civil liberties were suspended, freedom of speech and movement were heavily curtailed, and community leaders, human rights defenders, and social activists were reportedly “intimidated, threatened, arrested and tortured.”^{lxii}

140. The victims of this crackdown included one local leader of the National Committee, an organization which has been supporting communities covered by this complaint since 2006. As previously noted, the member secretary of the National Committee’s Phulbari unit, Mr. S.M. Nuruzuman, was arrested and publicly beaten by the Bangladesh military in February of 2007.^{lxiii} One source reported that AEC/GCM officials had directed Bangladeshi “joint forces” to arrest Mr. Nuruzuman.^{lxiv}

141. As detailed below, the resort to violence and intimidation tactics against people resisting AEC/GCM’s proposed project has continued following the lifting of emergency law. Of particular concern is the fact that the GOB has repeatedly deployed members of its Rapid Action Battalion (RAB) to demonstrations against AEC/GCM’s Phulbari Coal Mine Project in 2011 and 2012.

142. Set up as an elite anticrime and antiterrorism force in 2004, RAB has become notorious for what leading international human rights groups describe as the routine use of torture and executions of people in RAB custody, as well as increases in the number of extrajudicial killings carried out by RAB forces. These human rights violations are carried out with impunity; a 2011 report by Human Rights Watch, “[Crossfire: Continued Human Rights Abuses by Bangladesh’s Rapid Action Battalion](#),” states that to date no RAB officer or official has ever been prosecuted for an extrajudicial killing or other human rights abuse.^{lxv}

143. According to Human Rights Watch, nearly 200 people have been killed in RAB operations since 6 January 2009, when the current government assumed office. Comparing this with deaths in previous years, the 2011 report concludes that the risks confronting Bangladeshi citizens opposing government-backed projects have actually increased since the lifting of emergency law and election of the current administration in January 2009. The report also states that RAB has recently begun to carry out enforced disappearances’ describing this as “a new trend” under the current administration.^{lxvi}

144. Brad Adams, Asia Director at Human Rights Watch, commented on these findings: “After two years in office, the government has had more than enough time to take action to stop the RAB’s murderous practices. A death squad is roaming the streets of Bangladesh and the government does not appear to be doing anything to stop it.”^{lxvii}

Given what is known about RAB, it raises very grave concerns that the GOB has deployed RAB forces to demonstrations against the Phulbari Coal Mine Project during at least two demonstrations in 2011 and again in November of 2012. RAB forces have reportedly also joined with local police forces to guard AEC/GCM's office in Phulbari.^{lxviii}

145. AEC/GCM officials are well aware of the human rights violations already associated with its efforts to force its proposed Phulbari Mine Coal Project forward, despite fierce opposition by tens of thousands of Bangladeshi citizens, which has been sustained for six years despite the use to violence and intimidation futilely aimed at silencing the opposition. Moreover the company's 2012 Annual Report includes this as a "Highlight" for its shareholders: "The Government has requested the local administration of the Phulbari area to support the Company's activities."^{lxix}

International Concerns about the High Risk of Further Violence

146. As noted above, AEC/GCM has failed to carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts (OECD Guidelines, Human Rights, IV.4)

147. Due diligence requirements are also triggered by the company's certain knowledge of ongoing human right violations associated with the project since 2006, as a result of extensive coverage of these violations by national and international news media, numerous letters of concern from civil society organizations writing to bring human rights risks and violations to the attention of GCM and its shareholders, written evidence submitted to formal inquiries by World Development Movement, International Accountability Project, London Mining Network and others, questions posed about human rights risks and violations by shareholders at the company's annual general meetings, etc.

148. Given the continuing pattern of violence targeting project opponents summarized above, and international concern about the high potential for further violence and loss of life if the company continue its efforts, AEC/GCM is well aware of the potential for further bloodshed and human rights violations if it persists in its efforts to implement the Phulbari Coal Mine Project. Concerns about the potential for further violence have been prominently and repeatedly voiced by both national and international actors since 2006.

149. The Final Report of the Expert Committee formed by the GOB to study the Phulbari Coal Mine Project in 2006 concludes: "The majority of the local community with whom the Expert Committee exchanges views was against the project," and there is "a high risk of social unrest and conflict" if GCM attempts to forcibly relocate tens of thousands of people in Phulbari.

150. The International Secretariat of the World Organisation Against Torture (OMCT) has twice taken action to express its serious concern about the volatile situation in Phulbari. On 21 December, 2007, the OMCT issued an emergency appeal, [Bangladesh: Risk of violent suppression of public opposition to Phulbari coal mine project](#), warning that “police and security forces may again employ violence to deal with public opposition to the Phulbari open-pit mining project” and expressing concern that “further violence, ill-treatment and even deaths may ensue if local communities again seek to give public expression to their opposition.”^{lxx}

151. On 3 July, 2008 the OMCT followed up with another call for [urgent action](#), expressing “deep concern at the risk of further violence” associated with the project, and calling for a decision on the mine be made only after “a thorough, transparent and independent investigation into its human and environmental impact has been carried out, with the full and informed participation of all local communities.”^{lxxi}

152. In August of 2008, 110 civil society organisations from 31 countries endorsed a letter detailing the human rights violations associated with the project, and highlighting the risk of further human rights abuses. The letter, dated August 2008, is addressed to the Phulbari Coal Mine Project's worldwide financial backers, and calls on private banks to immediately disinvest and withdraw their support for the project.

153. IAP shares in the international concern about the high potential for further violence if this project is forced forward, and traveled to London in December 2011 to convey these concerns to AEC/GCM's board.^{lxxii} Our concerns are informed by a fact-finding trip to Phulbari in September of 2008, undertaken by IAP's then Co-Director, Jen Kalafut, and Shefali Sharma, then South Asia Coordinator for the Bank Information Center.

