Bad Company
BP, human rights and corporate crimes

cultureunstained.org
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Bad Company: BP, human rights and corporate crimes

Introduction: Backing BP by renewing its sponsorship

In July 2016, four of the UK’s most iconic cultural institutions – the National Portrait Gallery, the British Museum, the Royal Opera House and the Royal Shakespeare Company – took the controversial decision to sign a new 5-year sponsorship deal with the oil and gas company, BP. Despite mounting pressure to cut their ties to fossil fuels, these museums and galleries chose to retain a close association with BP, lending the company much-needed social legitimacy in a time of growing climate crisis.

The Museums Association’s Code of Ethics states that museums and galleries should ‘seek support from organisations whose ethical values are consistent with those of the museum’, and in order to do that they should, ‘conduct thorough and well documented research to demonstrate that they have understood the nature of the company’s business, and any claims made against it.’ By accepting sponsorship from BP, these cultural institutions are making a bold and public statement: that even after thorough researching into BP’s negative human rights and environmental impacts around the world, they believe it is a company worth endorsing. When BP sponsors a museum or gallery, that institution is also choosing to publicly endorse BP.

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The National Portrait Gallery: equipped to exercise ethical scrutiny?

All cultural institutions need to be equipped to scrutinize ethical issues relating to corporate sponsors but the provisions made by BP-sponsored museums and galleries in this area vary widely. The British Museum has admitted that it has no form of ethical fundraising policy or ethics policy that addresses sponsorship – a deeply concerning situation for an internationally renowned museum. However, through Freedom of Information requests, Culture Unstained has discovered that the National Portrait Gallery (NPG) does have an ethical fundraising policy, which is both broad and thorough.

Within that policy, the gallery outlines seven situations where it ‘reserves the right to reject offers of support’. They include several that are of particular relevance to BP:

- Where support would impinge on the artistic or academic freedom of the Gallery or would otherwise compromise its status as an independent institution;
- Where the supporting source is known or suspected to be closely associated with a regime known or suspected to be in violation of human rights;
- Where support is known or suspected to derive from the proceeds of crime.

The first of these is clearly in question: BP’s Head of Arts & Culture, Des Violaris, sits on the judging panel of the BP Portrait Award, so has the ability to influence the award’s shortlist and winner. But this report focuses on the latter two. First, it lays out in detail BP’s close associations with regimes known to be in violation of human rights around the world. It then examines the extent of BP’s corporate criminality and the ongoing risks it poses to workers and communities.

Given the weight of evidence of BP’s negative human rights and environmental impacts around the world, we are forced to conclude that its sponsorship could only be deemed acceptable if a cultural institution were to disregard the Code of Ethics, water down that crucial process of ‘due diligence’ research or fail to apply any kind of meaningful ethical scrutiny at all.

Climate change, human rights & corporate crimes

From repressive dictators stifling freedom of expression, to regimes imposing authoritarian laws, to states using violence against their own people: these are BP’s chosen business partners. And the way it does business has involved misleading governments and the public. BP’s record on human rights alone should make it an unacceptable choice of partner for institutions that believe in freedom of expression, freedom of assembly and the values that underpin democracy.

Much of the criticism of BP’s arts sponsorship to date has focused on its role as one of the world’s biggest emitters of greenhouse gases, and its determination to ignore the evidence and extract more fossil fuels when the world needs to rapidly transition away from them. But climate change is also a human rights crisis: lives and livelihoods are already being destroyed, climate-related mass migration is growing and resource scarcity is fuelling new conflicts.

Nearly ten years ago, the UN Human Rights Council made it clear that climate change ‘has implications for the full enjoyment of human rights’. Yet, at this year’s BP AGM, the company’s chairman commented that it was ‘the first time’ he had heard of human rights being connected to climate change – a stunning dismissal of the suffering being exacerbated by his company’s operations.

As the NPG prepares to stand shoulder to shoulder with BP for a further five years – with the deal signed last year coming into force in 2018 – the gallery needs to make clear whether it conducted that crucial process of due diligence and if so, whether it adequately assessed BP’s close ties to regimes known to be violating human rights. Can the gallery confidently state that a sponsorship deal with BP does not conflict with its Ethical Fundraising Policy? When the new deal was announced, the gallery’s director, Nicholas Cullinan, said he was proud of the ongoing partnership with BP. But is he proud of BP’s ongoing partnerships with regimes that violate human rights? And if not, will he now move to end the gallery’s sponsorship deal with this unethical oil company?
Summary

By accepting BP’s offer of sponsorship, the National Portrait Gallery has made a bold public statement: that after conducting careful due diligence it believes BP’s ethical standards match its own. They Gallery’s own Ethical Fundraising Policy appears to suggest that it holds human rights in high regard, values integrity and not criminality, and wishes to promote enjoyment of the arts for all.

Does the Gallery - and BP’s other ‘cultural partners’ - really believe that collaborating with dictators, partnering with repressive regimes and putting communities and workers at risk is an ethical way to do business? This report highlights just a few of the regimes with whom BP is closely embedded, and just some examples of how the company has flouted laws, been grossly negligent and been found criminally culpable in the last 10 years.

1) BP’s friends: the regimes that violate rights

a) BP is the largest foreign investor in Azerbaijan, working closely with the notoriously repressive Aliyev regime, where there are over 100 political prisoners. Azerbaijan was suspended and has now left the ‘Extractive Industries Transparency Initiative’ after failing to improve conditions for civil society, with the work of independent groups and NGOs being impeded.

b) In Egypt, BP is one of the largest foreign investors in the country and works in direct partnership with a regime widely condemned for introducing repressive anti-protest and counter-terrorism laws. Popular opposition to BP’s presence in the town of Idku, which flared up in 2011 and forced the company to suspend operations, is now all but impossible and BP has pressed ahead with its original plans.

c) Mexico is in a serious human rights crisis characterised by an extreme situation of violence and insecurity. BP works in ‘close collaboration’ with the Mexican government to pursue deep-water drilling in the Gulf of Mexico while the harmful impacts of the Deepwater Horizon spill along the Mexican coastline have never been addressed.

d) To extract gas in West Papua, BP works with the Indonesian government which continues to occupy West Papua and deny Indigenous Papuans the right to self-determination. West Papuans face widespread violence and repression, with the Indonesian government accused by some of genocide.

2) BP’s partners: the support that fuels oppression

a) In Colombia, BP made large payments to the Ministry of Defence, the army and the police in order to protect oil facilities. Multiple allegations have been made in the years since about the extent of BP’s involvement in human rights violations.

b) BP works in partnership with the state-owned oil company in Algeria, a company tarnished by a corruption scandal. Over the years, oil industry revenues have enabled the repressive operations of the military and police. Demonstrations remain banned in the capital city of Algiers.

c) While human rights defenders and journalists face repression in Angola, BP and its partners have made questionable payments to Sonangol – the national oil company headed by the Angolan President’s daughter – for a research centre that has never been built.

3) BP’s actions: the cost of cover-ups and corporate crime

a) Following the Deepwater Horizon disaster, BP pled guilty to 14 criminal charges and was found guilty of ‘gross negligence and wilful misconduct’. The impacts on livelihoods, health and ecosystems are still being felt today. BP admitted lying to the US House of Representatives, and attempted to privately influence independent research into the spill.

b) In 2008, BP attempted to cover up a gas blowout in the Caspian Sea prompting the ‘largest such emergency evacuation in BP’s history’. A pattern of major incidents and poor safety continues today, at refineries and drill sites, with the rights of communities and workers put at risk.
4) Recommendations

The contents of this report make clear that the realities of BP’s business practices do not align with the principles and values espoused by the National Portrait Gallery, British Museum, Royal Shakespeare Company and Royal Opera House. Consequently, the decision to sign a new sponsorship deal with BP represents a high level of risk and threatens to damage the reputations of these institutions and undermine the public’s trust in them.

In order to address these concerns, these four organisations should undertake a review of the decision to sign a new sponsorship contract with BP. First there should be a process of due diligence which:

- is thorough and well-documented;
- is proportionate to the scale of the proposed relationship with BP;
- demonstrates that they have researched, assessed and understood the nature of BP’s business and the claims made against it;
- is based on independent information, sources and accounts, not the company’s own;
- is made available to the public; and
- takes full account of the evidence cited in this report and identifies a strategy for evaluating that evidence free of any pre-existing bias or potential conflicts of interest.

These cultural institutions, having fully understood the ethical conflicts presented by BP, should then terminate their existing relationships with the company.

In order to restore public trust and protect their reputations, they should also:

- Convene dedicated ethics committees whose membership represents all levels of the institution’s workforce, with the specific role of scrutinising decisions and instances where significant ethical questions are raised. Such a committee should complement and support the role of trustees.
- Revise relevant ethics policies in order that their implementation rests on objective assessment of specific evidence over and above the perception of, or opinion on, any controversy related to a sponsor. If no ethical fundraising policy or ethics policy with a specific clause addressing sponsorship exists, one should be developed as a matter of urgency.
- Incorporate issues of sustainability, environmental impact, climate change and climate justice into all aspects of the institution’s work, from operational decisions to fundraising. Environmental or sustainability policies/statements should be revised in order to recognise that an institution’s environmental impact is not limited to its day-to-day operational activity, and should be addressed holistically with ‘buy-in’ from all levels of staff.

In conclusion, these cultural institutions need to be seen to enforce existing policies, principles and guidelines, by undertaking what might be deemed ‘standard practice’ across the sector. But in a time of accelerating climate crisis – and in situations where human rights are in question – there is a need to go beyond standard practice.

These cultural institutions have an opportunity to take a leading role, both in promoting the values they claim to already hold and in the transition to a fossil free culture.

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**Culture Unstained**

Culture Unstained is a research, engagement and campaigning organisation, which aims to end fossil fuel sponsorship of culture. We call on arts and cultural organisations to cut their ties to fossil fuels and, in doing so, aim to undermine the social legitimacy that the industry gains from these relationships.

cultureunstained.org

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We are part of the **Art Not Oil** coalition nationally and the international **Fossil Free Culture** movement.

Art Not Oil is a coalition of campaigns, research and arts organisations united around the aim of ending oil sponsorship of arts, science and cultural institutions.

artnotoil.org.uk
Part 1

BP’s friends: the regimes that violate rights

The National Portrait Gallery reserves the right to reject an offer of support ‘where the supporting source is known or suspected to be closely associated with a regime known or suspected to be in violation of human rights’. In Azerbaijan, Egypt, Mexico and West Papua, BP works in close collaboration with a dictator, a military regime and governments that all routinely violate basic human rights. In light of this, will the gallery reconsider its own collaboration with BP?

a) BP is the largest foreign investor in Azerbaijan, working closely with the notoriously repressive Aliyev regime, where there are over 100 political prisoners. Azerbaijan was suspended and has now left the ‘Extractive Industries Transparency Initiative’ after failing to improve conditions for civil society, with the work of independent groups and NGOs being impeded.

b) In Egypt, BP is one of the largest foreign investors in the country and works in direct partnership with the government. It is a regime widely condemned for introducing repressive anti-protest and counter-terrorism laws. Popular opposition to BP’s presence in the town of Idku, which flared up in 2011 and forced the company to move sites, is now all but impossible and BP has returned to its original plans.

c) Mexico is in a serious human rights crisis... characterised, by an extreme situation of violence and insecurity. BP works in ‘close collaboration’ with the Mexican government to pursue deep-water drilling in the Gulf of Mexico while the harmful impacts of the Deepwater Horizon spill along the Mexican coastline have never been addressed.

d) To extract gas in West Papua, BP works with the Indonesian government which continues to occupy West Papua and deny Indigenous Papuans the right to self-determination. West Papuans face widespread violence and repression, with the Indonesian government accused by some of genocide.

