



THE SHOOTING FIELDS OF PORGERA JOINT VENTURE;

NOW A CASE TO COMPENSATE AND JUSTICE TO PREVAIL



**A Compensation Specific Submission to the Porgera Joint Venture on behalf of;
PLACER DOME CANADA INC, DURBAN ROODEPOORT DEEP of SOUTH AFRICA and MINERAL RESOURCES ENGA LTD and the Independent State of PAPUA NEW GUINEA;
on the Unlawful Killings of Village Alluvial Gold Miners at the PJV Mine Site-Special Mining Lease (SML)and Lease for Mining Purpose (LMP) Areas.**

© Copyright APRIL 2005 ATA Inc – ALL RIGHTS RESERVED.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Table of contents

| | Page |
|--|-------------|
| I. About the Author | 6 |
| II. Acknowledgement | 7 - 8 |
| III. Foreword | 9 |
| IV. Compensation Specific Claim | 10 - 11 |
| 1. Summary – The Shooting fields of Porgera Joint Venture | 12 |
| 2. Purpose of Compensation Specific Submission | 13 |
| 3. Introduction | 14 - 15 |
| 4. Papua New Guinea: A General Perspective | 16 |
| 4.1 PNG Country Profile | 16 |
| 4.1.1 Government | 16 |
| 4.1.2 Geography | 16 |
| 4.1.3 Demography | 17 |
| 4.1.4 Human Development | 17 |
| 4.1.5 People | 17 - 18 |
| 4.1.6 Government and Political Conditions | 18 - 19 |
| 4.1.7 Economy | 19 |
| 4.1.8 Mineral Resources | 19 - 20 |
| 4.1.9 Foreign Relations | 20 |
| 5. AN OVER VIEW OF ALLUVIAL AND SMALL SCALE MINING | 21 - 25 |

| | | |
|-----------|--|-----------|
| 6. | HUMAN RIGHTS FROM INTERNATIONAL PERSPECTIVE | 25 |
| 6.1 | Human Rights and Transnational Mining Corporations | 25 |
| 6.2 | Human Rights and Developments | 25 - 26 |
| 6.3 | Involvement of Civil Society | 26 |
| 7. | ENVIRONMENT | 27 |
| 7.1 | Introduction | 27 - 28 |
| 7.2 | Social and Cultural Impacts | 28 - 29 |
| 7.3 | Environmental Impact: PNG Legislation | 29 - 30 |
| | 7.3.1 Waste Dumps | 30 - 32 |
| | 7.3.2 Riverine Compliance Monitoring | 32 - 33 |
| | 7.3.3 Air Emission | 33 |
| | 7.3.4 Mine Tailings | 33 - 35 |
| 7.4 | Conclusion | 35 |
| 8. | SPECIAL MINING LEASE (SML) | 36 |
| 8.1 | Special Mining Lease & Relocation Issues | 37 - 39 |
| 8.2 | Concerns of SML Women | 39 |
| 8.3 | Overcrowding | 40 |
| 8.4 | Kongai Dump | 40 |
| 9. | PJV's OPERATION PATTERN AND IMPACTS | 41 |
| 9.1 | Poor Mine Plan | 41 |
| 9.2 | Projection and Re-Development | 41 - 42 |
| 9.3 | General Observation | 42 |

