



ReconAfrica's Okavango venture and the push for mandatory human rights due diligence in Canada

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In an ecologically fragile region of southern Africa, a Canadian company is exploring for oil in what it [says](#) is “one of the world’s last remaining undeveloped deep sedimentary basins.” If successful, the venture could open up a vast new oil and gas frontier within the company’s licence area of more than 8 million acres — an expanse larger than Belgium — in the Okavango region of Namibia and Botswana.

The project by Calgary-based Reconnaissance Africa Energy, or ReconAfrica, has sparked alarm among a wide array of local and international actors.¹ Environmental groups and community leaders warn of possible contamination of critical food and water supplies, as well as threats to local livelihoods and endangered wildlife.² The licensed area hosts one of the planet’s most diverse ecosystems³ and is located upstream from the famed [Okavango Delta](#), a fragile desert oasis and UNESCO World Heritage site that’s protected by numerous international treaties.⁴ The delta’s watershed supports over one million people,⁵ nearly two thousand species,⁶ and the world’s largest remaining elephant population.⁷

Amidst an escalating climate emergency, environmental groups from Africa and around the world are also raising alarms about the climate toll of a project of this magnitude.⁸ The International Energy Agency warned in May that there can be [no new oil and gas development](#) if the world is to avert the worst impacts of climate change and achieve net zero emissions by 2050.⁹ Namibia and Botswana are both drought-prone and impoverished countries that are acutely vulnerable to the impacts of warming.¹⁰

¹ The *Globe and Mail* ([29 May 2021](#)) points to “an informal coalition of environmentalists, Hollywood celebrities, Indigenous activists, wildlife conservationists and Anglican bishops.” To this list we can add U.S. members of Congress (*National Geographic*, [23 June 2021](#)) and more recently, Prince Harry (*Washington Post*, [14 October 2021](#)).

² See *National Geographic*, [28 October 2020](#) and [12 March 2021](#); Al Jazeera, [22 April 2021](#); and *The Guardian*, [20 June 2021](#).

³ *National Geographic*, [28 October 2022](#) and [11 May 2021](#).

⁴ *National Geographic*, [28 October 2020](#).

⁵ *National Geographic*, [23 June 2021](#).

⁶ *National Geographic*, [6 August 2019](#).

⁷ *National Geographic*, [28 October 2020](#).

⁸ See this [open letter on ReconAfrica](#) sent by 185 civil society organizations to Canadian government and opposition leaders in June 2021.

⁹ *The Guardian*, [18 May 2021](#).

¹⁰ For Namibia, see Rosemary N. Shikangalah, [The 2019 drought in Namibia: An overview](#), June 2020; for Botswana, see the World Bank Group, [Climate risk country profile: Botswana](#), 2020, especially pp. 3, 10-11.

A track record mired in controversy

The project is currently in its preliminary stages, with the company drilling test wells and performing seismic surveys to determine the presence of exploitable oil in northern Namibia.¹¹ Yet already, ReconAfrica’s activities in the desert region have attracted a barrage of [criticism from local communities](#), who accuse the company of ignoring concerns about the impacts of drilling and exploration on water resources, homes and wildlife.¹²

Numerous experts consulted by the media say the company failed to address the potential impacts on water and wildlife in the environmental assessment for its test wells, with at least one calling it “[shocking](#)” that the assessment was approved.¹³ According to a journalist’s eyewitness account and ReconAfrica’s own video footage, the company appears to have disposed of waste fluids from its first well in an unlined pit — contrary to its stated commitment — raising major [concerns around toxic contaminants](#) seeping into the groundwater relied on by locals for drinking and crop irrigation.¹⁴ Statements from a Namibian government minister suggest the company was operating the well for months [without the required permits](#) for water use or waste disposal.¹⁵

The project area is the homeland of the Indigenous San people who have inhabited the region for thousands of years. San leaders have expressed strong [opposition](#) to ReconAfrica’s plans, which they say would have dire consequences for their livelihoods, food security and cultural practices.¹⁶ The San people, for whom the region is considered sacred, say they were never consulted over the project.¹⁷

¹¹ ReconAfrica press release, [2 September 2021](#).

¹² *National Geographic*, [11 May 2021](#).

¹³ *National Geographic*, [28 October 2020](#).