1.a BP in Azerbaijan

Azerbaijan is one of the countries where BP’s close relationship with a regime in violation of human rights is most explicit. Through its business in Azerbaijan, BP has shown that it is willing to:

• Work in close collaboration with a dictator renowned for intimidating and detaining those who criticise his regime – in order to protect its bottom line.
• Turn a blind eye to the widespread human rights violations taking place under the Aliyev regime and the international criticism it has attracted.
• Push ahead with the construction of pipelines, including a controversial gas pipeline that would keep Europe locked into fossil fuels for decades to come.
**BP’s Business**

The company opened its first office in Baku, the capital of Azerbaijan, in June 1992. This was just a year before a military coup which brought about the installation of Heydar Aliyev – once head of the country’s branch of the KGB – as President. In 1994, BP, alongside a number of other companies, signed a major production sharing agreement with the Aliyev regime for the development of the Azer-Chirag-Guneshli (ACG) oil fields. That agreement later became known as ‘the contract of the century’, given both its scale and its significance for the regime.³

BP has subsequently become the operator of the Shah Deniz gas fields in the Caspian Sea, where it holds a controlling stake. It is often cited as one of the company’s flagship projects. BP also heads the consortia that control the Baku-Tbilisi-Ceyhan oil pipeline (BTC) and South Caucasus Gas Pipeline (SCP) – which run in parallel and flow from Azerbaijan, through Georgia, to Turkey. It is the SCP that BP and others now hope to connect with the ‘Euro-Caspian Mega Pipeline’, a highly controversial project that aims to link the Shah Deniz gas field with Europe (see below).

A ‘trusted and long-term partner’

of a rights-violating regime

Today it is Heydar Aliyev’s son, Ilham Aliyev, who is President of Azerbaijan. Ilham was appointed as the ruling party’s sole candidate for president, shortly before Heydar’s death in 2003. This year, BP is celebrating 25 years of close collaboration with the Aliyev family, a long-term and close commitment to a regime renowned for violating human rights. ‘We aspire to be a valued, trusted and long-term partner in the development of Azerbaijan’s hydrocarbon rights. ’We aspire to be a valued, trusted and long-term partner in the development of Azerbaijan’s hydrocarbon rights.⁴

In their report, ‘All That Glitters’, Emma Hughes and James Marriott from the organisation Platform note that ‘Without the Aliyevs’ support, BP would not have become the dominant foreign company in the new state of Azerbaijan. Without BP’s support, Heydar Aliyev would have found it difficult to retain power in the year following the coup. This was the beginning of a marriage of mutual convenience.’⁵ Today, BP is the largest foreign investor in Azerbaijan.⁶

In 2012, in a rare outburst of anti-BP sentiment from the regime, Ilham Aliyev accused BP of making ‘false promises’ on production targets as output from the Azer-Chirag-Guneshli oil fields slumped.

In response, BP was all too eager to please: the company rapidly issued a public apology of sorts, replaced its Regional Head for Azerbaijan, Georgia and Turkey, and two of the company’s Vice Presidents left Azerbaijan as BP reordered its top tier in the country.⁷ Just weeks later, BP CEO Bob Dudley was received as an official visitor to Aliyev’s palace, and close collaboration could resume.

Profiting from repression?

In recent years, most human rights groups in the country have been forced to suspend their activities. Many have had their assets frozen and members have been intimidated - many facing criminal prosecutions.

Meanwhile, international human rights monitors have been denied access to the country and in June 2015, Amnesty International was barred from entering Azerbaijan ahead of the European Games in Baku.⁸ It has been estimated that 100 people remain imprisoned on politically motivated charges.⁹ A constitutional referendum held in 2016 – a process where mass electoral violations were reported – has allowed Aliyev to extend presidential terms, limit freedom of assembly if it ‘breached public morals,’ and appoint his wife, Mehriban Aliyeva, as the First Vice President.¹⁰

OBC Transeuropa, a think tank focused on South-East Europe, Turkey and the Caucasus, documented the regime’s extensive crackdown on freedom of expression in 2014. Its timeline ‘2014: the great Azerbaijani crackdown’, highlights significant events relating to human rights, including legal amendments made by Aliyev that restricted the space for civil society, numerous arrests, detentions and attacks on journalists and members of civil society, and the decision by many papers, news outlets and other organisations to suspend their work as a direct consequence of, or due to the potential risks they faced.¹¹

In September 2014, 12 Azeri civil society groups and individuals wrote to BP urging the company to call for the release of political prisoners in Azerbaijan and to end its sponsorship of Baku 2015, the inaugural European Games which would provide valuable legitimacy and international prestige to the Aliyev regime while deflecting attention from its record of human rights violations.¹² In response, Elodie Grant Goodey, BP’s head of societal issues and relationships, stated that ‘BP has a long history of conducting its business activities in Azerbaijan responsibly and is already doing much that demonstrates our respect for human rights.’¹³
However, BP has regularly refused to comment on the human rights records of those it works with, even when there has been outspoken criticism from the international community.

In October 2014, following a fact-finding mission to Azerbaijan, the Board of the Extractive Industries Transparency Initiative (EITI) – ‘the global standard for the good governance of oil, gas and mineral resources’ – expressed ‘deep concern’ about its findings. Its chair, Clare Short, noted that ‘the situation facing civil society in Azerbaijan is clearly problematic’.

On the 9th March this year, the Board of the EITI decided that ‘Azerbaijan did not fully meet the corrective actions related to civil society space’ which had been set by the Board in October 2016 and ‘was therefore suspended’.

The following day, rather than take remedial action, the Government of Azerbaijan asked the International Secretariat of the EITI ‘to remove Azerbaijan from the list of EITI implementing countries effective immediately’.

Despite being a supporting company of the EITI, BP gave no indication at its AGM in May that developments with regard to Azerbaijan would affect its activity in the country or its relationship with the regime. Carl-Henric Svanberg, BP’s Chairman, simply said ‘If governments find it okay, we will continue.’

**Providing a platform: The Science Museum**

BP’s efforts to ingratiate itself to the Aliyev regime also thread back to the UK in unexpected ways. In 2004, BP sponsored the London Science Museum’s ‘Energy Gallery’ and played a direct role in its design and conception. The museum’s Corporate Liaisons manager said at the time ‘We would like to help them [BP] meet their objectives on different levels, including corporate responsibility, education strategy and global strategy.’

In the following year, the purpose-built Caspian Energy Centre – directly inspired by the Science Museum’s Energy Gallery – was opened at the Sangachal Terminal in Azerbaijan, with the $3.2 million building and $1.6 million exhibition costs being shared between BP and its partners. The Centre, ‘which promotes the country’s role in the world’s oil and gas industry’ was inaugurated in a ceremony attended by President Ilham Aliyev, senior officials from the USA, the UK, Turkey, Georgia and Kazakhstan and coincided with ‘the commissioning of the Azerbaijani section of the Baku-Tbilisi-Ceyhan main oil export pipeline.’ Khatira Iskender, BP’s government and community relations manager in Baku noted at the time that the Energy Centre can ‘share our achievements and…bring visibility to [our] partners and government.’

A decade later, it was another building – the Heydar Aliyev cultural centre in Baku – where BP and the regime celebrated their close cooperation and the passing of twenty years since the signing of the ‘contract of the century’. However, even the clearing of the site for the construction of the cultural centre was mired in violations of basic rights. Giorgi Giorgia of Human Rights Watch reported at the time that ‘the government [had] squeezed people out by cutting off their supply of electricity, gas and water. Sometimes residents would be detained and when they came back, their homes were simply gone. Other buildings were demolished with people still in them.’

**BP’s own human rights failings**

While it is BP’s relationships with those that violate human rights that are under scrutiny here, there have also been proven cases where the company itself has fallen below expected human rights standards. In 2011, the UK government’s ‘National Contact Point’ (NCP) ruled that the BP-led consortium constructing the BTC pipeline had failed to fulfil its human rights responsibilities. The NCP is the body responsible for dealing with complaints brought against multinational enterprises under the Organisation for Economic Co-operation and Development (OECD)’s guidelines.

The NCP’s ruling stated that ‘the company failed to identify specific complaints of intimidation against affected communities by local security forces…and, by not taking adequate steps in response to such complaints, failed to adequately safeguard against the risk of local partners undermining the overall consultation and grievance process.’ While the ruling concerned intimidation that has occurred along the pipeline’s course through Turkey, it arguably reflected growing concerns about the project as a whole, concerns that are re-emerging today in relation to the Euro-Caspian Mega Pipeline. The BTC pipeline began to pump oil in 2006.
1.b BP in Egypt

In recent years, the people of Egypt have lived through a dictatorship, a revolution and a military coup, and continue to experience repression, violence and new laws that clamp down on multiple freedoms while, in some cases, promoting corporate interests. BP has shown that it is willing to:

- Praise and work in close collaboration with Egypt's dictators and repressive rulers, in order to secure new drilling deals and boost its profits.
- Disregard local opposition to its infrastructure plans and press ahead when popular protest has become all but impossible.
- Show little to no concern about human rights violations, such as enforced disappearances and torture at the hands of the National Security Agency.

BP’s Business

BP has been present in Egypt for almost 50 years. With its partners it currently produces around 15% of the country’s oil and 30% of its gas, with operations primarily taking place in the Gulf of Suez and the West Nile Delta.

According to Bankwatch, the pipeline is ‘unnecessary in light of gas demand projections in the European Union’s 2050 Energy Strategy’ and the $45 billion investments the project brings ‘will boost Azerbaijan’s dictatorial regime.’ The controversial project has already been dubbed ‘Europe’s own Keystone XL.’ An infrastructure project of this kind would lock Europe into fossil fuel use for decades to come, driving further carbon emissions.

In Melendugno in Italy, hundreds gathered to peacefully resist when workmen began removing trees before permits for construction of the TAP had been issued. When police were then sent in to enforce the clearing, public meetings drew thousands, and led to sit-ins, barricades and court appeals. Work has reportedly now been delayed until November. The echoes of the BTC pipeline’s construction process – and BP’s failure to acknowledge opposition to it – are all too clear.

Long-term collaboration

BP has previously boasted about how it is the largest foreign investor in Azerbaijan and, as was the case with the European Games in Baku, BP could be viewed as a ‘corporate sponsor’ of the Aliyev regime. In its most recent Annual Report, the company pointed to having signed ‘principles of agreement on [the] future development of the Azeri–Chirag–Gunashli oil field to 2050.’ Not only does this signal BP’s long-term commitment to a regime that continues to violate international human rights standards but is an open admission that it plans to pursue large-scale and long-term fossil fuel extraction for decades to come, in turn fuelling the human rights impacts of climate change.

The Euro-Caspian Mega Pipeline (ECMP)

BP, alongside its partners, is currently pressing ahead with the construction of the Trans-Adriatic Pipeline (TAP), which would form part of the larger Euro-Caspian Mega Pipeline project (ECMP). If built, the ECMP would provide a roughly 3500km channel for gas extracted in the Caspian Sea to be transported to Europe, via three sections of pipeline: the South Caucus Pipeline Extension crossing Azerbaijan and Georgia, the Trans-Anatolian Pipeline going onwards across Turkey, and linking to the Trans-Adriatic Pipeline crossing Greece, Albania and Italy.

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Following the popular revolution of 2011, BP CEO Bob Dudley met with the new President, Muhammad Morsi, in September 2012, in order to re-launch the same project but for an increased $11 billion. Following widespread protest against Morsi, the President was ousted by a military coup in 2014, leading to the election of former military leader Abdel Fattah el-Sisi amidst a widespread crackdown on dissent.

BP seized the opportunity to restart its operations and Bob Dudley went to Cairo to meet with new Prime Minister Ibrahim Mahlab, to celebrate renewed co-operation. In 2015, BP appeared to have secured a deal with even better terms, announcing a plan to invest $12 billion to develop North Alexandria and West Mediterranean Deep Water concessions but receiving 100% of the profits. A working group, formed of employees from BP and Egypt’s state-run gas company, analysed previous contracts with BP and believe that Egyptians may have ‘lost out on at least $32bn in several major renegotiations of the contracts since 1992.”