9.4 Long Term Sustainability 42 - 44

10. OCCUPATIONAL HEALTH & SAFETY AND ASSET PROTECTION 45

10.1 Village Small Scale-Alluvial Mining from Safety perspective 45

10.2 Education and Training 45 - 46

10.3 Employment by Porgera Joint Venture 46

10.4 General Safety Legislation 46

10.5 PJV's Safety Performance at Workplace 47

10.6 PJV's' Safety Performance and the Public Community 47 - 48

10.7 OH & S and Asset Protection Departments 48

10.8 PJV's Dangerous Weapons 49

10.9 Security Command System 50

10.10 Porgera Joint Venture's Mission Statement 50 - 51

10.11 Company Policy on Accident Prevention 51 - 52

10.12 Reporting of Sub-standard Acts and Conditions 52 - 53

10.13 Recommendation of Remedial/Corrective Actions of
Substandard Acts and Conditions. 53

10.14 PJV's Reaction to Hazardous Conditions Identified
and Action Recommended. 54

10.15 Effects of failing to comply with the duty of Care Policy 54

10.16 Current Situation on this Issue 54

10.17 ATA Inc Comments 54

**11. CRIMES AGAINST HUMANITY;
The Liability for Grave Violation of Law by PJV 55**

11.1 Summary 55

11.2 Introduction 55 - 56

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

| | | | |
|-----------|------------|---|-----------------|
| FOR | 11.3 | Extent of Negligence | 57 - 64 |
| A | 11.4 | Particulars of Victims | 65 - 76 |
| FAIR | 11.5 | Torture, Arbitrary Arrest and Detentions | 77 - 78 |
| AND | 11.6 | Liability of Porgera Joint Ventures parent Companies and the State for Crimes Against Humanity. | 78 - 84 |
| EQUITABLE | 11.6.1 | Summary | 84 - 85 |
| COMMUNITY | 12. | AN ENGAN PERSPECTIVE: ON ISSUES AND TRADITIONAL PRACTICES IN THE CONTEXT OF ENGAN SOCIETY. | 86 |
| | 12.1 | Introduction | 86 |
| | 12.2 | Society and Culture | 86 - 87 |
| | 12.3 | Land and Landownership | 87 - 88 |
| | 12.4 | Management of Benefits | 88 - 89 |
| | 12.5 | Indigenous Forms of Compensation | 89 - 92 |
| | 12.6 | Compensation Specific at Tort Law | 92 - 95 |
| | 13. | ACRONYMS | 96 |
| | 14. | REFERENCES | 97 - 98 |
| | 15. | APPENDICES: Table of Contents | 99 - 100 |

NOTICE OF DISCLOSURE:

Copyright 2005 ATA Inc – **ALL RIGHTS RESERVED.**

No part of this document may be reproduced or transmitted in any form whatsoever, electronic, or mechanical, including photocopying, recording, or by any informational storage or retrieval system without express written, dated and signed permission of the **AKALI TANGE ASSOCIATION INC.**

DISCLAIMER AND/OR LEGAL NOTICES: While every attempt has been made to verify the information provided in this report, neither the author nor their affiliates/partners assume any responsibility for errors, inaccuracies or omissions. Any slights of people or organizations are unintentional. The submission is intended for information only. The ATA Inc and the author do not imply any results to those using this book, nor are they responsible for any results brought about by the usage of the information contained herein.

The publisher (ATA INC) and author disclaim any personal liability, loss, or risk incurred as a result of the use of any information or advice contained herein, either directly or indirectly.

Furthermore, the publisher (ATA INC) and the author do not guarantee that the holder of this information will make profit from the information contained herein. If advice concerning legal or related matters is needed, the services of a fully qualified professional should be sought. This report is not intended for use as a source of legal advice. You should be aware of any laws, which govern human rights issues and transactions or other business practices in your country, state or jurisdictions. Any reference to any person or business whether living or dead is purely coincidental.

© AKALI TANGE ASSOCIATION INC – All Rights Reserved 2005.

Cover Design:

- i. **Cover Photo;** Unidentified body of an alluvial miner. The person in the body bag had been shot and is being removed by PJV's Security Personnel to be airlifted by helicopter. Notice that the expatriate security guard is armed with a magnum.
- ii. **Alleged group identified;** The group identified on the cover are accountable for the crimes and are therefore subject by Law to pay compensation.

I. ABOUT THE AUTHOR

The author of this document is the Chief Executive Office of the AKALI TANGE ASSOCIATION INC. The author was a founding member and was instrumental in establishing the Akali Tange Association and the publisher of this document;

Jethro Columbo Tulin was born in Mamale village, Laiagam Enga Province, in 1967. He went to the local high school and then to Ruskin College Oxford UK sometime later, and is now the Public and Chief Executive Officer of ATA Inc. He was also the founding trade union General Serectary for the Porgera Mining & Allied Workers Union representing PJV award employees and various other national trade unions in Papua New Guinea.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

II. Acknowledgements

The compilation of this submission has been an enormous project. It would not have been possible without assistance and cooperation. The ATA Inc and its Executives would therefore like to express their gratitude to the following individuals, groups, associations and businesses for their support in documenting this submission;