154. Meeting with and interviewing several dozen community leaders and people whom the project directly threatens, including those who lost family members in the violence of August 2006, Kalafut and Sharma were both struck by the intensity with which people avowed their determination to lay down their lives if necessary in order to protect their human rights, lands, and livelihoods.^{lxxiii}

155. Their interviews with people in Phulbari were transcribed and have been translated into English. Here is what one mother had to say:

We will give our lives, but we will not leave this place. We will not allow the mine to happen. The government can take as many dead bodies as they want, we won't leave the village. And no one from Asia Energy will come here again. They won't even be able to enter this area. We will fight.

156. Said another:

No we never want the mine here. If the mine is here there will be many problems. Someday I'll die, then where will I be buried? Will they provide land

for my burial? I'll be destroyed, won't I? {...} And if the mine is here, we'll fight. We'll fight.

157. And another:

We don't want the mine. Now then where we the people will go? What we'll eat? If the government wants to set up the mine then our children will die.

Violence against Project Opponents

158. A review of events connecting with AEC/GCM's persistent efforts to force the Phulbari Coal Mine Project forward reveals an ongoing pattern of intimidation, repression, and violence targeting people resisting the project, including members of the National Committee. To summarize:

- On 26 August 2006 the Bangladeshi Rifles (BDR), a paramilitary force, opened fire on an estimated 70,000-100,000 people marching in Phulbari to protest the proposed coalmine. Three people were killed and estimated 200 people were injured.^{lxxiv}
- In February of 2007, the member secretary of the National Committee's local Phulbari unit, Mr. S.M. Nuruzuman, was arrested and reportedly tortured by the Bangladesh military.^{lxxv}
- On 2 September 2009, approximately fifty people were injured when police attacked and beat participants in a peaceful demonstration march in Dhaka. Marchers' demands included cancellation of AEC/GCM's Phulbari Coal Mine Project. Among those most seriously injured was Prof. Anu Muhammad, a Professor of Economics at Jahangirnagar University and member secretary of the National Committee. Prof. Muhammad suffered fractures to both legs and was hospitalized for a week.^{lxxvi} Photos and videos documenting the attack, including interviews with Prof. Muhammad during his hospitalization, can be viewed on these three links:
[50 Injured as Police Charge into Demo](#)
[Protest against Brutal Attack on Anu Muhammad](#)
<http://www.shahidulnews.com/bangladesh-oil-and-gas/>
- Between 5:30 am and 12-noon on 3 July 2011, riot police in Dhaka carried out violent mass arrests of more than 100 peaceful protesters in a failed attempt to prevent a half-day strike or "hartal." Protesters' demands included cancellation of the Phulbari Coal Mine Project.^{lxxvii} A trusted colleague in Bangladesh wrote to inform IAP that "most of the people arrested were tortured- beaten during or before arrests," and included photographs of police striking unarmed people.

Resistance to AEC/GCM's Phulbari Coal Mine Project

159. Efforts to silence and crush the opposition to AEC/GCM's proposed Phulbari Coal Mine Project through violence, threats, repression and intimidation have failed. In fact,

resistance to the mine has continued to grow over the past six years. Within the past two years alone there have been at least four massive demonstrations against the project, with as many as 100,000 participants in a protest in Phulbari in October 2010, including:

160. *The Long March, 24-30 October 2010:* During the last week of October 2010, thousands of people converged from numerous sub-districts throughout Bangladesh to participate in a seven-day Long March against the mine, traveling 250 miles from the capital, Dhaka, to the township of Phulbari.^{lxxviii} Organizers estimate that 60 rallies were held in communities along the route of the march and hundreds of thousands of people participated in the final rally in Phulbari.^{lxxix} Footage of the Long March can be viewed here: [First Day of Dhaka to Phulbari Long March Video](#), 24 October 2010.

161. *Rail & Highway Blockade, 28 February 2011:* As many as 5,000 people gathered in Phulbari for a protest rally and highway blockade on 28 February that stranded some 500 passenger buses and vehicles on both sides of the highway. Protestors demanded that the government honour the six-point Phulbari Agreement signed on 31 August 2006 that bans open pit coal mining throughout Bangladesh and permanently expels Asia Energy/GCM from the country. Joining forces with victims of the Barapukuria mine, where crops, lands, and homes have been severely damaged or destroyed by land subsidence caused by the Barapukuria mine, protestors demonstrating against the Phulbari Coal Mine Project also called for fair compensation for these losses and issued an ultimatum with a one-month deadline: if the government failed to meet their demands by 28 March, they would organize a six-hour road and rail blockade of the highway linking Barapukuria and Phulbari on that date.^{lxxx}

162. *Rail & Highway Blockade, 28 March 2011:* With victims of the Barapukuria mine still waiting for compensation and the commitment to ban open pit coal mining still unfulfilled, some 5,000 people enforced a six-hour blockade of the region's railways and highways, forcing railway authorities to reschedule seven intercity trains and disrupting roads between the northwestern district of Dinajpur and other parts of the country. Protestors' key demands remain unchanged: the government must fulfill the Phulbari Agreement signed on 31 August 2006, which bans open-pit coal mining and calls for GCM to be permanently expelled from the country and ensure just compensation for people harmed by the Barapukuria mine.^{lxxxi}

163. *13 November 2012:* Thousands of people march in Phulbari demanding the withdrawal of a circular issued by the Home Ministry on 14 October, instructing local law enforcement agencies and administrators to cooperate with AEC/GCM to conduct surveys in Phulbari.^{lxxxii}

164. *23 November 2012:* The GOB attempts to avert further demonstration by imposing a Section 144 ban, a colonial law prohibiting gatherings of more than five people.^{lxxxiii} Thousands of people defy the ban and brave police barricades to demonstrate in

Phulbari and the National Committee announces a daylong general strike in Phulbari for 24 November. Somewhere between 300 and 500 law enforcers are deployed to Phulbari, including RAB, local police from ten stations, and the Bangladeshi Border Guards.