BP is also a long-term sponsor and remains a corporate member of the American Chamber of Commerce in Egypt (AmCham). Prior to the revolution of 2011, the President of AmCham successfully lobbied against a US Congress debate on a resolution demanding that Mubarak ‘hold fair elections, allow international monitoring of elections, and respect democracy and human rights.’ In May 2012, Presidential candidate Ahmed Shafiq was also cheered and applauded by members of AmCham when he suggested using force and executions to restore order. Through its business relationships with the Egyptian government and its involvement in AmCham, BP could work to mitigate adverse human rights impacts by exercising its leverage over the government. But at successive AGMs, where BP has been asked about exerting its influence over those it works with when human rights are at stake, the Chairman Carl-Henric Svanberg has feebly stated that ‘We don’t see it as our task to take a political position.’

Foundational principle 13. (b) from the ‘UN Guiding Principles on Business and Human Rights’ states that:

‘The responsibility to respect human rights requires that business enterprises…seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”

At this year’s AGM, BP CEO Bob Dudley said that he was ‘comfortable with the level of risk in Egypt’.

Profiting from repression?

BP was initially forced to put a flagship project on hold when in 2011, residents of the town of Idku mobilised against the plan to build a mega-gas plant next to their homes. After long delays, the local resistance forced BP to concede and the company attempted to relocate to Burg Mighazil, a village in the neighbouring governate. Once again, popular opposition forced BP to halt construction. But as part of the clampdown on public criticism under newly installed President Sisi, a strict and repressive anti-protest law was enacted on the 24th November 2013, with a Counter Terrorism law enacted in August 2015, constraining rights to protest and opposition even further. With opposition now all but impossible in Idku, BP’s way was cleared and the company signed the final agreement for the project to go ahead back in its original location in 2015.

Human Rights Watch (HRW) have stated that:

‘[Sisi’s Counter Terrorism law] increases authorities’ power to impose heavy sentences, including the death penalty, for crimes under a definition of terrorism that is so broadly worded it could encompass civil disobedience.’

And Amnesty International have highlighted that:

‘The vague and overly broad definition of “terrorist act” included in the law allows the authorities to suppress any form of peaceful dissent.’

Child takes part in Idku’s march against BP
Photo: Mika Minio-Paluello
Given the closeness of its relationship with the Egyptian government and their joint ventures, BP has also been in a position to benefit from Sisi’s alterations to the country’s Investment Law. The ability of citizens to legally challenge a contract between the government and a business, and hold businesses to account for corruption or bad business practice, has been removed. It is a development that runs counter to Foundation Principle 27 of the ‘UN’s Guiding Principles on Business and Human Rights’:

‘States should provide effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse.’

Speaking at Egypt’s Economic Development Conference in Sharm el-Sheikh in March 2015, BP CEO Bob Dudley commented that ‘We have seen in the last year, and particularly in the last three or four months, the term that many people use in Egypt: we can see the red tape being cut.’ While BP might not have publicly advocated for specific changes in legislation, the Sisi regime has undoubtedly created a situation that is favourable for BP deals. In recent years, BP has secured unheard-of terms where it gains 100% of the profits – with any risk of popular opposition, public protest or proper accountability all but removed.

Foundational Principle 13 from the UN Guiding Principles states that:

‘Questions of complicity may arise when a business enterprise contributes to, or is seen as contributing to, adverse human rights impacts caused by other parties. Complicity has both non-legal and legal meanings. As a nonlegal matter, business enterprises may be perceived as being “complicit” in the acts of another party where, for example, they are seen to benefit from an abuse committed by that party.’

On its website, BP claims to be ‘working towards alignment’ with these principles but when BP stands to gain – albeit indirectly – from Sisi’s alterations to laws and legislation, questions of complicity are hard to avoid.

Widespread human rights violations at the hands of the government

On its website, Amnesty International paints a damning picture of the human rights situation in Egypt. It describes the use of mass arbitrary arrests by the authorities to suppress dissent, the detention of journalists and human rights defenders, the enforced disappearance of hundreds at the hands of the National Security Agency (NSA), torture and ill-treatment carried out by the NSA and others, and the use of lethal force as part of regular policing which ‘may have amounted to extrajudicial killings’. When asked about the human rights situation in Egypt at its AGM this year, BP CEO Bob Dudley commented that he was ‘comfortable with the level of risk in Egypt’ and the Chairman Carl-Henrik Svanberg dispassionately stated that the company does not make ‘political judgments’ about those it works with.

Founded in 2014, the Egyptian Commission for Rights and Freedoms (ECRF) had named 1,000 victims of enforced disappearance by April 2016 – including children. Many victims of enforced disappearance also allege that they have been subjected to torture by the National Security Agency, with Amnesty International noting last year in its report 'Egypt: Officially, you do not exist':

‘Methods of torture reported by victims and witnesses include electric shocks to the body and sensitive areas, such as the genitals, lips and ears; prolonged suspension by the limbs while handcuffed and naked; sexual abuse, including rape; beatings and threats.’

Providing a platform: The British Museum

In 2016, BP sponsored the British Museum’s flagship ‘Sunken Cities: Egypt’s Lost Worlds’ exhibition where, at the exhibition’s launch, the company promoted its close relationship with Egypt’s rulers and its business interests in the country to invited guests. Among them was the Egyptian Ambassador. The ‘Sunken Cities’ exhibition was aptly named but the association with BP poorly judged: Egypt is one of the five countries most at risk from rising sea levels in the future and sea level rise of just half a metre would force half a million people to evacuate from Alexandria, Egypt’s second largest city, and the loss of almost 200,000 jobs.

The company’s history in Egypt has been one of lending support and legitimacy to dictators and military leaders who violate internationally recognised human rights, and participating in an industry group that often backs them. But BP’s continued contribution to global climate change will help fuel a whole range of new human rights impacts that will be witnessed in Egypt in the coming decades, likely exacerbating those that have been outlined above.
1.c BP in Mexico

Mexico is facing a human rights crisis, with extensive evidence of rights violations at the hands of the Mexican government. But BP is willing to turn a blind eye and is instead pursuing opportunities to:

- Work in close cooperation with the Mexican government in order to advance both its upstream and downstream operations.
- Undertake deepwater drilling in the Gulf of Mexico at a time when Mexican fishermen and communities are yet to be compensated for BP’s Deepwater Horizon disaster.
- Pursue new sources of fossil fuels when proven reserves of fossil fuels globally already exceed the amount that can be burned if the Paris Accord is to be met.

BP’s business

BP has been in Mexico for over 50 years. It has a long-standing partnership with Pemex, Mexico’s state-owned oil company and has recently begun taking advantage of President Peña Nieto’s controversial energy reforms, which ended Pemex’s monopoly and opened up the country’s energy market. In words that have since been removed from its website, BP stated that ‘[some of our 70 employees in Mexico are] focused on E&P [exploration and production], based on the new opportunities afforded by the landmark energy reform bill passed in December 2013, and which is currently in the implementation phase.’

BP is now involved in three projects in the Mexican waters of the Gulf of Mexico, two in deep waters and one in shallow waters. BP also plans to open around 1,500 fuel stations in the country over the next five years, becoming a large player both in the production and retail of hydrocarbons.

"Arpillera" - a tapestry, reflecting the relationship between BP and the Mexican government, made by London Mexico Solidarity, Movimiento Jaguar Despierto, the Wretched of the Earth and Expresión Inca. The words top right are taken from an old Mexican saying: “They wanted to bury us but they did not know that we are seeds.” See: historyofbp.org  Photo: Diana More
A ‘partnership that sticks together’

During the ‘Mexican Energy Reform Summit’ in London in March 2015, BP CEO Bob Dudley gave a keynote speech where he spoke of ‘strengthening long-term relationships with Pemex and with the Mexican Government’. He noted that ‘Protecting value long term means protecting important, mutually beneficial relationships – partnerships that stick together to weather the ups and downs of the market and geopolitics.’ A year earlier, the Houston Business Journal reported comments made by BP America Chairman and CEO John Minge at the Offshore Technology Conference, that he was ‘excited’ about the possibilities in Mexico, particularly ‘deepwater offshore as BP rebounds in the Gulf of Mexico’. Deepwater drilling encompasses significant risks, both to ecosystems and worker safety. If a blowout, spill or other incident were to occur, responding effectively is extremely complex and dangerous. The lasting and severe consequences of such an incident were made abundantly clear with the Deepwater Horizon disaster.

Providing a platform: The British Museum

The BP-sponsored British Museum has also provided a platform for the company to establish closer ties with the Mexican government. Last year, documents disclosed under the Freedom of Information Act appeared to suggest that BP had leant on the British Museum to hold a ‘Days of the Dead’ festival in October 2015. During that event, BP held a private reception with the Mexican Ambassador and members of the Mexican government, closely coinciding with BP bidding on new drilling licenses from the Mexican government. In September 2015, BP-controlled Pan American Energy won a contract to drill a shallow water block in Mexican waters and in December 2016, BP was awarded the first block tendered in the Gulf of Mexico’s Salina Basin – alongside Total and Statoil – following an auction of deep water oil and gas licenses.

A serious human rights crisis with state involvement

The Inter-American Commission on Human Rights (IACHR) has referred to the situation in Mexico as ‘a serious human rights crisis’, which is ‘characterised by an extreme situation of violence and insecurity; critical rates of impunity; and inadequate and insufficient care for victims and their relatives’. Enforced disappearances and extrajudicial killings are widespread, violence against women and girls is prevalent and mass graves are regularly discovered across the country.

Enforced disappearances with the involvement of the state and by non-state actors are widespread in Mexico, and those responsible continue to enjoy, in the words of Amnesty International ‘almost absolute impunity.’ Over 28,000 have been forcibly disappeared since 2007. In 2014, an expert panel from the IACHR criticised the government’s flawed investigation into the enforced disappearance in Iguala of 43 students from a teacher training college in Ayotzinapa. In their findings, the IACHR highlighted the federal government’s failure to cooperate with the panel’s investigations and criticised it for allowing a smear campaign to be mounted against the panel and its findings.

Perpetrators of extrajudicial killings are rarely held to account in Mexico. It is particularly hard to get justice for those killed at the hands of the federal police. In June 2016, six were killed and over 100 injured during demonstrations by teachers’ unions in Oaxaca against sweeping education reforms passed in 2013. Despite statements by reporters from the Associated Press and video footage confirming that riot police fired at protesters, the Mexican government has claimed that its police were not carrying firearms. The authorities in Mexico have now failed to publish the number of people killed or wounded at the hands of police and military for the third consecutive year.

On 15th May this year, the award-winning journalist, Javier Valdez was shot dead, less than a month after the murder of fellow reporter, Miroslava Breach. Since 2000, 104 journalists have been murdered in the country and Reporters Without Borders ranks Mexico number 147 on its annual press freedom rankings, which places it among the worst in the world. In 2015, it was reported that seven women are killed every day in Mexico with femicides in some Mexican states being fifteen times higher than the global average. According to the National Statistics Institute, 20,000 women were murdered between 2007 and 2015.
Large numbers of mass graves have been, and continue to be, discovered across Mexico. In March, the discovery of 250 skulls in Veracruz led the state prosecutor to comment that ‘Veracruz is an enormous mass grave... It is the biggest mass grave in Mexico and perhaps one of the biggest in the world.’

Lucía Díaz, a spokeswoman for Colectivo Solecito whose members helped discover the graves, told the New York Times that ‘What we have found is abominable and it reveals the state of corruption, violence and impunity that reigns not only in Veracruz, but in all of Mexico... A reality that speaks of the collusion of authorities with organized crime in Veracruz, for it is impossible to see what we found without the participation of authorities.’

BP in court over impacts of Gulf spill on Mexican communities

‘Is there any past, recent, current or planned litigation against the company?’
- National Portrait Gallery’s ‘Research Guidance’ to accompany the ‘Ethical Fundraising Policy’

In March 2012, BP agreed to a $7.8 billion settlement for those impacted by the company’s Gulf of Mexico spill, including companies, citizens, and conservation organisations. However, that settlement only extended to US citizens impacted by the spill and not those affected in Mexico.

Acciones Colectivas de Sinaloa, A.C., an organisation that supports collective action, have launched two class actions in Mexico on the impact of BP’s drilling disaster and the two actions have now been combined into a single trial at a Civil Federal Court in Mexico City. Those bringing the action are seeking a judicial declaration that BP was responsible for the contamination of waters in the states of Tamaulipas, Veracruz, Tabasco, Campeche, Yucatán, and Quintana Roo, and for BP to be required to repair damage caused to the community and compensate those affected.