1. Mr Lote Sanda
Deputy Chairman (ATA Inc)
Chief Landowner of Yanjakale, Porgera Station and South Anawe Dump Area.
2. Mr James Kurange
Founder/Committee (ATA Inc)
Landowner, Yanjakale Porgera Station.
3. Porgera Young Generations Association (PYGA Inc).
4. Immediate Families and Relatives of the Victims.
5. Mr Tuu Kamandi
A Engan Businessman from Laiagam.
6. Pusamo Trading Ltd,,Mr Henry Mose
An Engan Businessman from Laiagam.
7. Mondo Merchants Ltd
A subsidiary of a Western Highlands Business Group
9. Mr Benny Tanda (BA PA, UPNG), the former SRC President of the University of PNG was engaged as a Consultant the documentation this submission.
10. Mr Lybian Bush (BA, BEC, UPNG), for the work on Sustainability.
11. Thanks to the 200 respondents of the Environmental Simple Survey; 100 PJV employees and 100 unemployed people.
12. The Porgera District Hospital and its Staff, for their enormous support in submitting the data/information on health issues.
13. Thanks also to JoJo Lewa and The Bad Mix Band Group for providing music during the numerous public awareness campaigns and fund raising activities.

14. Engans, local Porgerans and people from other Provinces who have helped in any form of contributions and/or assistance in facilitating our pursuit.
15. Kakale Sai, Aiyaka Village, Laiagam District for his committed news delivery.
16. Sam and Phillip from Yalibu in supporting the Association in lending their musical instrument which, helped the Association greatly with the Public campaign.
17. Special thanks to many other individuals and groups who helped in cash and kind to facilitate this documentation.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

III. Foreword

The ATA Inc has been conceived after constant failure to come to an agreement with the PJV in terms of undertaking compensation payment to the families of the victims who have been wrongfully killed by PJV's security personnel.

After relentless consultations with the immediate families of the victims and soliciting ideas from other resourceful parties it became apparent that we had to document our case to give the company an indication of its seriousness.

More importantly I should like to inform the PNG National Government, public, businesses and PJV that the ATA is the established and representative body of the families of the victims, namely, the Indigenous Alluvial Miners. Anything, including statements, articles or representations for that matter will be conducted by ATA.

I therefore would like to reiterate the fact that this submission clearly demonstrates our frustration and struggle to enable justice to prevail. More importantly, it serves to protect discrimination and injustice by Multinational Business Organizations like PJV.

Our concern and struggle definitely necessitates the National Government's attention and help. We hope that the Government will come to our aide and request an expedited determination from PJV's Management to give us an undertaking to discuss compensation specific issues to seek redress for the unlawful killings of the Indigenous Alluvial Gold Miners.

I therefore welcome the opportunity the AKALI TANGE ASSOCIATION INC has provided as a forum to seek justice, fair and equitable redress.



Mr James J. Wangia
CHAIRMAN
AKALI TANGE ASSOCIATION INC

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

IV. COMPENSATION SPECIFIC CLAIM

The magnitude of the death and injury toll hints the killings and exploitation of local harmless community individuals by Porgera Joint Venture Company during every stage of the Porgera Mine Operation which are off course appalling and relentless. The Shooting Fields of the Porgera Joint Venture is a tribute to the endurance, courage and humour of the victim's relatives, a deprived and marginalised silent majority of ordinary people on their own land.

General Considerations

The overall objective of the Porgera Joint Venture shareholders and the Independent State of Papua New Guinea should be to ensure that pro-active measures are taken to address the Compensation Specific Claim to settle it and hence increase relief for grieving relatives of the deceased and potential to stop trickle down effect from a court room.

The achievement of this objective may entail ensuring increased participation through dialogue. Close consultation between the parties is necessary if lasting benefits for the people of Enga and South Highlands Province. Only by taking into account the concerns of Akali Tange Association Inc as well as criminal aspect, relocation with poor mine plan, environmental, safety, health and sustainability considerations, will the PJV owners and the state meet the potential.

Issues relating to relocation, safety, environmental and sustainability should be dealt with at all levels and to be considered priority to correct the mistakes. Measures to increase security for the local communities and the mine owners apparently on the token which do address to weed out the root source of the problem should be encouraged.