165. 23 & 24 November 2012: the National Committee calls a general strike on the 23 November and Phulbari is quiet, with empty roads and shuttered shops. The general strike is extended to the 24th and The National Committee announces an indefinite general strike until the government withdraws the Home Ministry circular calling for cooperation with AEC/GCM and implements the six-point Phulbari Agreement signed on 30 August 2006. Several thousand people break through police barricades and take to the streets in Phulbari to defy government ban on public gatherings. Police reportedly preparing to file a case against people who violated the Section 144 ban.^{lxxxiv}

166. 25 November 2012: The two-day general strike is lifted after the Deputy Commissioner pledges to consult with "high-ups of the government" to resolve the crisis and the National Committee's Phulbari unit Convenor Syed Saiful Islam Jewel told reporters that "Decision has been taken to withdraw the office of Asia Energy from Phubarai within Dec 31 and to implement the six-point charter of demands." The National Committee announces that further protest is postponed until 31 December, but pledges tougher nationwide action if the Phulbari Agreement is not fulfilled by that date.^{lxxxv}

OEC/GCM's Response to International Concerns Regarding Massive Human Rights Violations & Threats

167. AEC/GCM has replied in writing to the United Nations Special Rapporteurs warning that their proposed project threatens the fundamental human rights of hundreds of thousands of people in northwest Bangladesh in a 20 March 2012 letter from Chief Executive Steve Bywater to the United Nations Special Rapporteur on the Right to Food, Mr. Olivier De Schutter.^{lxxxvi} His letter, which is copied to all of the UN Special Rapporteurs that took coordinated action to call for a halt to the Phulbari Coal Mine Project, makes this claim

“the development of the Project is not inconsistent with respect for human rights and, in particular, the rights of indigenous people. It is our view that projects such as the Phulbari Coal Project have the potential (and arguably an obligation) to enhance the human rights of the people they affect.”

168. AEC/GCM, the letter adds

“is a signatory to the UN Global Compact (UNGC), a UN initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment

and anti-corruption. GCM continues to embrace, support and enact, within its sphere of influence, these UNGC principles - all of which are consistent with the core values of GCM.”^{lxxxvii}

169. Indirectly addressing grave national and international concerns about violations of the human rights that have already occurred - including the rights to life, liberty and security of person, rights not to be subjected to arbitrary arrest or detention, torture or to cruel, inhuman or degrading treatment or punishment, and right to freedom of peaceful assembly and association – as well as the ongoing risk of further violations, Bywater’s letter says:

“The Project touches on many sensitive issues; we do not expect there to be unanimous support and we respect the rights of all people to express their views about the project whether favourable or not. GCM has no role, either in public or private, official or unofficial, in policing demonstrations whether in favour of or opposed to the project. We do not support intimidation, repression and violence against anyone, whatever their views, and certainly do not participate in such actions.”

170. Such bland assurances hardly suffice in responding to concerns about the severe threats and violations associated with the company’s proposed Phulbari Coal Mine Project. In fact, AEC/GCM’s primary response to recent action by the United Nations and others calling for a halt to the project has been to redouble its efforts to force the project forward and reassure its shareholders that a “green light” for its Scheme of Development is imminent.

171. AEC/GCM’s 2012 Annual Report, titled “Poised to deliver,” includes this as a “highlight”: “GCM has intensified its efforts in pursuing approval of the Phulbari Coal Project through further engagement with the local community and direct engagement with the Government.” The Annual Report also includes this statement (p.3) from the company’s current chief executive, Gary Lye: “Our aim is to receive Project approval and then to commence mine development and the associated community programmes as soon as possible.”^{lxxxviii}

172. Such statements do not convey a willingness of the part of AEC/GCM to seriously engage with concerns about human rights threats and violations clearly voiced by the United Nations more senior human rights experts as well as a large number of international human rights organisations.

173. Moreover, recent comments by the company’s current chief executive Gary Lye minimise many of these concerns: “We concur that rehabilitation is not at all an issue or major challenge for the Phulbari or Barapukuria coal mine projects.”^{lxxxix}

174. Lye's use of the word "concur" in the statement cited immediately above is in reference to a prior statement that "[...] the Asian Development Bank's own expert consultants overviewed the finalisation of the ESIA [Environmental and Social Impact Assessment]." What Lye does **not** say is that the Asian Development Bank (ADB) withdrew \$US 300 million (US \$100 million loan and US \$200 million political risk guarantee) for the Phulbari Coal Mine Project from its funding pipeline in June of 2008 shortly after receiving the Community letter to the ADB signed by 42 community leaders in Phulbari detailing their concerns and calling for the bank to disinvest in the project.^{xc}

175. The ADB's decision to withdraw from the project stands in stark contrast to AEC/GCM's continuing efforts to force the project forward. Moreover, according to the Summary of the Expert Committee Report on the Phulbari Coal Mine Project (2007: 6), information presented by AEC/GCM officials on 21 December 20005 indicated that "none of the Asia Energy companies (AEPLC, AECPL, and AECBPL) have any experience in mining and management of a project like the Phulbari Coal Project." Similarly, Moody notes that two members of AEC/GCM's board and management have experience in coal mining, but the company itself "possesses no pedigree, as a company, in operating mining projects of any kind, let alone on the scale of Phulbari."^{xc}

Q6. Provide details on dealings that you or co-complainants have had with the company (including details of exchanges) relevant to address the reasons for this complaint.