Class actions are rare in Mexico and were only introduced as a legal remedy in 2010, so little legal precedent has been set. However, the journalist, Nina Lakhani, has noted that ‘The law permits class actions to be brought by NGOs in cases of serious rights violations, such as in environmental disasters.’

The OECD Guidelines for Multinational Enterprises states that enterprises should ‘...engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.’

Some seven years on, BP has not recognised its obligations to communities in Mexico who were impacted by the Deepwater Horizon disaster.

1.d BP in West Papua

West Papua is the western half of the island of New Guinea, just 200km north of Australia. It is a region with hundreds of Indigenous tribes and cultures but has been under Indonesian occupation since 1963, with its people experiencing decades of human rights abuses, widespread violence and the suppression of their right to self-determination.

Despite all this:

- BP boasts that it is ‘committed to Indonesia’ and is one of the country’s largest foreign investors, giving legitimacy to those occupying West Papua.
- Large revenues generated by BP in West Papua flow to the Indonesian government. In 2012, BP also made $69,000 in security-related payments.
- Foreign media and human rights groups are banned from operating in West Papua, making it difficult to assess the reality on the ground.

BP’s business

BP’s concessions in Tangguh, Bintuni Bay – granted by the Indonesian government – contain around 14.4 trillion cubic feet of liquefied natural gas (LNG). Exploration began under Atlantic Richfield Co. in 1996, and then transferred to BP in 1999. The site became operational in 2009, and final clearance for a massive production expansion was granted in 2016.

On its website, BP highlights that through its so-called ‘heritage companies’ it has had 45 years of operating history in the country. But while the UN Guiding Principles on Business and Human Rights note that ‘for as long as [a human rights] abuse continues and the enterprise remains in the relationship [with the entity perpetrating it], it should be able to demonstrate its own ongoing efforts to mitigate the impact...of the continuing connection’, BP has demonstrated limited recognition of the specific political and human rights situation in West Papua.

Committed to the Indonesian government – and occupation?

According to the Free West Papua campaign ‘over 500,000 civilians have been killed, and thousands more have been raped, tortured and imprisoned’ in West Papua under Indonesia’s occupation. Several studies have highlighted that Indonesia may be involved in an ongoing campaign of genocide against the West Papuans, and at the least, poses ‘serious threats to the survival of the Indigenous people’.

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Bad Company: BP, human rights and corporate crimes
Foreign media and human rights groups are banned from operating in West Papua and consequently, it is difficult to gain a full picture of the situation and fully assess the impacts – unintended or otherwise – that BP’s operations have. In the last year, Amnesty International has reported that Papuan activists have been detained and charged with ‘rebellion’ and ‘incitement’ for peaceful gatherings. Leader of the Timika branch of the West Papuan National Committee, Steven Itlay, was released in February after spending nearly a year in jail for organising a Free West Papua prayer gathering.

A lack of scrutiny

BP’s operations have had some negative impacts on the local communities. 650 local people were involuntarily relocated to make way for the Tangguh site. One academic visitor to the nearby village of Weriagar was informed by local Papuans that 48 babies in the village had perished after Atlantic Richfield Co. had begun exploration, and was shown a list of names and photographs. Although any link between the activities of the company and the deaths has not been proven, the matter has not been independently investigated. At least one independent expert has questioned whether adequate use of ‘free, prior and informed consent’ has been used by BP when making decisions which impact local Indigenous communities.

There is a lack of independent scrutiny of the project in general, due to Indonesia’s ban on media visits. The only systematic monitoring of the site is performed by the BP-designed Tangguh Independent Advisory Project, which critics argue has internalised BP’s framing of the issue. Most independent studies of the project admit they rely disproportionately on BP and BP-influenced sources.

Close ties to a regime routinely violating human rights

More fundamentally, BP’s operations necessitate supporting and collaborating with an Indonesian regime which routinely violates human rights. Although ‘very few comprehensive baseline studies of killings by the Indonesian security forces have been carried out in West Papua’ – largely because NGOs, UN special rapporteurs and international media are almost completely barred from the province – most observers place the number directly killed by Indonesia at over 100,000. One scholar estimates over 500,000 occupation-related deaths. Regular reports continue to come out implicating Indonesian security forces in torture (described as a ‘mode of governance’ by Indonesia in one study), extrajudicial assassination, illegal arrests and other severe breaches of Indonesia’s obligations under the International Covenant on Civil and Political Rights and the UN Convention Against Torture.

‘BP have never recognised that they operate in the middle of a genocide. They only call it a ‘complex situation’. Is it complex that every day my people are shot by Indonesian security forces, that every day they are tortured? BP never talks about human rights, never recognises how it helps support an illegal occupation of Papuans’ land. This British company has a responsibility to tell the truth about what is happening in West Papua – but they just want to make quick money.’

~ Benny Wenda, West Papuan Independence Leader
Increased securitisation

The presence of the Tangguh project has acted as a magnet for increased securitisation of the region. Indonesian Military (TNI) commander General Gator Nurmantyo said in 2017: ‘We hope military personnel and military bases are no longer concentrated around Java, but also in the border areas so that those [bases] help create new economic centers and trigger development.’ Mirroring this mantra, in 2006 the Indonesian military constructed a new military base near the BP site. A new military command area over West Papua was created in recent months, headed by a two-star general, something few areas of Indonesia of such population size receive.

In 2017, the TNI announced that it would build a new missile detachment in Bintuni Bay ‘to secure vital state assets such as the oil and gas mines that are located here’, according to the military district commander in the area.

At its AGM this year, BP CEO Bob Dudley proudly said ‘I can’t imagine what that area [Tangguh] would be like without our investments.’ BP is channelling 75% of the gas extracted from its new production expansion back into Indonesia. Along with the tax revenues BP will provide to the Indonesian government, the project further entangles Jakarta’s interests with the maintenance of the occupation in West Papua, and all the human rights abuses that entails.

BP operates an ‘Integrated Community Based Security Programme’ (ICBS) at Tangguh, relying in the first instance on locally-employed Papuan security guards, before calling on the police, and then the military. Although this gives BP some distance from the Indonesian security services, the company is still pushed into collaboration. BP gave US $69,000 in security-related payments to the Indonesian government in 2012. When the ICBS was being set up in 2003, BP participated in a seminar in Jakarta with army and police security officers. Early on in the project, BP was collaborating with Papua police chief Brigadier General Dodi Sumantyawan, who was in charge of police operations in East Timor ahead of the referendum there in 1999, when Indonesian-directed militias killed hundreds of Timorese and decimated the country as they withdrew.

Papua expert Eban Kirksey also uncovered evidence during field work that suggested the Indonesian military staged the killing of several Indonesian police officers near the Tangguh project in 2001 as John O’Reilly, then senior vice president of BP, visited the site. False flag attacks are a well-documented tactic used by the Indonesian military in order to extort security contracts out of multinational corporations. In response to the shooting, the Indonesian army initiated Operation Sweep and Crush, during which ‘over 140 people were detained, tortured or otherwise ill-treated’, including seven extrajudicial executions, according to Amnesty International.

Researcher at the University of Warwick’s Politics of Papua Project, Connor Woodman, kindly contributed the majority of the material in this section.
Part 2

BP’s partners: the support that fuels oppression

The director of the National Portrait Gallery, Nicholas Cullinan, has said that ‘BP’s loyalty is unique’ and its sponsorship payments are ‘vital’. But in Colombia, Algeria and Angola, BP’s loyalty lies with governments that violate human rights, with its concerning payments legitimising and backing their actions. The National Portrait Gallery ‘reserves the right to reject offers of support that conflict with its objectives and values’. It is clear where BP’s true loyalty lies, so will the gallery put its values first?

a) In Colombia, BP made large payments to the Ministry of Defence, the army and the police in order to protect oil facilities. Multiple allegations have been made in the years since about the extent of BP’s involvement in human rights violations.

b) BP works in partnership with the state-owned oil company in Algeria, a company tarnished by a corruption scandal. Over the years, oil industry revenues have enabled the repressive operations of the military and police. Demonstrations remain banned in the capital city of Algiers.

c) While human rights defenders and journalists face repression in Angola, BP and its partners have made questionable payments to Sonangol – the national oil company headed by the Angolan President’s daughter – for a research centre that has never been built.

2.a BP’s operations in Colombia

BP sold its assets in Colombia eight years ago following the Deepwater Horizon disaster in the Gulf of Mexico. However, concerns remain today about BP’s time in Colombia, its impacts on communities and the need for truth about any links BP had to rights violations in the country:

- During its time in Colombia, BP made payments to the Ministry of Defence, the Colombian Army and others in order to protect its oil facilities.

- In 2006, BP reached a settlement with a group of Colombian farmers following their allegation that the construction of the Ocensa pipeline – in which BP played a central role – had damaged the environment.

- Questions have been raised about the extent to which BP benefitted from the human rights abuses perpetrated by paramilitary groups along the pipeline.

BP’s business

BP started oil exploration and extraction in Colombia in the 1990s as part of an international consortium of oil companies, after ‘discovering’ two of the largest oil fields in Latin American history: Cusiana and Cupiagua. To be able to transport the crude oil, the consortium had to construct the 450-mile (720km) Ocensa pipeline. In 2010, BP sold its assets in Colombia for $1.9bn to help pay for the clean-up of Deepwater Horizon oil spill and its devastating impacts. As the company exited Colombia, it left behind a long list of claims regarding serious human rights abuses and environmental destruction, as well as a community which continues to live in deep, extreme poverty.

Funding repression at the hands of the Colombian government?

BP, like other oil companies operating in Colombia at the time, paid a government tax of $1 a barrel to help finance army and police protection of oil facilities. Journalists who investigated BP’s security provision found that in 1995, BP agreed to provide $2.2m out of a contract with the Colombian Ministry of Defence worth $11.6m. Throughout BP’s time in Colombia it made a series of payments to the Colombian army, the Ministry of Defence; as well as to Israeli security company, Silver Shadow and UK-based Defence Systems Limited to provide security to its installations in the region.

The UN estimates that 3,000 trade union activists were murdered and 6,000 more were disappeared in the Casanare region over the last 30 years. Many of the victims were unionists working in the oil industry, or social leaders in oil-producing regions. However, their violent targeting by government-linked paramilitaries went largely unnoticed outside Colombia because of the civil war raging between the Colombian state and the FARC armed forces.
Even though it has been well established that BP benefitted from the paramilitary violence that was being unleashed on rural populations during the time of its operations, it has been more and more difficult to determine – in legal terms – the level of responsibility of the company for these grave impacts. For the victims of such heinous crimes the link couldn’t be clearer, it is a reality well known in Colombia: the economic interests of big multinational extraction companies have always been accompanied by violence.

The need for truth

In the last quarter BP made higher than expected profits of $1.51 billion. Meanwhile, according to Colombia’s National Office of Statistics, in 2013 the rate of poverty for Casanare surpassed 56%; rural communities experience rates of poverty reaching 77%. Only 19% of urban areas and 6% of rural areas have access to sewage and clean water. There are also many areas of land affected by historic oil extraction that are polluted or too dry to use for traditional farming.

At this crucial moment in Colombia’s history – when it seeks to implement a historic peace agreement – truth is a necessary condition for peace and for justice. The countless victims of the armed and social conflict in Colombia need to know the truth about what happened to their families and loved ones. This includes clarity on the involvement of multinational companies in those violations and abuses; it also requires, most importantly, a decisive effort to help rebuild entire communities with adequate access to basic services and fulfillment of their economic and social needs.

Legal claims and allegations against BP

In 2012, the law firm Deighton Pierce Glynn, ‘filed a damages claim case in the High Court which included a claim for false imprisonment, torture and assault against BP and 6 other oil companies registered in the UK’. The central allegation in that case was made by Colombian trade unionist, Gilberto Torres, regarding his kidnap, torture and imprisonment for 42 days by a paramilitary group in the Casanare region. Evidence suggested that Ocensa, the company behind a controversial pipeline that Torres and his union colleagues had raised concerns about, had been involved in the commissioning of his kidnapping.