The Government should play an active role within the given timeframe in providing the necessary framework structure for promoting and facilitating consultation and dialogue to effect settlement leading to prevent the case ending up at a jurisdiction which, off course, will have a far serious impact.

WHEREAS

Given the fact that unresolved mystery of twenty one deceased who were murdered, more than eight (8) caused grievous bodily harm and more than 1227 tortured, arbitrary arrested and detention during absent of the rule of law, by economic actors in search for extractive resources. The actions amount to criminal act and International Crimes Against Humanity that directly a complicit in crimes against humanity. The Porgera Joint Venture owners have used a systematic approach to abuse the local civilian population.

THEREFORE, IN-CONSIDERATION THE AKALI TANGE ASSOCIATION Inc

ATA has been able to claim that the three (3) joint venture partners of the Porgera Joint Venture, Placer Dome Inc Canada, Durban Roodepoort Deep of South Africa and Mineral Resources Enga Ltd are so capable of meeting the Compensation Specific Claim of US\$ 340 Million on account of Crimes Against Humanity and that shall be within 14 days from the date of serve of this claim.

And for the Independent State of Papua New Guinea an amount as been determined for negligence and that shall be US\$ 5 Million. The state is also required to response within 14 days of serve of this claim.

Further

Careful assessment has been made to derive the respective figures base on individual company balance sheets and the Porgera production accomplishments in 2004...

Porgera accomplishment in 2004 are listed below:

- Produced 1,009,000 ounces of gold on a 100% basis:
- Open pit mining exceeded 175,000 tonnes per day:
- Underground operation nearly reached 2,000 tonnes per day:
- Exploration efforts yielded over 1.1 million ounce of gold reserves:
- Stage 4 of pit scheduled to be finished next year, and Stage 5 is now scheduled until 2008:
- Produced over US\$ 200 million in free cash on a 100% basis.

Mine General Manager Phil Stephenson believes Porgera has proven itself as a world-class mining operation¹.

ATA Inc also reaffirms Porgera is a world class mine and the US\$ 200 Million free cash on 100% basis plus the one million ounces of gold produced in 2004 has justified the burden of proof, **THE CAPACITY TO PAY US\$ 340 MILLION WITHIN FOURTEEN DAYS.**

Considering the magnitude of appalling death toll list and US\$340 Million claim, hence ATA Inc also affirms that the Managers of the Porgera Joint Venture partners, Placer Dome Inc Canada's principle currency of International business transactions are done in U.S Dollar, ("currency of measure is the U.S dollar")².

¹ Placer Dome News Break March, 18 2005 Issue No. 882

² Placer Dome Annual Report 1996 Pg 46

1. SUMMARY – THE SHOOTING FIELDS OF PORGERA JOINT VENTURE.

In order to address the problem affecting the Porgera mine operations and the liability to pay the compensation specific claim, simultaneous pro-active approach is required rather than just over re-acting to the situation. However, it has become extremely crucial that for crimes already committed, compensation must be paid and the latter, corrective measures have to be introduced to comprehensively relocate the congested local villages namely, Anawe, Kulapi, Oambi, Alipis, Wagemma, Panadak, Mugulep, Yarik, Apalaka, Igoa and Yanjakale.

Accordingly, the ATA Inc will only put its case to rest upon compensation claim payment and that means the PJV will have enough time and resources to direct attention to control the root source of the problem, relocation. These two issues are absolute prerequisite for a safe and sound operation of the mine. The two issues are co-related and they exist at the present, side by side. The problems of “eating rice and meat together from the same plate”³ will only be eradicated suppose acted so as suggested.

As the saying goes, prevention is better than cure and hazards should as much as possible be controlled at the source. Prevention starts at the planning stage of mining development in such a way that future work can be carried out in healthy and safe surroundings. In order to apply these principles, Porgera Joint Venture company policies should all be subject to a hierarchy of hazard controls. This hierarchy should have started with the prevention of local alluvial miners trespassing the SML and LMP areas, provision of relocation, provisions of fencing and security warning devices. Local alluvial working conditions should be practically adapted to community individuals differing on physical and mental aptitudes.