176. Summary:

- **6 March 2008:** World Development Movement writes to Steve Bywater, Chief Executive, AEC/GCM about the Phulbari Coal Mine Project.
- **21 April 2008:** World Development Movement writes to John Varley, Chief Executive, Barclays regarding the bank's investment in AEC/GCM and the Phulbari Coal Mine Project.
- **19 May 2008:** Gary Hoffman, Vice Chairman, Barclays responds to 21 April 2008 letter from World Development Movement.
- **20 August 2008:** World Development Movement and International Accountability Project (IAP) are two of 110 civil society organisations in 31 countries involved in preparing and signing a letter addressed to private banks invested in AEC/GCM. The letter is delivered or mailed to major investors and to the company. Included with the letter is a copy of a report written by IAP and commissioned by the Bank Information Center in order to provide analysis of the draft Resettlement Plan for the Phulbari Coal Mine Project.
- **29 August 2008:** World Development Movement writes to the Fred Goodwin, Chief Executive, Royal Bank of Scotland regarding the bank's investment in AEC/GCM and the Phulbari Coal Mine Project.
- **10 September 2008:** World Development Movement responds to 19 May 2008 letter from Gary Hoffman, Vice Chairman, Barclays.

- **23 September 2008:** World Development Movement writes to Gareth Thomas MP in his capacity as Parliamentary Under-Secretary of State for International Development at the Department for International Development about the UK government's support for AEC/GCM and the Phulbari Coal Mine Project.
- **8 October 2008:** Andrew Cave, Head of Corporate Responsibility, Royal Bank of Scotland replies to World Development Movement's letter of 29 August 2008.
- **November 2008:** World Development Movement submits written evidence on AEC/GCM Resources and the Phulbari Coal Mine Project to the International Development Committee's inquiry into sustainable development in a changing climate.
- **18 November 2008:** Gareth Thomas MP, Minister of State for Trade, Investment and Consumer Affairs, Department for Business, Enterprise and Regulatory Reform replies to World Development Movement's letter of 23 September 2008.
- **December 2008:** IAP prepares document entitled "GCM Resources plc Phulbari Project: message to shareholders. London Mining Network provides the information so shareholders at AEC/GCM's annual general meeting in London.
- **27 January 2009:** World Development Movement writes to Gareth Thomas MP, Minister of State for Trade, Investment and Consumer Affairs, Department for Business, Enterprise and Regulatory Reform in response to his letter of 18 November 2008.
- **30 March 2009:** Lord Davies, Minister of State for Trade and Investment, replies to World Development Movement's letter of 27 January 2009 to Gareth Thomas.
- **April 2009:** World Development Movement submits Memorandum on AEC/GCM and the Phulbari Coal Mine Project to the Joint Committee on Human Rights (JCHR) inquiry on business and human rights.
- **26 June 2009:** Steve Bywater, Chief Executive, GCM Resources responds to World Development Movement's Memorandum of 1 May 2009 in a letter addressed to the JCHR.
- **5 August 2009:** World Development Movement writes to Michael Geoghegan, Chief Executive, HSBC, regarding the bank's investment in AEC/GCM and the Phulbari Coal Mine Project.
- **25 February 2010:** Letter addressed to Steve Bywater, Chief Executive, GCM Resources, regarding his 26 June 2009 statement to the JCHR, is jointly submitted by: Tim Jones, World Development Movement; Jen Kalafut, International Accountability Project; Richard Solly, London Mining Network and Mark Muller, Adviser to Mines and Communities and the London Mining Network
- **10 March 2010:** Letter from Steve Bywater, Chief Executive, GCM Resources, replying to 26 February 2010 letter from Tim Jones, Jen Kalafut, Richard Solly and Mark Muller
- **3 November 2011:** International Accountability Project prepares letter addressed to GCM investors that is signed by 85 civil society organisations worldwide. The letter is mailed to major investors and copied to AEC/GCM.

- **15 December 2011:** International Accountability Project's Senior Research Fellow, Kate Hoshour, attends AEC/GCM's annual general meeting in London and joins other shareholders in raising questions and concerns about the Phulbari Coal Mine Project, which are documented in this [report](#) posted on the website of London Mining Network
- **4 February 2012:** International Accountability Project (IAP) and London Mining Network jointly submit [written evidence](#) to the International Development Committee's inquiry on Tax in Developing Countries.
- **28 November 2012:** Cultural Survival, International Accountability Project, London Mining Network and World Development Movement write to Sarah Cooke, Country Representative for Bangladesh at the UK's Department for International Development in Bangladesh regarding AEC/GCM and the Phulbari Coal Mine Project.

Q7. What actions do you consider the company should take to resolve the problem?

177. It is not possible to redesign the proposed Phulbari Coal Mine Project in such a way that the project would avoid massive evictions and further violations of the fundamental human rights of hundred of thousands of Bangladeshi citizens. This being the case, we consider that there is only one course of action that AEC/GCM should take to resolve the problem, which is to:

- Immediately halt all efforts to force the proposed project forward and activities related to the project;
- Withdraw or cancel the Scheme of Development submitted to the GOB on 2 October 2005;
- Inform the appropriate Ministries and government officials in Bangladesh in writing of its decision to permanently terminate all project planning; and
- withdraw from the project and from Bangladesh.

Q8. What is your objective in bringing the case?

178. Our objective in bringing the case is preventative and forward looking- to avert further gross violations of the fundamental human rights of people living in the four adjacent sub-districts of Phulbari, Birampur, Nababgnaj and Parbatipur, whose fundamental rights are threatened by AEC/GCM's proposed Phulbari Coal Mine Project, as evidenced in this complaint. This can only be achieved through the action outlined above in response to Q7.

Q9. Are there any additional details that you wish to bring to the attention of the NCP and the company?

179. No.

In addition to ensuring that all the information above has been provided, you should

also confirm that:

a) You are aware that all the information you provide to the NCP will be shared with the company. If you wish to make an exception and keep information confidential please provide justification.

