A NomoGaia report on a case-study analysis of a currently operational human rights grievance mechanism within a broader external communication system

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Operational-Level Grievance Mechanisms

Analysis of Outcomes

NOMOGAIA

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Operational-Level Grievance Mechanisms: Outcomes for rights-linked claims and complaints

Pillar Three of the United Nations Guiding Principles on Business and Human Rights (the "UNGPs") provides that rightsholders should have access to remedies for human rights infringements arising from business activities (UNGP 25-31). In particular, "business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted" (UNGP 29). Rightsholders are enabled to bring human rights concerns to grievance mechanisms (GMs), and companies are expected to investigate their complaints and, as needed, remediate harms.

This paper presents a detailed analysis of the remedies provided in response to cases filed by affected individuals and groups at one such active GM, over a 4-year period, at a mining project that has not yet moved from the feasibility to the construction phase. This is a follow-up report to NomoGaia's report on the process (Process Report) of retrofitting community communication systems to address human rights grievances. The aim of this report is to evaluate whether, and to what extent, the outcomes of complaints and grievances result in remedies for adversely impacted rightsholders and drive interventions that prevent future impacts.

As with our Process Report analyzing the same real-world GM, NomoGaia has withheld identifying information about the company and operation to prioritize privacy and security concerns. NomoGaia reserves the right to reverse our decision and reveal the identity of the company and project.

I. Methodology

Previously we reviewed the 2,591 claims, complaints, and requests made to the GM; tabulated all 173 claims and complaints (excluding requests) within that data set; and excluded cases that were still pending or lacking essential information about their closure, leaving 162 cases for detailed analysis.[1] For this report we carried out additional research on the outcomes of those 162.

The GM keeps the following information for all cases except where anonymized (or when the registry has gaps): reference number, title, type of case (complaint, claim, request), date of intake, medium of filing (email, in person, WhatsApp, etc.), status (in progress or closed), claimant name, claimant location, company department tasked to respond, date by which claim must be closed (15 working days from intake), and date the claim was actually closed.

We expanded on these to include fields and information for: type of filer (individual, community, contractor owner, NGO, etc.), general theme of the case (security, environment, etc., listed in detail below), summary of the case, summary of decisions on its closure (e.g. actions taken, remedies ordered), and whether the filer signed off on the closure. Additionally, we added information on whether the claim had a potential link to human rights, what entity was responsible for the impact (company, contractor firm, government body), if the case was found to be valid, and if any actions were ordered.

The information for expanding analysis to the categories above was largely available in the GM's files. The Company's platform includes a module for uploading and storing files and associated case information. This included correspondences between the filer, company and third parties, such as government offices and contractors. It also included documentation and minutes of meetings pertaining to the case, summaries of

[1] Parejo, Salcito & Wielga. Operational Level Grievance Mechanisms: Analysis of Structure & Process. NomoGaia. March 2026 https://nomogaia.org/wp-content/uploads/2026/04/NomoGaia-Report-Grievance-Mechanism-Review-PROCESS-Mar-30.pdf

interactions, evidence of the actions taken and, where available, sign-offs on agreed outcomes of the case. Cases were categorized thematically to cover the following:

- Environmental impacts
- Behavior of personnel (contractors and employees)
- Impacts on infrastructure (household and communal)
- Labor complaints
- Impacts on informal mining
- Resettlement
- Safety and security

We further organized each claim based on a set of yes/no questions on pertinent outcome criteria:

- Did the GM find in favor of the filer?
- Was the investigation and resolution of the case assigned to the company? To a contractor? To some other third party?
- Did the GM commit to any actions, whether cessation of activities or remedial?
- Is there evidence of the implementation of such actions?

Understanding outcomes for claimants required further research. Rightsholder and stakeholder engagement included meetings, discussions, and interviews with GM staff and claimants. We evaluated filers' perceptions of remedy through semi-structured interviews with 18 filers, covering 34 cases (some filers brought multiple cases). Permission to contact these individuals was sought in line with data protection laws, through direct query from the Company to the filer. Filer interviews were undertaken in person, at times and locations of their choosing, including their homes, shared community locations, cafeterias, restaurants, and Company community liaison office. Our first priority was to assure their safety. The interviews were semi-structured. No Company personnel participated in these meetings. We selected claimants through targeted sampling, based on the following criteria to assure representativeness of our sample:

- Topic of the case
- Status of the case (closed or in progress)
- Time from filing to closure to include both slow and swift responses
- Number of cases filed by the same filer, to include repeat and one-time filers
- Company response to include filers whose concerns were found to be valid or invalid
- Apparent remedy, ranging from no action to a perceived reversal of harm and prevention of future harms

Interviews were structured to learn about the context of the case, whether actions had been requested by the filer, whether ordered remedies were implemented, and whether the alleged harm had been reversed. All cases were reviewed by two or more practitioners from NomoGaia to validate assessment ("expert triangulation"). Remedies were categorized as:

- Cash or in-kind compensation
- Apology
- Procedure, policy, engineering changes to prevent future incidents
- A mix of two of the above mentioned.