Gilberto’s lawyers argued that because BP held a 15.2% stake in Ocensa at the time and had close ties with the company, its failure to address concerns about human rights meant that it was liable for damages. However, Gilberto was advised last year to discontinue the case given its complex technical nature and that the ‘procedural and financial challenges were too great’. As Deighton Pierce Glynn noted on their website, ‘there is no equality of access to justice between a multinational oil company and an exiled trade unionist.’

In 2006, a group of Colombian farmers began proceedings in the English High Court against BP Exploration Company alleging that the Ocensa pipeline had damaged the local environment. They alleged that while BP was not directly involved, it had benefited from the actions of paramilitary groups who were guarding the pipeline. They farmers argued that, ‘the paramilitaries intimidated the local population, obstructed farming and suppressed legitimate opposition to the pipeline.’

Following mediation, the two parties reached a settlement in 2006 where BP ‘agreed to establish an Environmental and Social Improvement Trust Fund for the benefit of the farmers’. However, the scale of the full agreement and its terms were not released. It was suggested that while it was not thought to be as high as the £15 million originally sought by the farmers, that it ran to several million pounds. In 2008, a separate group also brought a claim against BP concerning damage caused to their land by the construction of the Ocensa pipeline. The trial, which began in 2014, was subsequently dismissed last year in the UK High Court, after it was ruled that there was insufficient evidence.

The material in this section was kindly provided by Sebastian Ordoñez Muñoz, Senior International Programmes Officer at War on Want and part of the Oil Justice Project.

The Oil Justice Project, an initiative organised by War on Want, Deighton Pierce Glynn and the Colombian NGO COS-PACC, seeks to amplify the voices of communities affected by Big Oil in Colombia who are searching for justice for human rights abuses and environmental destruction to their territories. It does this through raising awareness about historic and ongoing human rights abuses; supporting bottom-up community empowerment projects which rebuild the social fabric of communities; and engaging in strategic litigation against Big Oil companies at the national and international level.
2.b BP in Algeria

During BP’s long history in Algeria, a brutal civil war took place, human rights have been repeatedly violated and today, all public demonstrations in the capital of Algiers are banned. Despite this, BP continues to:

- Work in close partnership with the state-owned oil and gas company Sonatrach, a company dogged by corruption scandals and dodgy deals.
- Disregard widespread restrictions on human rights, including the detention of those who raise concerns about Sonatrach and the oil and gas sector.
- Provide revenues to the Algerian government which supports the funding of the country’s military and police apparatus.

BP’s business

Algeria has the largest proven natural gas reserves in Africa and they are the focus of BP’s operations. With its partners Statoil and the Algerian state-owned oil company, Sonatrach,104 BP is involved in extraction at the In Salah and In Amenas gas developments. As part of the Algerian regime’s attempts to entice potential investors in the 1990s, the government created a special exclusion zone around the oil and gas fields in the south, and saw BP finalise a contract worth $3 billion in 1995 to exploit gas deposits at In Salah for the subsequent 30 years.105 BP has previously boasted about being one of the largest foreign investors in the country.106

Rights violations at the hands of the Algerian government

Human rights are widely restricted and violated across Algeria, with limits placed on freedom of expression and freedom of assembly, and peaceful critics of the government and human rights defenders being subjected to unfair trials. Prior authorisation is required to hold public gatherings and a ban on all demonstrations in the capital of Algiers – adopted in 2011 – remains in place.

Amnesty International has highlighted that in the last year:

‘The authorities continued to block access to Algeria by UN human rights mechanisms, including those with mandates on torture and other ill-treatment, counter-terrorism, enforced disappearance and freedoms of association and peaceful assembly. The authorities also continued to prevent international organizations, including Amnesty International, from conducting human rights fact-finding visits.’107

During the 1990s, Algeria was impacted by a brutal civil war where, according to official figures, up to 200,000 people were killed and thousands were forcibly disappeared. Of particular concern to human rights groups has been the subsequent implementation of the ‘Charter for Peace and National Reconciliation’ in 2006, presented as a response to the atrocities of the civil war. In a statement made by Amnesty International last year, it gave this damning assessment of its impacts:

‘In flagrant disregard to international human rights law, the decree broadened previous partial amnesties for members of armed groups adopted in 1999-2000, provided security forces and state-armed militia with blanket immunity from prosecution and allowed for the imprisonment of any individual criticizing the conduct of security forces. It compelled families of victims of enforced disappearance to obtain death certificates in order to receive financial compensation and imposed a time limit of one year from its date of adoption to lodge a compensation claim.’108

In 2011, following a wave of protest across the region, the Algerian government lifted a state of emergency that had been in place since 1992. However, in its report ‘The Lifting of the State of Emergency: A Game of Smoke and Mirrors’, the Euro-Mediterranean Human Rights Network noted that:

‘Police harassment of activists, the banning of protests and public meetings without justification and the use of abusive administrative practices to hinder the establishment of associations remain commonly used tactics to undermine civil society and constrain its activities.’109
Profiting from repression?

BP’s production partner in Algeria, the state-owned Sonatrach, is a company that has been dogged by scandals and corruption, with its chief executive and many of its senior management being dismissed following a corruption probe in 2011. Chakib Khelil, then Energy Minister, was forced to resign over his connection and subsequently moved to the US, placing him out of reach of an international warrant for his arrest that has since elapsed. Six other individuals were jailed. Last year, a court case that arose from the scandal saw six other individuals jailed, including a former vice-president of Sonatrach. The company’s former chief executive, Mohamed Meziane, received a five-year suspended sentence.

While BP was not implicated in the scandal, it continued to work with Sonatrach while the controversy surrounding Khelil unfolded. With regard to human rights, BP continues to operate in an environment where criticism directed against the oil industry or demonstrations against its practices are met with force and repression. In May last year, prominent activist Tahar Belabes and three other members of the National Committee for the Defence of the Rights of the Unemployed (CNDDC) were arrested and charged for taking part in ‘unarmed gatherings’ where they called for oil and gas companies, including Sonatrach, to employ more Algerians from the south of the country. Belabes was later sentenced to two months in prison.

While BP does not ‘see it as our task to take a political action’, the company would likely have been aware that revenues drawn from the oil industry, on top of the contracts secured with BP and others in the 1990s, have significantly underpinned Algeria’s increased defence and military spending. As Algerian campaigner and researcher Hamza Hamouchene highlights in ‘Reinforcing Dictatorships: Britain’s Gas Grab and Human Rights Abuses in Algeria’:

‘These contracts undoubtedly bolstered the regime as it exerted systematic violence across the country and at a time of international isolation. Tied to Algeria through huge investments, these companies and the EU had a clear interest in making sure that the repressive regime did not go under. The oil and gas revenues enabled heavy militarisation and the operations of the repressive police and intelligence apparatus.’

2.c BP in Angola

In Angola, human rights defenders, journalists and opposition voices risk repression, criminal charges and politically motivated trials. But BP has chosen to:

• Work in close partnership with the Angolan government and state oil company, Sonangol – headed by the President’s daughter, Isabel dos Santos.
• Make questionable payments to Sonangol for a mysterious research centre which – after six years – has still not been built.
• Secure licenses to pursue high risk ultra-deepwater drilling and make plans for long-term fossil fuel extraction and production on the African continent.

BP’s business

BP has been present in Angola for the past 25 years, acquiring interests in four deepwater drilling blocks in the 1990s. In 2011 – the year after the Deepwater Horizon disaster – the company acquired five new deepwater and ultra-deepwater drilling blocks in the Kwanza and Benguela basins. These acquisitions made Angola, in BP’s words, ‘one of the most important assets in BP’s exploration and production portfolio.’

Nepotism, oil and human rights

Amnesty International has noted that over the past year ‘Politically motivated trials, criminal defamation charges and national security laws continued to be used to suppress human rights defenders, dissent and other critical voices.’ In November, the National Assembly also approved a series of bills that will further restrict freedom of expression.

And while demonstrations do not require prior authorisation in Angola, the authorities have often refused to allow them to take place, or the police arbitrarily arrest and detain participants. In July 2016, the UN Committee on Economic, Social and Cultural rights noted its concern ‘that human rights defenders, including those working on economic, social and cultural rights, as well as journalists, operate under restrictive conditions,’ and also that the state ‘does not recognize indigenous peoples living in its territory.’
With the global slump in the oil price, Angola has opted to cut back its budget and pursue damaging austerity measures. Last year, Angola entered talks with the International Monetary Fund (IMF) about a potential bailout but stalled in September and, it is believed, lead to the President’s decision to fire the finance minister. It has been suggested that the conditions of the IMF’s ‘Extended Fund Facility’ would have been unpopular for the President, with the prospect of elections in 2017. They included the requirement to implement greater transparency for state-owned companies, such as the national oil company Sonangol.\(^\text{117}\)

President José Eduardo – who has been President of Angola since 1979 – appointed his daughter Isabel dos Santos as the head of Sonangol in June 2016.\(^\text{118}\) Isabel dos Santos is the richest woman in Africa and research conducted by Forbes revealed that President José Eduardo has transferred several stakes in Angolan companies to his daughter. In October 2015, four members of the European Parliament publicly questioned the legality of her investments in Portugal, and called for an investigation.\(^\text{119}\)

**Alleged corruption and ties to the Angolan regime**

In 2014, anti-corruption organisation Global Witness drew attention to payments of $350 million made by BP and its partners to Sonangol.\(^\text{120}\) As part of the production-sharing contract signed in 2011, it was agreed that BP and its partners would make annual instalments towards the ‘Sonangol Research and Technology Centre’ (SRTC). When asked in 2014, neither BP nor its partner, Cobalt, were able to confirm that the SRTC existed. BP stated at the time that ‘Sonangol has informed BP that the SRTC is still in planning stage.’\(^\text{121}\) Three years on, the situation appears unchanged, with BP telling the Financial Times in an article published on the 15th March this year ‘We understand from Sonangol that the [research centre] is still in the planning stage.’\(^\text{122}\) This latest statement by BP was prompted by the news that the US stock market watchdog, the Securities and Exchange Commission, had ‘initiated an informal inquiry’ into the payments made by Cobalt and whether they violated anti-corruption laws.
The OECD Guidelines for Multinational Enterprises note that ‘Enterprises should ensure that timely and accurate information is disclosed on all material matters regarding their activities, structure, financial situation, performance, ownership and governance.’ When it comes to BP’s business in Angola, there are legitimate questions about BP’s commitment to this principle.

The American Petroleum Institute, of which BP is a member, has previously lobbied to weaken the rules relating to the disclosure of payment details in countries such as Angola. Just last year, the Norwegian state-owned oil company Statoil was asked by the Norwegian white-collar crimes unit to provide details of a $49.8 million payment that it had made towards the research centre. In a letter to Norway’s Oil Ministry, Statoil stated that: ‘The payments...do not violate relevant anti-corruption legislation. This is not altered by the fact that there is little available information regarding the progress in setting up the research and technology centre.’

Angola’s oil contracts require companies such as BP to help fund social projects in the country. In this case though, the corporate social responsibility agenda of BP and its partners in Angola may not be all they appear to be. The National Portrait Gallery’s Research Guidance which accompanies its Ethical Fundraising Policy poses the following questions:

- Does the company generally have a good reputation in relation to corporate social responsibility (CSR)? Do they demonstrate a commitment to instituting and / or improving their CSR?

In this setting, questions surround the genuine purpose of BP’s CSR in Angola.

Part 3
BP’s actions: the human cost of cover-ups and corporate crime

The National Portrait Gallery reserves the right to reject an offer of support ‘where support is known or suspected to derive from the proceeds of crime’. While BP’s support may not derive directly from the proceeds of crime, the extent of its corporate criminality – particularly in relation to the Deepwater Horizon disaster – exposes a company that will flout the law and play fast and loose with its safety standards in the pursuit of profit. Should the gallery retain a sponsor that has so recently been subject to record-breaking criminal judgements and fines?

a) Following the Deepwater Horizon disaster, BP pled guilty to 14 criminal charges and was found guilty of ‘gross negligence’ and ‘wilful misconduct’. The impacts on livelihoods, health and ecosystems are still being felt today. BP admitted lying to the US House of Representatives, and attempted to privately influence independent research into the spill.

b) In 2008, BP attempted to cover up a gas blowout in the Caspian Sea prompting the ‘largest such emergency evacuation in BP’s history’. A pattern of major incidents and poor safety continues today, at refineries and drill sites, with the rights of communities and workers put at risk.