180. Yes, are aware that all information we provide to the NCP will be shared with the company and that we must provide justification if we wish to make an exception and keep confidential information. We have included with this complaint the text of the 15 December 2007 letter from community leaders to the Asian Development Bank but have not included the names and signatures of the 42 community leaders who sent the letter on behalf of the people and organisations they represent due to the risk of reprisals against these individuals if their identities are disclosed.

181. The risks facing those who openly take a stand against the project have recently been greatly increased by the release of the circular from Bangladesh's Home Ministry on 14 October 2012, which instructs local officials and police to cooperate with AEC/GCM in surveying the proposed project area. Moreover, ongoing risks are well evidenced by the foregoing summary of the mass arrests, arbitrary detentions, torture, beatings, and fatal shooting suffered by project opponents in reply to Q5 (Section V) of this complaint.

b) You understand that the UK NCP's approach to resolving complaints is in the first instance to facilitate conciliation or mediation between the complainant and the company.

182. Yes, and we request that the NCP mediate the company's exit from Bangladesh and its withdrawal from and termination of the proposed project.

ⁱ Accountability Counsel is providing technical support and advice in this specific instance. Accountability Counsel is a US-based organization founded in 2009 that provides support for communities whose human rights have been violated and environment harmed by development projects. Accountability Counsel specializes in the use of non-judicial accountability and grievance mechanisms related to international development finance.

ⁱⁱ [Phulbari Coal Project: An Assessment of the Draft Resettlement Plan Prepared by Global Coal Management/Asia Energy Corporation, August 2008.](#) (Acrobat 376 KB), Jen Kalafut. Hereafter cited as Kalafut (2008).

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- iii Asia Energy PLC, Change of Name, [RNS Number:3583P](#) December 28, 2008 and GCM Resources Management PLC [RNS Number:7803J](#) Global Coal Management PLC 12 December 2007.
- iv Details on land to be acquired for each of these project components are summarized in Asia Energy, [Resettlement Plan for Asia Energy's Phulbari Coal Project](#) (October 2007, Chapter 4: 3 & 4). Hereafter cited as Asia Energy (2007).
- v Reflections on Phulbari Coal Project, Nazrul Islam, New Age, September 14 2008, reposted and viewed 12/5/12 at <http://banglapraxis.wordpress.com/2008/09/14/reflections-on-phulbari-coal-project/>. Hereafter cited as Islam (2008).
- vi See "[Agreement with Asia Energy – Option open for govt to make pro-people deal](#)," *BangladeshNews.com.bd*, August 28, 2006.
- vii "[Asia Energy has valid contract](#)", *The Independent*, November 29, 2012.
- viii The Expert Committee was headed by Prof. Nurul Islam, Director of the Institute of Appropriate Technology, Bangladesh University of Engineering and Technology. The committee met 19 times between 3 December 2005 and 20 September 2006, and a nine-member team carried out a field visit to Phulbari in January 2006 that included a visit to AEC/GCM's information center.
- ix These tragic events received extensive coverage by media in Bangladesh and some coverage within the UK. Many of these articles can be viewed on the [Phulbari Resistance](#) blogspot and on International Accountability Project's Phulbari page. These events are recalled in detail in "[Phulbari coal, corporate lobbyists and people's resistance: Part I](#)", Anu Muhammad, *New Age Online* Op-Ed, November 27, 2012. Also see: "Phulbari, Asia Energy and Grassroots Revolt," Phillip Gain, SEHD Report, March 17, 2007 at <http://www.bicusa.org/proxy/Document.10806.aspx>; "[ADB and the case of the Phulbari Coal Project](#)," Anu Muhammad, *Countercurrents*, May 19, 2007; "[Fury at Bangladeshi mine scheme](#)," Nick Mathiason, *The Observer*, March 9, 2008; and "Phulbari, Asia Energy and grassroots revolt," Megh Barta, published in *Earth Touch*, No. 10, April 2007, SHED Bangladesh, can be viewed at [Mines and Communities](#).
- x The terms of the six-point Phulbari Agreement are summarized in "[Phulbari coal, corporate lobbyists and peoples resistance](#)," Anu Muhammad, Priyo News, November 28, 2012.
- xi "[Press Release: Asian Development Bank pulls out of controversial coal project in Phulbari](#)," *Banglapraxis*, April 3, 2008; and "[Another time: Coming up another occasion to displace people](#)," Geetisha Dasgupta, *Refugee Watch Online*, April 30, 2011.
- xii In March of 2011, the GOB announced that it would constitute a national committee to finalize the draft coal policy, and then send it to the Cabinet Committee and Parliament for their approval.
- xiii The United Nations Office of the High Commissioner for Human Rights has compiled [this list](#) of the many human rights treaties with explicit reference so safe drinking water.
- xiv More information at:
<http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/InternationalStandards.aspx>
- xv The United Nations press release can be viewed on the website of the Office of the High Commissioner for Human Rights at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx>
- xvi [Poised to deliver: GCM Resources Annual Report & Accounts](#), 2012.
- xvii Asia Energy (2007, Executive Summary: 5-11).
- xviii World Food Programme, 2011, "[Food security at a glance](#) – Bangladesh.
- xix See Asia Energy Corporation (Bangladesh) Pty Ltd, (2005: 10), "Phulbari Coal Project: Agricultural Development Report, Section 4 of Vol. 3 (Part 1)," submitted by Dr. Chris Johansen, Agricultural Research & Development Consultant, SMEC Australia Ptd Ltd, April, 2005. Hereafter cited as Asia Energy Corporation (Bangladesh) Pty Ltd, 2005.
- xx Asia Energy, (2007, Chapter 3: 4, 8, 35.4 13 & 18).
- xxi Asia Energy (2007: Chapter 3: 12).
- xxii Asia Energy (2007: Chapter 4: 24).
- xxiii Asia Energy (2007, Chapter 3: 13 & 18).
- xxiv Cited in Asia Energy (2007, Chapter 3: 13).
- xxv Asia Energy (2007, Chapter 3: 14 & Chapter 4: 23).