II. Data and Analysis

As in our Process Report, 162 cases were analyzed in depth, starting from the full set of 173 claims and complaints brought to the mechanism, and then excluding the 6 that were still in progress and the 5 that

lacked essential case information. A determination of whether and to what extent remedy is supplied by the GM must consider:

1. Whether a remedy was ordered
2. Whether the company was willing/empowered to provide that remedy
3. Whether such remedy was provided/implemented
4. Whether implementation reverses an existing harm and prevents future harms

A. Were remedies ordered on some claims?

There was no process for determining whether a case was in-scope or out-of-scope for the mechanism. Technically, nearly all cases are in scope, because the mechanism is a communications system, receiving requests, claims and complaints pertinent to the activities of the company or its business partners. Staff of the GM were tasked to identify each case as a request, claim or complaint, but they were not further tasked to define a complaint as in- or out-of-scope. Individual cases show that responsible persons made determinations on a filer's eligibility, and those determinations were not consistent.

Remedies were ordered in cases brought to the mechanism but identifying adverse impacts by the company, contractors, and even regulatory authorities. As the Process Report found, the lack of a standardized process for evaluating the eligibility of a claim for remedy resulted in inconsistent outcomes for filers.

Of the 162 cases analyzed, 98 had no remedy ordered. Several rejected claims pertained to resettlement, because requested changes of household were made outside of the company's timeframe for mapping affected households. Several were found not to be meritorious. Some may have been closed before an investigation was completed, as GM staff rushed to close cases before self-imposed 15- and 30-day deadlines. It is possible that among these cases, remedies may have been wrongfully denied. This Report focuses on the 64 cases where remedy was ordered. Table 1 lays out the full suite of cases reviewed, organized by the Company Department and Sub-Department tasked to manage the case, and disaggregated by whether remedy was ordered.

Table 1: Valid and In-Scope Cases where Remedy was Ordered

Department of the Company	Department or Sub-department of Responsible Person	Cases With No Remedy Ordered		Cases With Remedy Ordered	
		#	%	#	%
Sustainability	Resettlement	34	71%	14	29%
	Socioenvironmental Affairs	9	45%	11	55%
	Artisanal Mine Formalization	13	87%	2	13%
	Social Investment	2	100%	0	0%
	Community Relations	0	0%	1	100%
Operations	Operational Support	0	0%	7	100%
Procurement	Procurement	7	39%	11	61%
	Contractor Behavior	0	0%	3	100%
Labor	Labor	15	71%	6	29%
Security	Security	1	50%	1	50%
Legal	Land Management	9	56%	7	44%
	Legal	8	89%	1	11%
TOTAL		98	60%	64	40%

We initially thought that these remedies should be reviewed Department by Department, but we found that cases pertinent to these Departments were not consistently assigned to them. To better analyze remedies, we recategorized cases according to their thematic topic, or "case types". Our Case Types are designed to be approximately linked to the Departments and Sub-Departments of the Company while most accurately representing the cases as described in the GM.

Table 2: Valid Cases According to Thematic Case Types by NomoGaia

Department of the Company	Thematic Case Types NomoGaia ("Case Types")	Cases With No Remedy Ordered		Cases With Remedy Ordered		Total
		#	%	#	%	#
Sustainability	Resettlement	35	70%	15	30%	50
	Environment	2	18%	9	82%	11
	Artisanal Mine Formalization	19	95%	1	5%	20
Operations	Infrastructure*	14	47%	16	53%	30
Procurement	Contractor Behavior	8	31%	18	69%	26
Labor	Worker Behavior	9	82%	2	18%	11
	Labor/ Hiring	5	100%	0	0%	5
Security	Security	6	67%	3	33%	9
TOTAL		**98**	**60%**	**64**	**40%**	**162**

* Several Infrastructure cases were categorized as the "Land Management" Sub-Department under the Legal Department by the Company. These are subsumed into our Infrastructure Case Type (which we aligned to the Company's Operations Department), because the remedies were similar for all Infrastructure cases, even though some fell under Operations and others fell under Legal by the Company's categorization.