¹⁴ *National Geographic* reports that the company did not respond to “multiple” requests for comment about its waste pit, which it had committed to lining on numerous occasions, including in its report submitted as part of its environmental impact assessment for the test wells. During a Zoom conference in February hosted by the European Association of Geoscientists and Engineers, one expert asked the CEO of ReconAfrica, Scot Evans, why the company didn’t line the waste pit. *National Geographic* reports that Evans didn’t respond directly. See *National Geographic*, [12 March 2021](#).

¹⁵ Calle Schlettwein, Namibia’s minister of agriculture, water, and land reform, told *National Geographic* in May 2021 that the company did not yet have permits for water use or wastewater disposal. Months before, a Namibian journalist had photographed what appears to be wastewater pooling in a pit at the company’s drill site. See *National Geographic*, [11 May 2021](#). Note that the *National Geographic* journalists asked the company about “wastewater disposal, water extraction, and the ministry’s assertion that ReconAfrica has not yet secured the proper permits.” They report that the spokesman hired by ReconAfrica “didn’t answer directly, but said in an emailed statement that the company ‘has completed several required permits for its ongoing work and will continue to complete all drilling-related and other permit requirements.’”

¹⁶ See the [letter of objection](#) sent by San leaders to the governments of Namibia and Botswana in February 2021, as reported on by *The Namibian* ([16 February 2021](#)).

¹⁷ *Ibid.*

Consultations carried out by the company to date have been heavily criticized for their lack of neutrality and for measures that limited participation,¹⁸ with the company accused of intimidating journalists,¹⁹ critics and interested parties.²⁰ The company is also targeted by a [lawsuit](#) filed in Namibia’s High Court on behalf of a local farmer, who alleges the company unlawfully “[seized](#)” his land holding and cleared it for drilling without obtaining the required permission.²¹ ReconAfrica replies that the local authority approved its use of the land.²²

Is the public being given the full story?

It is essential that local residents, regulators and stakeholders have complete and accurate information about ReconAfrica’s plans and operations. Otherwise, they cannot meaningfully assess the myriad potential risks to communities, the environment and the climate arising from a project of this nature in such a sensitive region. Questions have been raised, however, about whether ReconAfrica is disclosing a full and accurate account of its intentions and activities.

To date, three complaints have been filed with securities regulators in the United States, British Columbia and Ontario highlighting potential misrepresentations regarding the company's activities in Namibia.²³ At issue in the Canadian complaints are questions over whether the company is targeting what are known as “unconventional” or “shale” oil and gas deposits, which are typically extracted through fracking. This controversial and water-intensive extraction method could present a heightened risk of depleting and contaminating scarce water resources — and, by extension, threatening local food crops — and provoking earthquakes in this geologically active area.²⁴

Above Ground was a party to the most recent complaint, filed with the Toronto Stock Exchange, which asks regulators to investigate inconsistencies in the company’s disclosures and public communications on this point.

As detailed in our [submission](#), ReconAfrica initially vaunted the Okavango region’s potential as an “unconventional” or “shale” oil play. It reported that its exploratory wells would be designed “to test organic rich shales” alongside “conventional structures,” with shales as the “main target.”²⁵ Yet after a public outcry led the Namibian government to issue a statement in September 2020 asserting that no

¹⁸ *National Geographic*, [11 May 2021](#); *Globe and Mail*, [2 February 2021](#); Al Jazeera, [22 April 2021](#).

¹⁹ ReconAfrica has threatened at least two media outlets with lawsuits in response to unfavourable coverage. See *The Namibian*, [16 February 2021](#). The *Globe and Mail* ([20 June 2021](#)) also reports receiving “aggressive pushback [online] from ReconAfrica stakeholders” for its coverage, though a company spokesperson denied any role in the harassment, adding that ReconAfrica does not “condone this behaviour.”

²⁰ *Globe and Mail*, [2 February 2021](#).

²¹ See *National Geographic*, [21 May 2021](#), as well as a portion of the court filing that is available [here](#).

²² *National Geographic*, [21 May 2021](#).

²³ For the U.S. complaint, see *National Geographic*, [21 May 2021](#); for the B.C. complaint, see *Globe and Mail*, [20 June 2021](#); for the Ontario complaint, see Above Ground et al., “[Investigate ReconAfrica](#),” 16 September 2021.

²⁴ *National Geographic*, [28 October 2020](#).