^{xxvi} In addition to nesting sites for several turtle species, this Sundarbans provides a critical habitat for at least 58 rare and threatened species, including the spotted deer, saltwater crocodile, Gangetic dolphin, and 117 species of waterfowl. This Sundarbans forest is also home to Bangladesh's last remaining population of the endangered royal Bengal tiger. See the urgent [action alerts](#) issued by the Mangrove Action Project.

^{xxvii} Asia Energy (2007, Executive Summary: 11 & Chapter 7:11).

^{xxviii} Asia Energy (2007, Chapter 10:7).

^{xxix} See [Can Compensation Prevent Impoverishment?: Reforming Resettlement through Investments](#), Michael M. Cernea & Hari Mohan Mathur (eds.), 2008, Oxford University Press.

^{xxx} A 2005 proposal for maintaining or improving "agricultural profitability" per land unit in the affected region through expanding irrigation capability, introducing new agricultural technologies and crops, and "industrialization," can be fairly described as grossly inadequate and speculative. See Asia Energy Corporation (Bangladesh) Pty Ltd, 2005.

^{xxxi} Kalafut (2008: 9 & 10).

^{xxxii} Environmental and Social Impact Assessment (ESIA, Vol. 1, chapter 8, page 63), cited by Moody (2008: 76-78).

^{xxxiii} "Phulbari Coal: Hydrogeological environment not favourable for open pit mining," Engr A K M Shamsuddin, *The Daily Star*, September 29, 2007.

^{xxxiv} The 163-page report is of the Expert Committee formed in 2005 to evaluate the proposed Phulbari Coal Mine Project was published in Bangla in 2006 with the title "Summary of the Report of the Expert Committee (REC) to Evaluate Feasibility Study Report and Scheme of Development of the Phulbari Coal Project," Messieurs Asia Energy Corporation, (Bangladesh) Pvt. Ltd. (AEC). A ten-page English language summary was made available in English in 2007 and is cited herein as "Summary of the Report of the Expert Committee (2007)." This document can be viewed on the website of the Bank Information Center at: <http://www.bicusa.org/en/Project.Resources.59.aspx>.

^{xxxv} Summary of the Report of the Expert Committee (2007). Also see Asia Energy Corporation (Bangladesh) Pty Ltd (2005: 8 & 9).

^{xxxvi} "[Phulbari Coal: Hydrogeological environment not favourable for open pit mining](#)," Engr A K M Shamsuddin, *The Daily Star*, September 29, 2007. Shamsuddin notes that experts are also concerned that the extraction of huge quantities of groundwater for mining operations may put the Phulbari region at risk of land subsidence, land sliding and earthquakes.

^{xxxvii} "[Phulbari Coal: a Parlous Project](#). A critique of the GCM Resources PLC Environment and Social Impact Assessment (ESIA) and Summary Environmental Impact Assessment (SEIA) for the Phulbari Coal Mine Project in Bangladesh," Roger Moody. Prepared by Nostromo Research for Bank Information Center, November 2008 (pp. 20-22). Hereafter cited as Moody (2008).

^{xxxviii} Moody (2008: 17-20).

^{xxxix} Moody 2008 (18 & 19).

^{xl} Global Coal Management Resources Plc, or GCM, was known as Asia Energy at the time it commissioned the draft Resettlement Plan, and subsequently changed its name to GCM.

^{xli} Asia Energy (2007: Chapter 4: 11-12).

^{xlii} Summary of the Report of the Expert Committee (2007: 9).

^{xliiii} Kalafut (2008: 4-8).

^{xliv} This is well illustrated by research in India which, together with China, has the largest number of people displaced in the name of development worldwide. Drawing on studies carried out since independence, Walter Fernandez found that actual displacement was far greater than indicated by prior researchers or official figures. More than 60 million people, he concluded, have been directly displaced by development in India between 1946 and 2004. Of this, two-thirds or more cannot be considered resettled today. Even this revised figure, Fernandes cautions, significantly understates the actual number of people affected in India alone, due to the lack of data on the 'enormous' number of people who are forced to move as a consequence of environmental degradation and other project impacts. See Walter Fernandes (2008: 182. "India's forced displacement policy and practice: Is compensation up to its functions?" in *Can*

Compensation Prevent Impoverishment? Reforming Resettlement through Investments and Benefit-Sharing, Cernea, M. M. & Mathur, H. M. (Eds.), Oxford University Press, New Delhi, pp. 180-207; and Walter Fernandes (2008: 90 & 91), "Sixty years of development-induced displacement in India", in *India Social Development Report 2008: Development and Displacement*, Mathur, H. M. (ed.), Oxford University Press, New Delhi, pp. 89-102.

^{xliv} Indigenous People's Development Plan for Asia Energy's Phulbari Coal Project: IPDP Final Report, Appendix 3: Anthropology and Culture, Mr. Manzurul Mannan (June 2005: 7).

^{xlv} Indigenous People's Development Plan for Asia Energy's Phulbari Coal Project: IPDP Final Report (2005: 5 & 6).

^{xlvii} Otherwise known as Jatiya Adivasi Forum.

^{xlviii} Phulbari Coal Mine Project and Indigenous Peoples, Rabindranath Soren, President, *Jatiya Adivasi Forum* & Chairperson, *Kapaeeng Foundation*, presented to the United Nations Permanent Forum on Indigenous Issues 11th Session, 7-18 May 2012, UN Headquarters, New York; Indigenous People's Development Plan for Asia Energy's Phulbari Coal Project: IPDP Final Report, Appendix 3: Anthropology and Culture, Mr. Manzurul Mannan (June 2005: 7); and Cultural Survival Global Response Action Alert, "Bangladesh: Ban Open-pit Mining, Defend Human Rights," *Cultural Survival Quarterly*, March 2011. Cultural Survival's alert can be viewed on their website at: <http://www.culturalsurvival.org/take-action/bangladesh-ban-coal-mine-save-forests-and-farms>

^{xlix} This claim is made on the company's website, under "[GCM Corporate Values and Principles](#)."