Once the cases had been reorganized by Case Type, we found clear trends in how, where, and when remedy was ordered. Labor and Artisanal Mine Formalization cases were broadly found ineligible by the mechanism. Contractor Behavior, Environmental, and Infrastructure Damage cases were far more likely to have remedies ordered. The largest share of cases where remedy was ordered pertained to Infrastructure Damage and Contractor Behavior, followed by Resettlement and Environmental cases.

The reorganization process revealed that sometimes multiple different Case Types were assigned to a single Company Department, as well as the reverse. For example, Security cases were submitted to a responsible person in the Legal Department and the Socio-Environmental Department, but not to the Security Department itself. We created a matrix to depict how NomoGaia's Case Types differed from the Company Sub-Departments identified as responsible by the Company's own GM documentation.

Through this reorganization, we could see patterns in Case Types beyond the trend we observed with Security cases. Contractor Behavior cases were submitted to the Procurement, Socioenvironmental, and Labor Departments; cases pertinent to damaged infrastructure were submitted to Socioenvironmental, Mine Formalization, Labor, Land Management and several other Departments. Infrastructure damage covered an array of incidents and cases were thus allocated to several (seven) Departments, but they were handled by the same teams of construction workers, regardless of which Department was tasked to be responsible for the impact. Resettlement and Land Management cases were consistently managed by their designated Departments. However, most other departments were being tasked to handle complaints that were not reasonably within their purview. Relatedly, many complaints within the scope of existing departments were allocated to other departments.

Table 3: Matrix of Cases with Remedy Ordered by assigned Department (Rows) and by NomoGaia-categorized Case Types (Columns)

	Resettle-ment	Environ - ment	Mine Formaliz ation	Infrastruc - ture	Contrac-tor Behavior	Worker Behavior	Security	TOTAL
Resettlement	14							**14**
Socioenviron-mental Affairs		4		3	3		1	**11**
Artisanal Mine Formalization			1	1				**2**
Social Investment								**0**
Community Relations				1				**1**
Operational Support		4		3				**7**
Procurement		1			10			**11**
Contractor Behavior				1	2			**3**
Labor				1	3	2		**6**
Security							1	**1**
Land Management	1			6				**7**
Legal							1	**1**
TOTAL	**15**	**9**	**1**	**16**	**18**	**2**	**3**	**64**

B. Was the company willing and able to provide remedy?

The Company was able and willing to remediate harms and impacts. Although we found a good deal of inconsistency in how cases were allocated to sub-departments, there was ultimately enough collaboration across departments and in coordination by the GM Manager, that we did not see major disparities in outcomes of cases based on the designated Responsible Person. For example, grievances pertinent to damage of community infrastructure were managed by seven separate Responsible Persons across different Sub-Departments of the Company, but infrastructure evaluations and repairs were ultimately found to be addressed in a consistent manner, with technical assessments followed by infrastructure support and cash compensation as appropriate.

In some cases, this willingness extended beyond the scope of the mechanism. In particular, there were several cases that were found ineligible for remedy, but where the Company offered a remedial action anyway. In one example, local farmers claimed Company activities had silted up drinking water pipelines,

jeopardizing their household water supply. The Company investigated and found the problem was not linked to its activities. Nevertheless, they supplied new water pipes, supported improvements in the water source, and followed up a week later to assure the systems were working. This intervention was of value to the community, but the Company's decision to pursue action despite having found that it had not caused the problem blurs the line between social benefit and impact management. Procedural vagueness, where communities cannot clearly see that the Company remedies harms where they are caused or advises the community to request a benefit where no harms have been caused, can create confusion about the role of a complaint mechanism. Nevertheless, willingness and ability to provide remedy is demonstrably present.

There were notable exceptions, particularly with regard to security. There were three cases pertinent to public security practices and behaviors, which were assigned to three different departments (Security, Procurement, and Socioenvironmental), and they generated inconsistent outcomes. The cases referred to the Procurement and Security Departments were not handled within the mechanism and resulted in no remedy; the Company informed the filers that it would not respond to complaints about public security. The case submitted to the Socioenvironmental Department, in contrast, was found eligible for remedy. The Socioenvironmental Department carried out an intervention, documented the outcome, and closed the case with the filer's signature. The absence of a rights-based investigation by Security and Procurement Departments presents a tension between the mechanism as a traditional communications tool and the mechanism as a human rights impact mitigation system. This is elaborated below (Section C. 2. "… but not when….").

C. Was the ordered remedy provided/implemented?

1. When the remedy could be implemented without third-party intervention

When remedy is ordered, a case is closed. In its design, the mechanism was not tasked to demonstrate whether the remedy was implemented; provision of remedy was not tracked within the mechanism. This is an important gap. However, the GM Manager began documenting evidence of implementation in late 2023, voluntarily. Of the 64 cases where remedy was ordered, 22 (34%) had uploaded evidence of the implementation of actions by July 2024.