²⁵ Above Ground et al., [Potential unreported material changes and/or misrepresentations made by Reconnaissance Energy Africa Ltd.](#), 15 September 2021, p. 6.

fracking was planned for the region — Botswana later followed suit²⁶ — the company’s website and other public materials were altered to remove mentions of unconventional or shale resources.²⁷ In various statements and filings made since then, ReconAfrica affirms that it is targeting “conventional reservoirs” in its exploration work.

The company has not, however, altered its estimates of potential oil reserves in accordance with such a shift in focus. In reporting estimates of the prospective quantities of oil and gas within its license area, it continues to provide the same numbers it reported earlier as totals for both conventional and unconventional (shale) resources.²⁸ Nor has it removed planned drill sites in areas previously identified as containing unconventional resources from its map of exploratory drilling operations. Areas labelled “Unconventional Plays - Thick Permian Shales” in an earlier version of the map have simply been relabelled “source rock basins.”²⁹

Holding ReconAfrica to account in Canada

ReconAfrica’s track record to date, and the significant risks that oil exploitation could pose to the hundreds of thousands of people living within its project area, highlight the urgent need for mechanisms to ensure Canadian companies uphold their international human rights obligations.³⁰

The Canadian government continues to rely exclusively on voluntary measures to “[encourage](#)” responsible business conduct abroad. This approach, long criticized by human rights advocates for failing to prevent egregious abuses by Canadian multinationals,³¹ offers nothing in the way of recourse to the people and communities who fear water contamination and the loss of their land, livelihoods or crops as a result of ReconAfrica’s oil drilling.³²

²⁶ *National Geographic*, [21 May 2021](#).

²⁷ Above Ground et al., [Potential unreported material changes and/or misrepresentations made by Reconnaissance Energy Africa Ltd.](#), 15 September 2021, pp. 14-27.

²⁸ For more information, *ibid* at p. 31.

²⁹ *Ibid* at p. 30.

³⁰ These obligations are outlined in the [United Nations Guiding Principles on Business and Human Rights](#), which have set clear global standards regarding the responsibilities of businesses to identify, prevent and address harms they may cause or contribute to throughout their global business activities.

³¹ See, for example, the following statements and news releases: “[51 Canadian organizations call on Canada to close the international accountability gap in the extractive sector](#),” 14 July 2016; “[35 civil society groups call for legislation to combat human rights abuse by Canadian business overseas](#),” 2 December 2019; and CNCA, “[Human Rights Advocates and Legal Experts Deliver Blueprint for New International Corporate Accountability Law in Canada](#),” 31 May 2021.

³² For a summary of community concerns, see *National Geographic*, [28 October 2021](#), [11 May 2021](#) and [21 May 2021](#); Al Jazeera, [22 April 2021](#); and the [letter of objection](#) sent by San leaders to the governments of Namibia and Botswana in February 2021.

Meaningful change will require that Ottawa heed [the advice of human rights experts](#)³³ and Canadian [lawmakers from all parties](#) and introduce legislation that requires companies to prevent human rights abuses throughout their global operations — and allows victims to hold them to account in Canadian courts if they don't. This type of legislation, known as mandatory human rights due diligence legislation, has either been enacted or is in the process of being developed by [several of Canada's largest trading partners](#), including Germany, France and the European Union.

If Canada had an effective due diligence law in place along the lines of [the blueprint](#) proposed by the Canadian Network on Corporate Accountability, ReconAfrica would be required to reassess all potential risks posed to people and communities by its activities (including those arising from environmental impacts), to take meaningful steps to mitigate and address these risks, and to report annually on its efforts. If the company caused harm or failed to do its due diligence, it could be subject to legal action in Canada. A court could order ReconAfrica to cease any harmful or reckless activities, provide remedy for those harmed, or both.

It's time Canada caught up to global leaders who have understood that the protection of fundamental human rights, such as a liveable climate and access to clean water, food and livelihoods, is an essential state duty that cannot be left to the discretion of corporate actors. Canada can either persist in failed policies that fuel corporate impunity, or it can join these leaders in the shift towards enforceable human rights obligations for multinationals, to empower people the world over who are fighting to defend life and rights from corporate abuse.

³³ Surya Deva, the current chair of the UN Working Group on Business and Human Rights, has [stated](#) that Canada cannot “rightfully” claim global leadership in promoting business respect for human rights until it enacts mandatory human rights due diligence legislation. Several UN human rights experts have called on states to adopt such legislation, stating that the prevention of human rights abuses by multinational companies “requires domestic legislation mandating the use of tools such as human rights due diligence.” See [joint statement by UN human rights experts](#), 19 October 2021.