3.a BP’s Gulf of Mexico oil spill

The environmental impacts of BP’s Deepwater Horizon disaster, where 11 rig workers lost their lives and 3.19 million barrels of oil were spilled into the Gulf of Mexico, have been widely documented. But BP’s actions, both before and after the spill, likely exacerbated its impact. They include:

- Providing false and misleading information to the US House of Representatives about the rate oil was flowing into the Gulf of Mexico.
- Attempting to influence and interfere in independent scientific research on the spill, research that could theoretically be cited as evidence at a later date.
- Cutting costs and cutting corners, leading to BP being found guilty of ‘gross negligence’ and ‘wilful misconduct’ over the spill and paying the largest environmental fine in US history.
BP in the Gulf of Mexico

On the 20th April 2010, a loss of control of pressure in the Macondo deepwater well caused hydrocarbons to rise up to the Deepwater Horizon rig where they were then able to ignite causing a series of explosions. A ‘blowout preventer’ that should have sealed the well in such a situation failed to engage. The rig sank two days later but the well leaked 3.19 million barrels of oil into the Gulf of Mexico over the course of the following 87 days. 11 rig workers were killed.

Under a settlement agreed in 2012, BP pled guilty to:

- 11 felony counts of misconduct or neglect related to the deaths in the explosion.
- 1 misdemeanour violation of the Clean Water Act.
- 1 misdemeanour violation of the Migratory Bird Treaty Act.
- 1 felony count of obstruction of Congress over its statements about the flow rate.

BP subsequently agreed to pay a record $18.7 billion in fines in relation to the spill, the largest corporate settlement in US history. In 2014, Judge Carl Barbier ruled that BP’s ‘gross negligence’ and ‘wilful misconduct’ had led to the Gulf of Mexico spill.

The impact of the Deepwater Horizon spill

The Museums Association outlines on its website that museums and galleries need to ‘conduct thorough and well documented research to demonstrate that they have understood the nature of the company’s business, and any claims made against it’ before entering into a sponsorship deal. While many aspects of the Gulf of Mexico spill are relevant for an organisation considering the ethical implications of sponsorship from BP, what follows are specific areas that should have been investigated by the National Portrait Gallery on the basis of its Ethical Fundraising Policy, which include the scale of BP’s corporate criminality, the company’s values as revealed in its attempts to mislead others and obscure the facts, and crucially, the spill’s human rights impacts.

BP’s attempts to undermine legal process

The ‘UN Guiding Principles on Business and Human Rights’ state that:

*Business enterprises should not undermine States’ abilities to meet their own human rights obligations, including by actions that might weaken the integrity of judicial processes.*
In 2010, BP subpoenaed thousands of confidential emails relating to the Gulf of Mexico spill from two scientists involved in researching and assessing the impacts of the disaster. They wrote at the time:

‘BP claimed that it needed to better understand our findings because billions of dollars in fines are potentially at stake. So we produced more than 50,000 pages of documents, raw data, reports, and algorithms used in our research — everything BP would need to analyse and confirm our findings. But BP still demanded access to our private communications. Our concern is not simply invasion of privacy, but the erosion of the scientific deliberative process.’

Further to this, documents obtained under the Freedom of Information Act in 2011 revealed how BP’s staff had openly discussed how to influence independent research into the impacts of the spill. Such research would have provided crucial information and insight in relation to clean up and potentially played a part in any subsequent litigation against the company.

During the second phase of the trial, internal emails were presented in court that appeared to show how BP had misrepresented the scale of the spill by lying about the flow rate. The International Business Times reported that ‘BP was aware of the actual amount of leakage of about 100,000 barrels of oil per day, much higher than the publicly-disclosed 5,000 barrels per day.’ The UN Guiding Principles on Business and Human Rights notes that ‘Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact.’ During criminal proceedings, lawyers for the plaintiffs – which included people affected by the spill, the U.S. government and Gulf Coast states – argued that BP ‘could have capped the well sooner if it had not ignored warnings about a possible blowout.’ Throughout the litigation there were multiple instances of vital information being misrepresented. In one case, Anthony Badalamenti, a former manager for Halliburton Energy Services Inc. and BP’s cement contractor on the rig, was sentenced to one year's probation for destroying evidence in the aftermath of the spill. Mention somewhere the Gross Negligence judgement.

A study undertaken in 2010 anticipated that the effects of the oil spill on travel and tourism in the Gulf Coast region could last up to three years and cost up to $22.7 billion. In 2012, it was estimated that the total economic damage to fishing-dependent industries could cost $8.7 billion and around 22,000 jobs over the subsequent seven years.

In the aftermath of the spill, BP’s then CEO, Tony Hayward, was widely criticised for the insensitivity of his remarks in a number of interviews and statements, at one time suggesting the spill was ‘relatively tiny’. On 31st May 2010, he gave his now infamous non-apology to those impacted by the Deepwater Horizon disaster: ‘There’s no-one who would like their life back more than me. I’d like my life back.’ Hayward bowed to pressure to resign on the 27th July 2010 over his handling of the disaster and a string of public relations ‘gaffes’. Despite this, BP’s Board of Directors agreed a multi-million pound severance package for Hayward. BP’s ongoing impacts on Gulf Coast residents’ lives, livelihoods and, arguably, the right to work, should have been fully documented as part of the National Portrait Gallery’s process of due diligence on its proposed partner. Crucially though, the gallery should have taken into account the company’s failure to act honestly and respectfully in the aftermath of the spill, decisions that could arguably have exacerbated the impacts of the spill.

In the UN Guiding Principles on Business and Human Rights, it states that:

‘Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact.’

BP’s failure to act and its impact on livelihoods

‘There’s no-one who would like their life back more than me.’

~ Tony Hayward, BP CEO
Record-breaking litigation against BP

The National Portrait Gallery’s ‘Research Guidance’ for assessing potential donors poses the following question:

*Is there any past, recent, current or planned litigation against the company?*[^140]

Following high profile and protracted litigation against the company, BP agreed to a record settlement of $18.7 billion over the Deepwater Horizon disaster, a figure that subsequently rose to $20.8 billion following further adjustments. This was ‘the largest [settlement] ever reached by the [US] Department of Justice with a single entity’.[^141] As part of that settlement, BP agreed to pay a record $5.5 billion for violations of the US Clean Water Act.

Various criminal charges were also brought against BP and individual members of its staff. In November 2012, BP agreed to pay a $4.5 billion in other fines and pled guilty to 14 criminal charges, including 11 felony counts of misconduct or neglect related to the deaths caused by the rig explosion. BP also admitted that, through its former Vice President David Rainey, it had ‘withheld documents and provided false and misleading information in response to the [US] House of Representatives’ request for information on how quickly oil was flowing’. Put another way, BP knowingly lied to a national legislative body.[^142]

> ‘As part of its plea agreement, BP admitted that… it withheld documents and provided false and misleading information in response to the House of Representatives’ request for information on how quickly oil was flowing.’ ~ The New York Times, November 15th, 2012

The Research Guidance that accompanies the National Portrait Gallery’s Ethical Fundraising Policy poses the question ‘Has there been any adverse publicity about the company in the press or media recently or in the less recent past (in the UK and/or overseas)?’[^144] In October 2010, the gallery’s trustees merely noted that there had been ‘adverse publicity around BP’, but just four months later – and less than a year after the explosion that caused the spill – the trustees decided that they ‘were not adverse [sic] to continuing the partnership since BP had been a very good sponsor’, providing the company with much-needed social legitimacy at a time when it was subject to legal scrutiny.[^145]

The gallery and other BP-sponsored arts organisations need to not just take steps to protect their reputations but take full account of the proposed sponsor’s conduct as a business.

**Charges and settlements versus ‘rumours or allegations’**

The National Portrait Gallery’s ‘Research Guidance’ makes clear that, when it comes to evaluating the ethical standards of a potential donor ‘unsubstantiated rumours or allegations will not necessarily prevent acceptance of support.’ However, the legal proceedings against BP following its Deepwater Horizon disaster have broken records, spanned both criminal and civil law, and seen BP plead guilty to multiple criminal charges. BP’s gross negligence arguably now provides the yardstick against which all future corporate litigation will be measured.

If the National Portrait Gallery had followed both the letter and spirit of its Ethical Fundraising Policy and Research Guidance in 2016, it would have been clear that BP’s values are not in alignment with the gallery’s own. The gallery’s senior management and its trustees would have been able to evaluate the substance of the extensive litigation against BP at that point, as well as the company’s conduct throughout that process and based its decision on these more objective measures of BP’s ethical standards as a company.

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[^140]: Record-breaking litigation against BP

[^141]: The National Portrait Gallery:

Proud of ‘an ongoing partnership’

> ‘We are extremely grateful for and proud of this ongoing partnership, for such longevity and loyalty is unique in corporate sponsorship.’

- Nicholas Cullinan, Director of the NPG[^143]

When the trustees of the National Portrait Gallery expressed concern about BP’s sponsorship of the gallery following the Gulf of Mexico oil spill in 2010, they focussed upon perceptions of BP rather than the substance of the claims that were being made against the company.
3.b Falling short: impacts on workers and communities

As we have shown, BP collaborates with, supports and legitimises many regimes and governments around the world that violate human rights. But BP’s abysmal safety record also requires close scrutiny. When BP falls short on safety and dangerous incidents occur, workers and communities feel the impacts while bosses play them down in an attempt to contain any damage to the company’s public image.

While these impacts are different in nature to the human rights violations highlighted elsewhere in this report, they should not be seen as detached and separate. The Universal Declaration of Human Rights notes that ‘everyone has the right to work…to just and favourable conditions of work,’ and ‘everyone has the right to a standard of living adequate for the health and well-being of [them]self and of [their] family.’

In addition, the OECD expects companies like BP ‘to follow prevailing regulatory standards and industry norms to minimise the risk of accidents and injury to health arising out of, linked with, or occurring in, the course of employment.’

We have already considered the Deepwater Horizon spill, but below are the disturbing statistics behind two other major safety incidents that have taken place since 2005. In each case, BP has either failed to learn the lessons from its mistakes or actively attempted to mislead or conceal information about the events that occurred. What then follows are the details of some of BP’s more recent ‘near misses’, signs that the company is continuing to put workers and communities at risk.

A catalogue of recent failings

In December last year, an internal BP safety report seen by the FT outlined a series of serious shortcomings on the company’s safety standards since Deepwater Horizon, as well as giving details of a number of ‘high potential’ or ‘high po’ incidents. These high po incidents are generally considered to be a ‘near miss’ where ‘on another day, it is likely that lives would have been lost.’ Speaking to the Financial Times, marine engineering expert Professor Robert Bea from the University of California, Berkeley, asserted that ‘There’s persistent evidence that BP is not paying sufficient attention to these critical safety measures.’

BP’s Saltend Plant in Hull and UK City of Culture

The internal report revealed how ‘inaccurate and incomplete drawings and procedures’ had led to a potentially fatal incident at BP’s Hull chemical plant. The site at Saltend is on the banks of the Humber, just a few hundred metres from residential housing. In addition to the hi po incident, the incorrect operation of some equipment led to the company incurring costs of $35m - $45m. BP Chemicals claims on its website that, ‘Safety is an overriding priority and fundamental value for everyone who works for BP Chemicals [at Saltend]. The dedicated team is responsible for providing excellent safety performance as part of a continuous improvement programme…’ But tellingly, the leaked report noted that, ‘Information management is seen as important but not a clear priority currently.’

This year, BP is a major corporate sponsor of ‘Hull 2017 – UK City of Culture’. As part of its involvement, the company is hosting a series of ‘BP Cultural Visions’ lectures, in partnership with the University of Hull, providing it with a platform to promote its partnerships with high-profile arts institutions across the UK. This opportunity to boost its brand, both in the region and nationally, has come at an extremely valuable time for the company considering the recent near miss at Saltend.