Reviewing the 22 cases where evidence of remedy was supplied, we found high levels of internal accountability. Fourteen of those cases were caused by the Company, and remedy was implemented by the Company. In three cases, the impact was caused by contractors, but the Company provided the remedy (providing monetary compensation, coordinating meetings, and following up). In an additional three cases involving contractors and other third parties, the company *supported* the remediation, in collaboration with the third party (e.g. facilitating follow-ups, convening meetings, offering apologies to supplement third party compensation). In the remaining two cases, contractors caused the impact and directly implemented remediation of the harm.

When including cases where remedies were ordered but implementation is not necessarily known, contractors and third parties were directly responsible for 25 cases but only directly handled five. In an additional 13, the Company took responsibility to implement the remedy, and in the final 7, the Company proposed to be part of the solution. In essence, 80% of the time (20 cases out of 25), the Company actively contributed to remedy for the impacts of its third party contractors. This is positive for the Company, reinforcing the theme of accountability laid out in the paragraph above, but it may raise questions about how well those contracting companies adhere to Company standards.

Interestingly, the Company supplied a form of remedy even in certain cases where the filer was found ineligible for remedy. For example, in one case alleging environmental harms by a contractor, the Company's internal investigation refuted the claims of harm, thus rendering the complaint ineligible for remedy. Nevertheless, the Company sent a directive to the contractor in question, reinforcing the need to adhere to policies and procedures, on the premise that it could bolster relationships with communities by demonstrating a culture of responsiveness.

Table 4: Entities Causing Impacts versus Providing Remedy

Case type	Entities Responsible for Impact			Entities Providing Remedy		
	Company	Contractor	Third-party	Company	Company + contractor	Contractor
Resettlement	15	0	0	15	0	0
Environment	6	3	0	7	2	0
Artisanal Mine Formalization	0	0	1	1	0	0
Infrastructure	15	1	0	15	1	0
Contractor Behavior	0	18	0	9	4	5
Worker Behavior	2	0	0	2	0	0
Labor/ Hiring	0	0	0	0	0	0
Security	1	0	2	3	0	0
TOTAL	**39**	**22**	**3**	**52**	**7**	**5**

2. <u>When a human rights issue was obscured by legal issues</u>

Artisanal mining is common in and around the Company's mining concession. It is a recognized occupation often performed at a high level of expertise and a mainstay of the local economy. It has been passed down from generation to generation as part of a family's social identity and livelihood. It is also illegal, although normally this law is only sporadically enforced in the area. Many such mines and mills operate openly.

As described in our Process Report, the Company has made a major, impressive effort to assist artisanal miners to legalize their operations, which require formal registration and licensing with improvements in worker safety, environmental management, and human rights. This complex process is called "Formalization." Six out of 15 mining formalization complaints submitted to the GM were linked to behaviors of state security forces within the mining concession. Claimants did, in some cases, complain about the use of force during their evictions, as well as the destruction and confiscation of valuables. However, their complaints were not, at root, about security rights. The Company is legally obligated to report artisanal mines it observes on its concession, and the police can enforce the law and close them down. Closing artisanal mines has a significant adverse impact on the human rights of those affected. In some cases, the mines closed were in the process of formalizing. They are being closed because they are within the Company's mining concession, where Company personnel are actively surveying the land. In other words, the Company's presence is driving heightened enforcement of law, the law is enforced by state security forces with mixed human rights records and often heavy-handed procedures, and the enforcement of the law has intrinsic adverse impacts on traditional livelihoods.

These Claimants used the GM knowing that the police's artisanal mine closures were a direct result of the Company's actions. While a human rights analysis would suggest a linkage or contribution to the adverse impact on artisanal miners' livelihood and security, and thus some consideration of these claims by the GM, the Company took the position that it had no accountability at all and did not address them. The Company was not willing to address harms caused by artisanal mine closures, because those closures were legal. A human rights-based approach to these complaints changes the analysis: There were human rights impacts. There was cause and contribution. The question then is "What should the Company do?" However, the Company considered only law, not human rights, and did nothing. While it depends on the facts of each situation, there are a variety of responses available to the Company to address these claims, such as increased formalization assistance, and help with access to jobs with formalized miners. No such remedies were even considered. The GM was not permitted to take a human rights-based approach.