^l AEC/GCM's 2006 Draft Resettlement Plan: Executive Summary, 2006: pp. 7 & 8).

^{li} This letter, hereafter referred to as "Community letter to ADB", can be viewed under "Correspondence" on the Phulbari page of the Bank Information Center (BIC) at: <http://www.bicusa.org/en/Project.Resources.59.aspx>

^{lii} Kalafut (2008: 24).

^{liii} Samina brought her concerns about non-transparent and inadequate consultations to the attention of AEC/GCM's board at the company's 2001 AGM in London. Her comments are posted and can be viewed on the website of the London Mining Network: <http://londonminingnetwork.org/2011/12/gcm-challenged-to-pull-out-of-phulbari-coal-project/>

^{liv} OMCT, December 2007, [Bangladesh: Risk of violent suppression of public opposition to Phulbari coal mine project](#).

^{lvi} Kalafut (2008:20-24) identifies and discusses further inadequacies in consulting with community members and AEC/GCM's approach to defining and assessing community support.

^{lvii} These tragic events received extensive coverage by media in Bangladesh and some coverage within the UK. Many of these articles can be viewed on the [Phulbari Resistance](#) blogspot and on International Accountability Project's Phulbari page. These events are recalled in detail in "[Phulbari coal, corporate lobbyists and people's resistance: Part I](#)", Anu Muhammad, *New Age Online* Op-Ed, November 27, 2012. Also see: "Phulbari, Asia Energy and Grassroots Revolt," Phillip Gain, SEHD Report, March 17, 2007 at <http://www.bicusa.org/proxy/Document.10806.aspx>;, "[ADB and the case of the Phulbari Coal Project](#)," Anu Muhammad, *Countercurrents*, May 19, 2007; "[Fury at Bangladeshi mine scheme](#)," Nick Mathiason, *The Observer*, March 9, 2008; and "Phulbari, Asia Energy and grassroots revolt," Megh Barta, published in *Earth Touch*, No. 10, April 2007, SHED Bangladesh, can be viewed at [Mines and Communities](#).

^{lviii} Both videos can be viewed on the Phulbari page of the International Accountability Project's website at: <http://www.accountabilityproject.org/article.php?id=152> (Part 1) and <http://www.accountabilityproject.org/article.php?id=169> (Part 2).

^{lix} " ['You cannot eat coal' : resistance in Phulbari](#)," *New Age*, August 19, 2008.

^{lx} "[Expulsion of Asia Energy Demanded](#)," *The Daily Star*, August 28, 2006.

^{lxi} UK Joint Committee on Human Rights Draft Report 2009; Emergency Appeal issued by the World Organisation Against Torture, [Bangladesh: Risk of violent suppression of public opposition to Phulbari coal mine project](#), OMCT, Geneva, December 21, 2007.

^{lxii} [“Another time: Coming up another occasion to displace people](#), Geetisha Dasgupta, *Refugee Watch Online*, April 30, 2011

^{lxiii} [“Press Release: Asian Development Bank pulls out of controversial coal project in Phulbari,”](#) *Banglapraxis*, April 3, 2008; and [“Another time: Coming up another occasion to displace people](#), Geetisha Dasgupta, *Refugee Watch Online*, April 30, 2011.

^{lxiv} [“Another time: Coming up another occasion to displace people](#), Geetisha Dasgupta, *Refugee Watch Online*, April 30, 2011.

^{lxv} Key findings in this report are summarized in [Bangladeshi: Broken Promises from govt to halt RAB killings: Government should disband or radically reform Rapid Action Battalion](#), *Human Rights Watch*, May 10, 2011. Also see [“Bangladesh’s feared elite police,”](#) Roland Buerk, BBC News, December 13, 2005.

^{lxvi} The report is based on over 80 interviews with victims, witnesses, human rights defenders, journalists, law enforcement officials, lawyers, and judges and builds on a 2006 Human Rights Watch report, “Judge, Jury, and Executioner: Torture and Extrajudicial Killings by Bangladesh’s Elite Security Force.”

^{lxvii} [Bangladeshi: Broken Promises from govt to halt RAB killings: Government should disband or radically reform Rapid Action Battalion](#), *Human Rights Watch*, May 10, 2011.

^{lxviii} [“Villagers blocked road, rail for 6 hours,”](#) *The News Today*, March 28, 2011; and.

^{lxix} AEC/GCM’s 2012 Annual Report can be viewed on the company’s [website](#).

^{lxx} ^{lxx} [Bangladesh: Risk of violent suppression of public opposition to Phulbari coal mine project](#), OMCT, 21 December 2007.

^{lxxi} [Bangladesh: OMCT acts to prevent further violence in connection with a coal mine in Phulbari, Bangladesh](#), OMCT, 3 July 2008.

^{lxxii} The comments of IAP’s Senior Research Fellow, Kate Hoshour, are posted and can be viewed on the website of the London Mining Network at: <http://londonminingnetwork.org/2011/12/gcm-challenged-to-pull-out-of-phulbari-coal-project/>

^{lxxiii} Some of their interviews in Phulbari have been translated into English, and IAP will be happy to provide copies upon request.

^{lxxiv} These tragic events received extensive coverage by media in Bangladesh and some coverage within the UK. Many of these articles can be viewed on the [Phulbari Resistance](#) BlogSpot. Also see: [“ADB and the case of the Phulbari Coal Project,”](#) Anu Muhammad, *Countercurrents*, May 19, 2007; [“Fury at Bangladeshi mine scheme,”](#) Nick Mathiason, *The Observer*, March 9, 2008; and “Phulbari, Asia Energy and grassroots revolt,” Megh Barta, published in *Earth Touch*, No. 10, April 2007, SHED Bangladesh, can be viewed at [Mines and Communities](#).