BP’s Whiting Refinery and the demolition of Marktown

The most serious ‘near miss’ highlighted in the leaked safety report was recorded at BP’s Whiting Refinery in Indiana in 2014. The large-scale refinery processes oil from Alberta, Canada’s controversial tar sands mines. Tar sands crude is one of the most carbon-intensive fossil fuels in production, and its deposits and infrastructure are situated on Indigenous peoples’ lands, where there is growing opposition to the highly destructive and polluting extraction process.

But the incident highlighted in BP’s internal report was not a one-off. Later that year, 1,638 gallons of oil were spilled from the Whiting Refinery into Lake Michigan, according to BP’s own estimate. Lake Michigan is the source of drinking water for seven million people living in Chicago and its suburbs.
Two major incidents by numbers

The Texas City Refinery Explosion

What? At BP’s Texas City Refinery, a large hydrocarbon vapour cloud which originated from ‘liquid overflow’ in one of its refining towers, ignited and caused a large explosion.

When? 23rd March 2005

How many killed? 15

How many injured? Over 170

Any fines? BP initially paid $21.3 million in fines to the Occupational Safety and Health Administration (OSHA) in the US

Any crimes or litigation? In 2006, BP had set aside $1.6 billion to settle claims arising from the disaster. But in October 2009, OSHA announced that it was additionally fining BP $87.4 million relating to 270 notifications that had been issued to the company for ‘failure to correct hazards’ and because it had also identified 439 new ‘wilful violations’ by BP in its operation of the refinery. BP sold the refinery in 2012 for $2.5 billion in order to contribute to costs arising from the Deepwater Horizon disaster.

A major gas blowout on BP’s platform in the Caspian Sea

What? A blowout akin to the Deepwater Horizon explosion occurred on one of BP’s platforms in the Azeri-Chirag-Ganesh [ACG] gas field in the Caspian Sea, which is around 120 kilometres off the coast of Azerbaijan.

When? September 2008

How many evacuated? 212 workers

Why have I not heard about it? The incident was little reported at the time – the full picture was revealed later with the release of US Embassy cables in 2010 by Wikileaks. One cable noted that BP had been ‘exceptionally circumspect in disseminating information about the ACG gas leak, both to the public and to its ACG partners.’ The blowout took place just 18 months before the blowout at the Macondo well which led to the Gulf of Mexico disaster. At the time, BP misled the US House of Representatives over the flow-rate of the Gulf spill. BP’s response was arguably a mirroring of its response to the blowout in the Caspian Sea. A further US Embassy cable had noted that ‘At least some of BP’s ACG partners are similarly upset with BP’s performance in this episode, as they claim BP has sought to limit information flow about this event even to its ACG partners.’

US Embassy Wire gives details of BP gas platform blowout in Caspian Sea. Text from Wikileaks, via Chelsea Manning
In August 2015, the refinery was also shut down when, reportedly, holes were found in the distillation unit’s piping, posing a fire risk. Almost exactly a year later, five times more ‘total suspended solids of industrial waste’ were discharged into Lake Michigan than is officially allowed after an ‘upset’ at the refinery’s wastewater treatment plants.\(^{155}\)

As recently as April this year, four workers were taken to hospital after an incident at a power distribution centre in the refinery. The NWI Times noted that the injuries ‘took place on Worker’s Memorial Day, when hundreds of local USW chapters [United Steel Workers] across the country were calling for improvements in workplace safety.’\(^{156}\) Last November, BP announced that it would be making around 80 workers at the refinery redundant – the first layoffs in 17 years.\(^{157}\)

In recent years, BP has faced multiple legal complaints over its activity at Whiting, including a settlement to address chronic pollution issues in 2012 and fines from the Environmental Protection Agency over the 2014 spill into Lake Michigan.\(^{158}\) The impacts of that pollution – but also BP’s $3.8 billion expansion in order to process Canadian tar sands oil – have been keenly felt in the neighbouring worker community of Marktown. The historic town, which is 100-years old this year, has seen BP undertake a systematic process of buying up and demolishing properties, allowing space for the sprawling refinery to expand further.\(^{159}\)

BP’s Spills in Prudhoe Bay

Incidents caused by BP’s poor safety standards are not isolated and, taken as a whole, reflect a concerning attitude to the conditions workers and communities are faced with. As recently as April this year, a BP well on Alaska’s North Slope began spraying crude oil and then once it had been stopped, took several days before the ‘uncontrolled venting of natural gas’ was brought under control.\(^{160}\)

While BP’s Gulf of Mexico spill is the most explicit case of BP’s criminal negligence, the company’s criminality in relation to such incidents is not isolated. In March 2006, a corroded BP pipeline was the cause of the largest oil spill recorded on Alaska’s North Slope – which initially went undetected for days – and where up to 1 million litres of crude oil were spilled into the Arctic Ocean at Prudhoe Bay.\(^{161}\) The following year, BP pled guilty to having violated the US Clean Water Act, was placed on probation for three years and fined $20 million – a settlement that also included another corrosion-related spill that had taken place just five months later.\(^{162}\) A lawsuit in 2012 saw BP agree to pay part of a $255 million settlement alongside its production partners to the State of Alaska in relation to the Prudhoe Bay spills. As Reuters reported at the time, ‘a federal investigation concluded BP failed to adequately maintain the pipelines and blamed a cost-cutting mentality at the company for the incidents.’\(^{163}\)
Cutbacks, safety and strikes in Trinidad & Tobago

Looking back on both the Texas City Refinery explosion and the Deepwater Horizon disaster, many commentators and the families of victims have pointed to a culture of poor safety standards that had developed at BP in the 1990s under CEO John Browne, driven by his cost-cutting agenda. And while BP has sought to allay concerns about safety since, claiming ‘safety is one of our values and our number one priority’ in its 2016 Sustainability Report, the evidence suggests the company’s culture hasn’t changed nearly enough.

With the slump in oil prices and accruing costs from Deepwater Horizon, BP Trinidad and Tobago (bpTT) made the following announcement on the 13th January 2016:

‘In line with the BP Group’s focus on improving efficiency and reducing costs, BP Trinidad and Tobago (bpTT) announced plans to seek further cost efficiencies in our business in 2016. This plan will include a review of 3rd party costs, activity prioritisation, process simplification and organisational structure...

Throughout this exercise our first priority will remain the safety of our people and our operations.’

But just two days later, the Trinidad and Tobago news organisation Newsday reported that ‘scores of workers at Trinidad Offshore Fabricators (TOFCO) who are involved in the construction of bpTT’s Juniper platform’s topsides, downed tools over health and safety issues.’ The Juniper project is bpTT’s first subsea project but is the sixth platform bpTT has manufactured in Trinidad & Tobago. A workers’ representative, Clyde Charles, told Newsday that working conditions were ‘poor’ at TOFCO, that they work for ‘meagre wages’ and that there had already been five electric shock incidents relating to the Juniper project.

‘Working conditions were poor, they work for meagre wages and there had already been five electric shock incidents.’
~ Clyde Charles, workers’ representative
Part 4

Recommendations

The contents of this report make clear that the realities of BP’s business practices do not align with the principles and values espoused by the National Portrait Gallery, British Museum, Royal Shakespeare Company and Royal Opera House. Consequently, the decision to sign a new sponsorship deal with BP represents a high level of risk and threatens to damage the reputations of these institutions and undermine the public’s trust in them.

In order to address these concerns, these four organisations should undertake a review of the decision to sign a new sponsorship contract with BP. First there should be a process of due diligence which:

- is thorough and well-documented;
- is proportionate to the scale of the proposed relationship with BP;
- demonstrates that they have researched, assessed and understood the nature of BP’s business and the claims made against it;
- is based on independent information, sources and accounts, not the company’s own;
- is made available to the public; and
- takes full account of the evidence cited in this report and identifies a strategy for evaluating that evidence free of any pre-existing bias or potential conflicts of interest.

These cultural institutions, having fully understood the ethical conflicts presented by BP, should then terminate their existing relationships with the company.

In order to restore public trust and protect their reputations, they should also:

- Convene dedicated ethics committees whose membership represents all levels of the institution’s workforce, with the specific role of scrutinising decisions and instances where significant ethical questions are raised. Such a committee should complement and support the role of trustees.

- Revise relevant ethics policies in order that their implementation rests on objective assessment of specific evidence over and above the perception of, or opinion on, any controversy related to a sponsor. If no ethical fundraising policy or ethics policy with a specific clause addressing sponsorship exists, one should be developed as a matter of urgency.

- Incorporate issues of sustainability, environmental impact, climate change and climate justice into all aspects of the institution’s work, from operational decisions to fundraising. Environmental or sustainability policies/statements should be revised in order to recognise that an institution’s environmental impact is not limited to its day-to-day operational activity, and should be addressed holistically with ‘buy-in’ from all levels of staff.

In conclusion, these cultural institutions need to be seen to enforce existing policies, principles and guidelines, by undertaking what might be deemed ‘standard practice’ across the sector. But in a time of accelerating climate crisis – and in situations where human rights are in question – there is a need to go beyond standard practice.

These cultural institutions have an opportunity to take a leading role, both in promoting the values they claim to already hold and in the transition to a fossil free culture.
Appendices

Appendix 1
National Portrait Gallery Ethical Fundraising Policy
(made public for the first time following a Freedom of Information Act request by Culture Unstained)

Introduction

Founded in 1856, the aim of the National Portrait Gallery, London is ‘to promote through the medium of portraits the appreciation and understanding of the men and women who have made and are making British history and culture, and to promote the appreciation and understanding of portraiture in all media’.

The National Portrait Gallery aims to be the foremost centre for the study of and research into portraiture, as well as making its work and activities of interest to as wide a range of visitors as possible.

Rationale for Fundraising

Like other national museums, the Gallery is supported both by government and by a growing number of individuals, companies, trusts and foundations. The Gallery actively seeks private donations and sponsorships to support core activities, as well as exhibitions, projects, and acquisitions.

In order to meet our current and future financial needs, it is recognised that the Gallery must be proactive and energetic in its approach to fundraising, seeking supporters of all kinds not only from within the UK but also internationally.

The Gallery aims to ensure that its fundraising activities are conducted with integrity, openness, respect and accountability. We have a responsibility to ensure donations are not accepted from questionable or inappropriate sources. We also have a responsibility to our current and prospective supporters, ensuring that their trust is not violated.

Fundraising Practices

The Gallery aims to be highly regarded by its supporters and to adhere to best practice in the solicitation and stewardship of supporters of all kinds.

In particular, the Gallery will ensure that:

• All fundraising solicitations are truthful and accurately describe the Gallery’s activities and the intended use of donated funds.
• All those involved in the solicitation of funds, including volunteers, act with fairness, integrity, and in accordance with all applicable laws.
• Requests by current or prospective supporters to limit or cease solicitation or contact are respected and addressed promptly.
• Particular care and sensitivity will be shown in relation to legacies. Whilst it is ultimately the supporter’s responsibility to consider the impact of any proposed gift on their family members, the Gallery will encourage prospective supporters to consider such implications and to seek independent advice.
Bad Company: BP, human rights and corporate crimes

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- No inappropriate benefit is secured in return for a gift.
- Its fundraising activities meet the provisions of the Bribery Act and other relevant legislation intended to protect against bribery in respect of donations.
- Supporters’ requests to remain anonymous will be respected as far as is legally, practically, and ethically possible.
- The privacy of supporters and prospective supporters is respected. Any supporter records that are maintained by the Gallery’s Development Team will be kept confidential to the greatest extent possible. Records will not be shared within the Gallery nor with any third party.
- Requests from supporters and legators to allocate their donations to specific areas of Gallery activity are adhered to, wherever possible and appropriate. If necessary due to programme or organisational changes, alternative uses will be discussed where possible with the supporter or the supporter’s legal representative. If the supporter is deceased or lacks mental capacity, and the Gallery is unable to contact a legal representative, the donation will be used in a manner that is as consistent as possible with the supporter’s original intent.
- Any complaints by supporters or prospective supporters are addressed promptly. A designated member of the Development Team will attempt to satisfy the complainant’s concerns in the first instance. A complainant who remains dissatisfied may request in writing a review of their complaint by the Deputy Director, and will be advised of the outcome of this review.
- The Director will be informed at least annually of the number, type, and disposition of complaints received from supporters or prospective supporters about matters that are addressed in this code.
- The cost effectiveness of the Gallery’s fundraising programme will be regularly reviewed by the Senior Management Team and trustees.