While not mandated by law like the Formalization claims, the Company's GM's insensitivity to human rights concerns was also apparent in the handling of resettlement claims. Table 2 shows that 35 of 50 Resettlement cases (70%) were closed without remedy. Many of these denied claims were that the composition of households changed after the social assessment deadline. While it does have to be in accordance with their permitting, the Company's Resettlement Process is a system that it created. The results of these claims to the GM show that the Company follows its own rules, no matter what the human rights consequences. Because of the long delay in starting operations, the social assessment was undertaken as many as ten years before the claims were made.

Households have changed over time. Births, deaths, marriages, divorces, and other household changes have occurred. Under the Company's Resettlement Plan, households selected for resettlement receive certain benefits (as recompense for the extreme disruption of resettlement) which are important to their welfare. Losing or reducing these benefits is important to the rightsholders involved. Again, the question should have been "What actions could the company take?" and not a wholesale prohibition against GM involvement. Rather than permit the GM to correct the imperfections in the Resettlement process, it was not allowed to try, no matter the human rights impacts.

In these cases, the Company's strict legal and procedural positions hinder the GM's rights-based approaches. Respecting human rights involves thoughtful and, at times, creative approaches to otherwise rigid frameworks. Grievance mechanisms that are fit for purpose must attempt to find approaches to these sticky issues and should not be excluded from them.

D. Did the remedy reverse a harm?

1. *Was the type of remedy appropriate to the harm?*

Remediation for human rights impacts comes in various forms. For example, in truth and reconciliation tribunals, acknowledgement of a harm and apology are elements of remedy. Such remedies are complicated for corporations, whose legal departments strongly resist admissions of wrongdoing. Yet, this Company did indeed issue apologies to affected filers. Most remedies ordered for complaints found valid were cash or in-kind compensation to the affected filer. The company did not use the term 'remedy' when describing an output of its grievance process. We analyzed and coded outputs by the type of response provided, either by the company or by the third party (or by both, collaboratively). Additionally, there is now an established track record of the company using case filings to adjust operational conditions and modify behaviors, in an effort to prevent similar cases going forward. Also, notably, filers signed off on the apologies. While we cannot be

certain that all sign-offs indicated an acceptance of the remedy as sufficient, there are at least some circumstances where filers refused to sign off, requiring GM personnel to document the filer's dissent.

Table 5: Remedies provided to successful filers

Case Type	Cash &/or In-Kind Compensation	Apology	Preventative &/or Operational Adjustment	Mixed Remedy		
				Cash or in kind + apology	Apology + operational	Operational + Cash or in kind
Resettlement	13*		2			
Environmental	1		3		2	3
Mine Formalization			1			
Infrastructure	4	1	5	1		5
Contractor Behavior	3		11	1	2	1
Worker Behavior			1		1	
Security			3			
TOTALS	21	1	26	2	5	9

*Future Compensation. The 13 cash or in-kind remedies provided to filers with Resettlement cases have not yet been paid. Instead, in these cases, remedy/compensation has been committed to as a change in the household and asset registry for the filer, due to them when resettlement occurs. In other words, when the Company changed the assessment of a filer's household assets, to be included in his/her resettlement package, we characterized this as a cash or in-kind remedy, even though the change/compensation will not come into effect until and if resettlement occurs.

As a feature of the mechanism, grievance managers can denote the remedy that filers seek. Many of them sought all three types of remedy. They rarely made specific (dollar value) cash requests. It is not possible to quantitatively evaluate whether the remedies supplied were sufficient to reverse the adverse impacts experienced. Were cash compensations equivalent to repurchase prices? Was in-kind support verified to be equivalent to the impacted right? Was the apology issued by the individual or entity from whom the filer most needed to hear? This information is not available in case files. One filer interviewed by NomoGaia noted that the filing process was easy but the outcomes were unsatisfactory. Another reported that he would not use the mechanism again, but has now filed five cases. Possibly because grievances, complaints, queries and requests were all brought to the company in the same way, filers did not always know that their case would result in remedy or other closure. Filers interviewed by NomoGaia did not consistently understand that remedies might be available, let alone what type of remedy they might seek. On several occasions filers were surprised that their cases had been formally reviewed and considered the remedies provided to be sufficient. Filers making specific adjustments to their resettlement assessments asked for specific changes; this was not the case for any other claimants.