^{lxxv} See [“Press Release: Asian Development Bank pulls out of controversial coal project in Phulbari,”](#) *Banglapraxis*, April 3, 2008, and [“Another time: Coming up another occasion to displace people](#), Geetisha Dasgupta, *Refugee Watch Online*, April 30, 2011.

^{lxxvi} [“Phulbari campaigner injured at protest,”](#) Climate Debt News, September 18, 2009; and [Protest against offshore block deal: 50 injured at police charge into protestors](#), *New Age*, 3 September 2009.

^{lxxvii} [“Over 150 detained during hartal,”](#) *bdnews24.com*, July 3, 2011”; [“Oil-gas body to protest hartal arrests,”](#) *bdnews24.com*, July 4, 2011; and [“Arrests mark half-day hartal in Bangladesh’s capital,”](#) English.xinhuanet.com, July 3, 2011. Protesters also demanded that the GOB cancel a recent contract with ConocoPhillips for gas exploration and extraction by the US-based oil company in the Bay of Bengal.

^{lxxviii} [The Long March in Bangladesh: Interview with a march organizer](#), Manny Thain, *the Socialist*, November 18, 2010; [Oil-gas committee gears up for 'Long March'](#), Staff Correspondent, *New Age National*, September 3, 2010; [Bangladesh's Long March: 7 Days, 250 Miles, & 50 rallies,”](#) Kate Hoshour, International Accountability Project, October 29th, 2010.

^{lxxix} [“Long March against open pit mine and disastrous deals with oil MNCs in Bangladesh,”](#) Anu Muhammad, *Countercurrents*, November 15, 2010; and “Bangladesh's Long March: 7 Days, 250 Miles, & 50 rallies,” October 29th, 2010, Kate Hoshour: <http://www.accountabilityproject.org/article.php?id=588>.

^{lxxx} Background on the Barapukuria mine and growing unity between villagers fighting open pit mining there and in Phulbari are summarized on IAP’s Phulbari page in: [“Massive protest against Phulbari &](#)

[Barapukuria coal mines in Bangladesh](#)," Kate Hoshour, *International Accountability Project*, March 4, 2011.

^{lxxxix} The massive protests against the Phulbari Coal Mine Project have generated extensive media coverage within Bangladesh. See: "[Six-Point Demand: Villagers of Phulbari, Barapukuria block highway](#)," Staff Correspondent, Dinajpur, *The Daily Star*, Tuesday, March 1, 2011; "[Compensation for Barapukuria Subsidence: Miners, villagers strike deal](#)," Sharier Khan, *The Daily Star*, May 23, 2009; "[Major decisions on coal likely within this year: Govt working on approval of coal policy, open-pit mining at Barapukuria, resettlement of affected people](#)," Sharier Khan, *The Daily Star*, May 21, 2009; "[Army deployed at Barapukuria coal mine](#)," Staff Correspondent, Dinajpur, *The Daily Star*, May 13, 2009; "[Barapukuria Coal Mine: Committee for acquiring 3.5 sq km area](#)," Staff Correspondent, *New Age*, March 13, 2009; "[Barapukuria coal mine in trouble: 800 miners lose job, production stopped since Feb 18, villagers press for compensation](#)," Kongkon Karmakar & Sharier Khan, *The Daily Star*, March 6, 2009

^{lxxxix} "[Phulbari people protest move to conduct surveys](#)," *Financial Express*, November 13, 2012.

^{lxxxix} "[Sec 144 slapped in Phulbari](#)," *bdnews24.com*, November 23, 2012.

^{lxxxix} "[Phulbari braces for shutdown](#)," *bdnews24.com*, November 23, 2012; "[Hartal \[strike\] at Phulbari today](#)," *The News Today*, November 23, 2012; "[Phulbari tense: Rally against coal contract, defying ban; indefinite hartal from today](#)," *Daily Star*, November 24, 2012; "[Hundreds defy ban on gathering: General strike in Phulbari today](#)," *New Age*, November 24, 2012; "[Hartal underway in Phulbari](#)," *Bangla News 24*, November 24, 2012; "[Phulbari shutdown continues on Sunday](#)," *bdnews24.com*, November 24, 2012.

^{lxxxix} "[Administration in talks with Phulbari protesters](#)," *bdnews24.com*, November 25, 2012; "[Phulbari shutdown called off](#)," *bdnews24.com*, November 25, 2012; "[Phulbari agitation postponed until Dec 31](#)," *bdnews24.com*, November 25, 2012.

^{lxxxix} This letter is posted and can be viewed under [GCM CORPORATE VALUES AND PRINCIPLES](#) on the company's website.

^{lxxxix} The claim that AEC/GCM is committed to complying with UNGC principles is repeated on the company's website under "[GCM Corporate Values and Principles](#)," along with rather vague statements that cite IFC Performance Standards and the Equator Principles without making any commitments to adhering to either.

^{lxxxix} [Poised to deliver: GCM Resources Annual Report & Accounts](#), 2012.

^{lxxxix} "[Asia Energy has valid contract](#)," *The Independent*, November 29, 2012.

^{xc} Despite the enormous risks posed by the Phulbari Coal Mine project, the ADB was slated to approve \$300 million in project financing in June of 2008 (a US \$100 million loan and US \$200 million political risk guarantee). See [ADB postpones funding](#), Staff Correspondent, *The Daily Star*, April 5 2008; [Asian bank scuppers UK mine project in Bangladesh](#), Nick Mathiason, *The Observer*, April 6 2008; and [Asian Development Bank pulls out of controversial coal project in Bangladesh](#), Civil society press release, April 3, 2008. (*doc 35 KB*).

^{xc} Moody (2008: 7).