Supporters and prospective supporters are entitled to the following, promptly upon request:
- the most recent annual report and financial statements;
- confirmation of the exempt charitable status of the Gallery;
- a copy of this policy.

Unacceptable Sources of Funding

The Gallery considers each gift and sponsorship carefully, and recognises that there may be occasions when it would not be in the Gallery’s best interests to accept funding.

The Gallery reserves the right to reject offers of support that meet any of the following criteria:

- Where support is known or suspected to derive from the proceeds of crime.
- Where money laundering is suspected.
- Where the supporting source is known or suspected to be closely associated with a regime known or suspected to be in violation of human rights.
- Where support would impinge on the artistic or academic freedom of the Gallery or would otherwise compromise its status as an independent institution.
- Where support would jeopardise existing and future relationships with other supporters and/or partners.
- Where support is deemed to be in any other way in conflict with the objectives and values of the Gallery.
- Where insufficient information can be found about the identity, source of wealth, business interests or reputation of the donor.
- Unsubstantiated rumours or allegations will not necessarily prevent acceptance of support. However, the Gallery is mindful of the risk involved in accepting support or continuing negotiations which may cause significant potential damage to the Gallery’s reputation.
• The Gallery recognises the risks of accepting gifts without provenance. A truly anonymous donation, where the Gallery is only able to deal with an intermediary who will not identify the donor, consequently cannot be accepted.

• Where the Gallery offers to name a building, room, post or other aspect of its activity in recognition of a particular supporter or gift, the Gallery reserves the right to withdraw such named recognition should it subsequently become apparent that there are significant reputational or ethical risks in maintaining such recognition as outlined above.

Risk Assessment

The Gallery will undertake an initial risk assessment in relation to all prospective sponsors, partners, trusts, foundations, Portrait Circle members and other individuals proposing to make donations of £10,000 and above.

An initial screening will be undertaken by the relevant member of the Gallery’s Development Team in accordance with an agreed checklist as devised and agreed by the Development Team, Deputy Director and Director. Publicly available information will be reviewed with a particular focus on any activities which may be the source of ethical risk for the Gallery as outlined above. This screening will take place at the earliest possible stage and, ideally, prospective supporters will have been subject to a thorough review before discussions about possible gifts or sponsorships take place.

Should a prospective supporter be deemed to pose a possible risk, they will be referred to the Head of Development and/or the Head of Major Gifts & Appeals for further review. The Head of Development and/or the Head of Major Gifts & Appeals will make a recommendation to the Deputy Director and Director about how to proceed. Where necessary, further information and advice will be sought from third parties, such as professional search firms, international due diligence providers, and individual contacts who may have further knowledge of prospective supporters.

All prospective donations from new or existing supporters of more than £100,000 will be referred to the Deputy Director and Director for review along with a full research profile. They will seek the further advice and agreement of the Chairman and Trustees as appropriate.

Gifts of more than £500,000 and any gift where the Gallery offers to name a building, room, post or other aspect of its activity, will be subject to review by the Deputy Director, Director, Chairman and Board of Trustees.

Should concerns be raised under the guidelines above about a gift that has already been accepted, the Director, Deputy Director and, where appropriate, the Chairman and Trustees, will review whether it is appropriate to retain the gift.

Head of Major Donors & Appeals, June 2015
Appendix 2  
Research Guidance (to accompany National Portrait Gallery Ethical Policy)

Background

The Gallery reserves the right to reject offers of support that meet any of the following criteria:

- Where support is known or suspected to derive from the proceeds of crime
- Where accepting support could potentially constitute a crime under the Bribery Act 2010
- Where money laundering is suspected
- Where the supporting source is known or suspected to be closely associated with a regime known or suspected to be in violation of human rights
- Where support would impinge on the artistic or academic freedom of the Gallery or would otherwise compromise its status as an independent institution
- Where support would jeopardise existing and future relationships with other supporters and/or partners
- Where support is deemed to be in any other way in conflict with the objectives and values of the Gallery.
- Where insufficient information can be found about the identity, source of wealth, business interests or reputation of the donor

All members of the Development Team should be mindful of this criteria and have a responsibility to notify the Head of Development and/or the Head of Major Gifts & Appeals of any concerns they may have about existing and prospective supporters.

Should a prospect or supporter be deemed inappropriate in light of the criteria above, they should not be approached by any member of the team unless specifically agreed by the Head of Development and/or the Head of Major Gifts & Appeals.

Should a prospect or supporter be deemed inappropriate in light of the criteria above, team members should be particularly mindful to consider any associated individuals, trusts, and companies and to ensure that they are reviewed accordingly.

Risk Assessment

In line with our Ethical Fundraising policy, an initial risk assessment should be undertaken on any prospective sponsor, partner, trust, foundation, Portrait Circle member or other individual proposing to make a donation of £10,000 and above.

This initial assessment should be undertaken by the member of the team who is proposing or in touch with the prospect, referred to henceforward as the ‘Canvasser’. The canvasser will be supported in their research by the Individual Giving Manager, Catalyst & Appeals (the team’s current lead for research) as well as the Head of Corporate Development and the Head of Major Gifts & Appeals.

An initial assessment should utilise publically available sources to assess the following:

For Individuals

- Has the individual, their spouse or other close family member been subject to any criminal conviction or suspected of criminal activity?
- Has the individual, their spouse or other close family member been investigated for – or suspected of – fraud, money laundering, or tax evasion?
- Does the individual, their spouse or other close family member have any associations with regimes known or suspected to be in violation of human rights? This may include past regimes.
• Does the individual have the capacity to honour any pledges to the Gallery?
• Is the source of the individual’s wealth apparent and legitimate?
• Are businesses relating to the individual solvent?
• Are any businesses relating to the individual of potential concern in relation to the guidance on companies below?
• Are trusts relating to the individual active and sufficiently capitalised?
• Are any trusts relating to the individual of potential concern in relation to the guidance on companies below?
• Has the individual, their spouse or other close family member been subject to adverse publicity which could expose the Gallery to reputational risk or jeopardise relationships with supporters and/or partners?

For Trusts and Foundations

The Trust and Foundation team will conduct research into grant giving bodies using similar criteria to those set out for individuals. In the first instance for UK-based bodies the Charity Commission website enable the Gallery to get an instant profile – and whether they are compliant with the information they are required to submit to the Charity Commission, for example annual accounts.

For overseas grant giving bodies the Gallery will conduct desk research to identify level of support, and types of organisations supported. From this we can assess both the likelihood to give, as well as the legitimacy of the organisations supported.

All approaches to be made by the Trust and Foundations team will be reviewed by the Head of Major Gifts and Appeals and/ or the Head of Corporate Development prior to applications being submitted.

For Companies (including parent companies, subsidiaries or major partners, as appropriate)

• Has there been any adverse publicity about the company in the press or media recently or in the less recent past (in the UK and/ or overseas)?
• Has any individual known to be connected to the company, including senior staff members or Board members been subject to adverse publicity recently or in the less recent past?
• Is there any past, recent, current or planned litigation against the company?
• Is the company primarily involved in the manufacture and/ or sale of firearms or tobacco or other proscribed sectors?
• Does the company, its Executive or non-Executive the Directors have any associations with regimes known or suspected to be in violation of human rights?
• Does the company generally have a good reputation in relation to corporate social responsibility (CSR)? Do they demonstrate a commitment to instituting and / or improving their CSR?
• Does the company have an evident equality and diversity policy?
• Does the company have a long track record and stable structure?
• Is the company publicly traded and does it issue annual reports and audited accounts?
• Does the company appear to have the financial capacity to honour any pledges to the Gallery?
• Are any individuals relating to the business of potential concern in relation to the guidance on individuals above?
• Are any trusts relating to the company of potential concern in relation to the guidance on trusts above?

Canvassers should err on the side of caution and refer any concerns to the Head of Corporate Development and/or the Head of Major Gifts & Appeals who will then decide whether to proceed with the prospect or undertake further investigation.
Useful Resources
(suggested by the National Portrait Gallery as sources for researching donors, included within its Research Guidance)

Sunday Times Richlist
www.forbes.com/lists
www.bloomberg.com/billionaires
http://apps.charitycommission.gov.uk/Showcharity/RegisterOfCharities/registerhomepage.aspx
Charity Commission guidance on due diligence:
https://fdo.foundationcenter.org/
www.duedil.com
www.zoopla.co.uk
www.gov.uk/government/organisations/companies-house
www.companycheck.co.uk
http://www.lse.co.uk/ShareNews.asp?shareprice=LSE
http://www.ft.com/companies
National Portrait Gallery Anti Fraud Policy on the Gallery
All staff (O) Policies and Strategies/ Policies
Endnotes

1 Ethical Dilemmas – Sponsorship, Museums Association website. See: www.museumsassociation.org/ethics/26012016-ethical-dilemmas-sponsorship
21 Ibid.


122 'US regulator probes Angolan deal involving BP and Cobalt', Financial Times, 15th March 2017. See: www.ft.com/content/9356386a-09a4-11e7-ac5a-903b21361b43


124 'UPDATE 1-Statoil says briefed Norwegian police on Angola payments', Reuters, 19th February 2016. See: www.reuters.com/article/statoil-angola-idUSL8N15Y2EB

125 'Gulf Oil Spill', Ocean Portal, Smithsonian – National Museum of Natural History. See: http://ocean.si.edu/gulf-oil-spill


127 'Ethical Dilemmas – Sponsorship', Museums Association website. See: www.museumsassociation.org/ethics/26012016-ethical-dilemmas-sponsorship


129 'Science out of context', Boston Globe, 3rd June 2010. See: https://www.bostonglobe.com/opinion/2012/06/02/reddy/Gt82ZS7yoi5sHTgDG5SLkN/story.html


141 ‘BP finalises $20.8bn Deepwater Horizon settlement’, FT, 5th October 2015. See: www.ft.com/content/33780c30-6b7a-11e5-aca9-d87542bf8673


150 ‘Leaked BP report reveals risk of lethal accidents’, Financial Times, 12th December 2016. See: www.ft.com/content/a62438fc-be36-11e6-8b45-b8b81dd5d080

151 Robert Bea, Professor emeritus at the University of California, Berkeley. Speaking to the Financial Times, 13th December 2016, ibid.

152 Ibid.

153 ‘A Culture of Safety’, Saltend Chemicals Park – Manage by BP website. See: http://saltendchemicalspark.co.uk/investors/a-culture-of-safety


155 ‘BP’s Whiting refinery closure shakes oil markets’, Financial Times, 14th August 2015. See: www.ft.com/content/62736f9e-4252-11e5-9abe-5b335da3a90e


160 ‘BP is still struggling to get control of an Alaska North Slope well that has been leaking natural gas since Friday’, The Washington Post, 16th April 2017. See: www.washingtonpost.com/news/energy-environment/wp/2017/04/16/bp-is-still-struggling-to-get-control-of-an-alaska-north-slope-well-that-has-been-leaking-natural-gas-since-friday/?utm_term=.8404d45dc5e0


Bad Company: BP, human rights and corporate crimes

In July 2016, four of the UK’s most iconic cultural institutions – the National Portrait Gallery, the British Museum, the Royal Opera House and the Royal Shakespeare Company – took the controversial decision to sign a new 5-year sponsorship deal with the oil and gas company, BP.

By accepting sponsorship from BP, these cultural institutions are making a bold and public statement: that even after thoroughly researching BP’s negative human rights and environmental impacts around the world, they believe it is a company worth endorsing.

This report lays out in detail BP’s close associations with regimes known to be in violation of human rights. It then examines the extent of BP’s corporate criminality and the ongoing risks it poses to workers and communities.

In light of the extensive evidence, these BP-sponsored cultural institutions will need to decide if this is really the company they want to keep.

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