Table 6: Whether and to what extent Remedy Ordered aligned with Remedy Requested

Case Type	Total Cases with Remedy Ordered	# Cases with Remedy Requests	# of Cases without Request	The company responded:		
				As requested	More than requested	Other than requested
Resettlement	15	15		13		2
Environmental	9	5	4	1	4	
Mine Formalization	1	1		1		
Infrastructure	16	15	1	7	3	5
Contractor Behavior	18	15	3	8	5	2
Worker Behavior	2	1	1	1		
Security	3	2	1	2		
TOTALS	**64**	**54**	**10**	**33**	**12**	**9**

2. *Was the remedy issued in a timely enough manner to prevent further harm?*

Cases were required to be closed within 15 working days of receipt, extendable to 30 - a requirement that was not consistently met. As a practical matter this was not always possible, particularly when an investigation was needed. The Company tracked the duration that a case remained open. The overall likelihood of a case receiving remedy was highest if it was resolved swiftly. Zero of the four cases that were open for more than a year resulted in remedy. There are real human costs to such delays. Justice delayed may, indeed, be justice denied.

Infrastructure damage cases were instructive in this regard. More than half of such claims brought were found valid, with remedies ordered. These cases took anywhere from 1 to 266 days to resolve with remedies. However, one case sat open for 535 days before finally being closed without remedy. In that example, an elderly woman waiting for the company to evaluate and repair her damaged property tried to carry out repairs on her own. Two months later, remedy was ordered and Company workers arrived to do the repairs. Seeing that she had done work, they reported that "there was no impact anymore." A year after the complaint was received, the Company informed her that her case had been closed. She refused to sign off on closure, because damage persisted and her repairs had been temporary and insufficient. Four months later, the Company sent her a letter to inform her that she was unauthorized to modify her house at all, as it sat on a Company lot. The Company invited her to a meeting to discuss this new issue. The Company closed the case when she did not attend the meeting.

Other infrastructure cases that were closed without remedy offer additional lessons. Several of these cases pertained to land leases the Company has issued. Holding a vast concession, the Company has leased out lots to residents, farmers, and cattle herders. When cattle cross into agricultural lands of neighboring farmers and destroy crops, rights are impacted. The Company has closed two such cases without ordering remedy, because the Company does not own the cattle. The Company has closed two separate and comparable cases with remedy ordered. The Company's lease shows contribution or linkage to impacts, under human rights frameworks. By choosing to lease lands to cattle ranchers, the Company generates a risk to farmers, which it is not currently managing consistently. The absence of a human rights lens on these cases may deprive impacted farmers of remedy.

Table 7: Timing for Closing Cases

Case Type	Within 15 days		Within 30 days		In over 30 days		More than 1 year (no remedy)	TOTAL	WITH REMEDY
	Total	With remedy	Total	With remedy	Total	With remedy			
Resettlement	2	1	8	0	37	14	3	50	15
Environmental	5	5	3	3	3	1	0	11	9
Artisanal Mine Formalization	1	0	3	0	16	1	0	20	1
Infrastructure	8	5	5	3	16	8	1	30	16
Contractor Behavior	7	7	4	2	15	9	0	26	18
Worker Behavior	3	0	5	1	2	0	0	11	2
Labor/ Hiring	3	1	1	0	2	0	0	5	0
Security	4	1	4	2	1	0	0	9	3
TOTALS	**33**	**20**	**33**	**11**	**92**	**33**	**4**	**162**	**64**

The Resettlement cases, referenced above (see: "Was Remedy Provided") are also informative. The majority (37 out of 50, or 74%) were closed more than 30 days after filing. Resettlement claimants were found ineligible for remedy as a matter of procedure. The company had established a designated window of time for assessing the size, composition, and infrastructure of households, on the promise that households would be resettled on a set timeline. The delays in resettlement meant people were married and formed new households; people were divorced and could no longer be resettled together; children were born and needed new rooms in households; farms were expanded to feed larger families.[2] In one case, a young teenage couple initially registered under the husband's family household. Years later, both in their twenties, they sought to be registered independently. They filed their case in 2021 and received word that it was closed without remedy 1194 days later, in May 2024. In another case, an elderly woman filed in October 2021 because she believed she had been wrongly excluded from the resettlement zone. The company told her that her case would be reviewed if and when the resettlement zone was finalized. She died, still waiting, in 2024, and the Company closed her case without remedy, meaning that her heirs will be excluded from resettlement consideration unless they file a new claim. The case file does not include information about whether she lived alone or if other household members might be affected - most rural households are multi-generational. If so, those heirs may not be inclined to trust the same system. What is more, there is no indication they would even be offered an opportunity to revive her claim.

There is an imbalance in a system whereby the terms for affected people to change their status is rigid, but the timeline for the company to complete its commitment is fluid. The GM Manager has begun building fluidity into responses to Resettlement cases, supplementing case files with clearer responses, more dedicated reviews, and a halt on closing cases without first responding to them. These are important improvements that must also balance the need for timely investigation and closure.

[2] This is common in mining projects, which can be suspended and delayed based on shifting market conditions, corporate priorities, and other externalities. It is business-as-usual for a company, but extremely impactful for affected people.

Analysis

Is the structure of a queries, requests and complaints system fit for a human rights grievance mechanism?

The structure of a catch-all communications mechanism is not inherently fit-for-purpose to field human rights grievances. Several files made this apparent directly in their cases. There were five cases where filers, in their own words, indicated that their rights were being violated. All cases were closed only with formal letters stating that "the Company has not generated or promoted any action that could be understood as a violation of human rights." There was neither internal policy verification or investigation to validate this outcome.

This is, in our observation, the greatest weakness of this GM. One human rights complaint provided a clear articulation of the filer's vulnerability, her experience of prior victimization during the country's conflict, and the impacts on her "right to work and live with dignity", from the sudden closure of her artisanal gold processing sluice in 2021. In her complaint, she described the "ravages of armed conflict" and her "deep connection to the land and the work that [her] ancestors taught [her]." She highlighted the company's "commitment to adhering to constitutional parameters and related regulations governing mining activity and respecting human rights" as underpinning her expectations that they would "recognize my ancestral mining practices and provide financial compensation for the drastic changes I have been facing."

At age 57 at the time of our interview, she did not want to have her mine and refinery relocated. She did not want to be placed on other lands. She wanted compensation so she could build a new life.

"These plans are not what I want for my future, nor for the future of my family, but the company remains determined to force me to accept formalization or be left with nothing."

The resettlement process was similarly imposed on her, she explained. *"They have subjected me to a change of residence, for which the company itself provides the land and sets the conditions, disregarding my right to freedom of thought and whether or not I want to leave the land where I have lived my entire life. As I mentioned before, I am a victim of the armed conflict, and I feel that the company is causing my forced displacement."*

The response, provided by the Company's Legal team, did not acknowledge the human rights conditions and impacts described. No investigation was undertaken. The Company's 3-page response "respectfully requests" that she cease and desist from referencing "forced displacement" as it has legal implications. It repeatedly discredits her complaint based on the terminology used, rather than engaging with the fundamental grievance about her lost job, income, self-determination, and dignity.

"These claims lack factual basis, as the Company has at no point imposed any terms or conditions regarding resettlement. Proof of this lies in the fact that the Company is currently conducting 'Collective Consultation Roundtables'."

This position is unsupportable. Resettlement is not optional when industrial mining occurs; subsurface claims override surface rights, and populations will be compensated but they have no option to remain in their homes and reject resettlement. At the same time, the resettlement process is now nearly a decade delayed; people live in a tenuous limbo, waiting to be removed from their lands. The Company went on to state that actually she was not eligible for mine formalization at all, despite her prior inclusion as an affected

miner. In a 2023 interview with NomoGaia, she said the Company's treatment has grown even harsher toward her. She suspects she is out of favor with the company now.

Although the Company's GM was conceived initially as a general external communications mechanism, it is procedurally required to "be diligent in the respect of human rights." This is a high bar for a communications system. The system managers are tasked to identify potential human rights at risk and to assess them from a human rights perspective. The mechanism was not designed–and personnel were not trained–to do this. In reviewing the 162 cases that had been closed during the research period, we found 142 that had links to potential human rights impacts. Three of the 142 underwent reviews that addressed human rights risks. Eighty-seven were closed without remedy (including the five mentioned above). Often, the justification for closure relied on legalistic interpretations of accountability. This is standard for community communications mechanisms. It creates weaknesses for human rights grievance management, however.

These cases and others may have been handled and resolved differently if human rights were at the center of the GM process, as its procedure states, and remedy could have been granted. The GM team did not have the knowledge, capacity, or tools at the time to pursue rights-based analysis and decisions. The GM Manager and team have been working hard to improve the team's human rights capacity. However, this also depends on Corporate decisions for the GM that go beyond the Manager or team's discretion: autonomy, involvement of the different respondent Company departments (and the Legal department), intake criteria that allow the GM staff to clearly identify HR complaints, among others.

There are indications that GM personnel are now better equipped and prepared to adopt a human rights based approach. More recently, on several occasions, the Company took remedial actions in cases described as under the purview of third parties and not eligible for remedy. For example, the Company helped at least one filer whose concern was with local government actions to file a complaint to a relevant state entity. It sent a guidance note to another filer suggesting how he/she might seek remedy from a government agency.

Security and human rights

Corporate security does not exist in a vacuum; security issues that predate corporate projects require companies to engage with state structures and institutions linked to the control of violence. There is a tension between human rights principles of security and transparency. In order to prevent cases and complaints from escalating into human rights grievances, proactive and systematic approaches are needed to balance these principles.

Filers may be at genuine risk of retaliation. Currently this is handled by receiving anonymous complaints, reporting to the government ombudsman's office, and restricting public reporting about cases. This last intervention may have unintended consequences. For example, if the filer can only receive updates on her case status by visiting the company's GM office, which is surveilled by state security, her movements could become a source of insecurity.

A first step in addressing this is empowering the GM Manager to oversee all cases, as was implemented partway through this review. This reduces the risk that a Responsible Person is incentivized to close cases in his/her department rather than investigate him/herself. Additional steps would include categorizing cases by topic, not just by the department of the Responsible Person, within the mechanism. Where cases are filed by contractor workers, anonymity should be protected to prevent potential reprisal by employers.

Contractors

The high number of complaints pertinent to contractors makes clear that it is very important to include contractor complaints in the GM. Twenty-six cases were characterized specifically as pertinent to Contractor Behavior. These included specific allegations of harms to workers (by their employers) and to community and household infrastructure (by workers).

By addressing (some) complaints leveled at contractors, the Company's GM tacitly acknowledges that (1) it causes, contributes to, or is linked to the impacts of its suppliers, and (2) its visibility makes it the appropriate point of contact for affected populations. The openness to supplier complaints is a major strength, in contrast to the approach of many companies that require contractors to manage their own GMs. This mechanism should be celebrated for internalizing contractor complaints.

A gap in contractor oversight results from the GM's categorization system, which is organized by Responsible Person, rather than by Case Type. The Responsible Person for Contractor complaints was often Contractor company personnel or procurement lead. Contractor company personnel and procurement officers are the subject matter experts for their workforce, but they may not be equipped to answer questions about environmental impacts, effects on community or household infrastructure, or other topics. In its current form, the GM makes it difficult to address systemic shortcomings in contractor behaviors, because it does not always track how Contractors respond to cases they are tasked to investigate and potentially remediate. This blind spot will become more critical as the project moves into construction and operations phases. The contractor workforce will expand, conditions for contractors will be harder to track (e.g. housing conditions for contractors), as will contractor behaviors (e.g. reckless driving) without systematic approaches to contractor management and oversight. The Grievance Mechanism is already exposing an emerging risk, should the Company choose to act on it.

Transparency

Transparency is a core human rights principle. The Company committed to transparency in its policy statements and government obligations. In engaging with NomoGaia, the principle was strongly upheld. In addition, the mechanism has strong internal transparency, with access to the case log available at operational, regional and global levels. Corporate personnel access and review cases and use them to inform construction teams and drive decision-making. This is evidence of optimal usage of internal transparency and creates the potential for external inputs to be directly incorporated into project design and implementation.

In contrast, the information shared with filers, stakeholders and rightsholders about the GM is limited. Information about accessing the GM is broadly available, and there are occasional reports summarizing number of cases and their response rates. Security and retaliation concerns are legitimate, as described above, but ample information about cases can be published without exposing a filer: the type of filer (individual versus community), the alleged harm and the human right connected, the duration of the evaluation process, the responsible party (Company, contractor, third party), and the remedy ordered and implemented. Rightsholders and potential claimants should be able to assess the system before deciding whether to use it.

Conclusion

This is a remarkably responsive project-level grievance mechanism, and the Company's openness to NomoGaia's evaluation demonstrates a profound commitment to its human rights responsibilities. The weaknesses in implementation of remedy are actively informing the evolution of the mechanism. Lessons from this mechanism can inform companies in diverse operating contexts and industries, as they are highly applicable to common interactions between companies and affected populations.

In particular, analysis of the mechanism reveals that the human rights perspective is needed in evaluating whether a case merits investigation and remedy. Outcomes for artisanal miners and resettled householders are a case in point, wherein a legalistic communications lens is insufficient to enable GM team to evaluate claims from the perspective of impacted rightsholders.

The mechanism was effective at providing remedies where it successfully identified impacts. Future improvements to the mechanism should consider both the appropriateness and the *adequacy* of remedies. Currently, the mechanism offers no way of evaluating whether the compensation is sufficient to reverse or fully mitigate a harm. Although the GM team has proactively begun to document implementation of ordered remedies, there is no procedural requirement for them or Responsible Persons to do this. Personnel changes could thus reverse this good practice. The proactive GM team might be further empowered by a formal change in the grievance procedure to document implementation of remedy.

An unforeseen benefit of strengthening this mechanism occurred during research. Requiring departments to clearly document the actions they have taken to respond to cases has contributed to improving outcomes for filers. As of June 2024 we can see clearer responses entered into the system. The GM manager correlates these to better buy-in for the mechanism.