³ PJV Asset Protection Manager, Post Courier March 2005

2. PURPOSE OF COMPENSATION SPECIFIC CLAIM

The purpose of this document is to provide an insight into the wrongful deaths of the indigenous and local alluvial miners at the open pit and around the Porgera Mine Site. This document has been compiled with the intention to demonstrate that Porgera Joint Venture (hereinafter referred to as PJV) is at fault and furthermore discuss compensation specific issues. It is also to be understood that the AKALI TANGE ASSOCIATION INC (hereinafter referred to as ATA) initiated the creation or development of this material.

The document has been prepared by the ATA in collaboration with families of the victims and other parties in this pursuit. The content of this material constitutes the ATA Inc's entire understanding of the deaths and the fact that the ATA will look for avenues that will facilitate any dispute to be settled in a reasonable time and forum.

The purpose also is to present a holistic analysis of the company practices, policies and the Rule of Law. Emphasis is substantially placed on providing adequate evidence to show that the security personnel of the company were barbaric and gross injustice have been done to the local people, namely the families of the victims.

The document aims to establish that the PJV and ATA may enforce any settlement or arbitration in any other forum only in accordance with applicable law. Any dispute between the parties named, which cannot be settled by the parties in a reasonable time shall be submitted to, Human Rights Lawyer(s) or Organization(s), in accordance with the rules and regulations of the Common and International Laws.

This material applies to serve the purposes of seeking compensation for the persons who have been wrongfully murdered at the mine site unless it is agreed by the mentioned association in writing to the contrary.

ATA has the highest regard for the PJV and for the ownership of the original SML properties, and this material should in no way be misconstrued as a ploy to obtain money for obscure reasons. This document will set the precedence to protect local people from any injustice involving coincidental or willful similarities of incidents in the future of this mine and other mines in Papua New Guinea.

Please note that the ATA INC did not review unsolicited story, ideas or articles or proposals pertaining to materials currently published in this document. All materials or properties have been adequately reviewed before being published for the purposes of this document.

3. INTRODUCTION

The persecution of communities and its local people is as much a characteristic of the history of some underdeveloped countries as it is of the present in Porgera in Papua New Guinea. The end of several protracted conflicts, deaths and unsubstantiated commitment models have not always produced expected dividends in the exercise of fundamental developments for the community and its local people.

Nothing has been achieved from the wrongful deaths and the exercise of fundamental democratic rights is still fragile in many countries and Papua New Guinea is not insulated from that fact. We have witnessed past practices designed to silence critics, and this has frequently guided and shape the behavior and actions of officials at different levels of the Provincial Government and the local administration and even to the extent of state apparatus. In a few cases, notably in other developed countries and South Africa and in the Americas, serious regressions are becoming an issue of worldwide concern.

Against this backdrop, representatives from civil society working for the promotion, protection and defense of human rights have emerged as crucial actors in the struggle to ensure that governments and multinational business organisations account for their actions and strive to uphold the principles of the Rule of Law.

In the world today, human rights defenders have fought, often against the odds, to establish fairer, more equitable societies. In so doing they have enhanced human dignity and helped alleviate the hardships of many of the most impoverished, marginalised and deprived sectors of the population. The establishment of ATA has set the precedence and will serve the sole purpose of being the human rights defender of the local people, namely the Indigenous Alluvial Gold Miners of the Porgera Valley who have been wrongfully killed by the PJV's security personnel and it's operational behaviors.

As a recognised association and a human rights defender in Porgera, ATA is submitting this document as the initial undertaking and will, in the future campaign to compel the PNG Government to deal with gross inequalities in dealing with and treating the families of the victims. They have sought justice for the crimes against humanity, and for violations committed by PJV, including extra-judicial killings and unnecessary torture. The ATA therefore insists on democratic and judicial reform to expose this corruption and injustice.

No amount of words or statistics can adequately reflect the injustice the families of the victims have faced on account of their endeavors. The United Nations, the European Union, international, regional and national governmental and non-governmental human rights organisations have long deplored the grave insecurity facing members of civil society conducting activities to strengthen respect for human rights.

Despite this and despite some positive development report, governments have in the main been unwilling or unable to take the allegations of attacks and intimidation against human rights defenders seriously and deliver measures and reforms, which could prevent and reverse the pattern of violations against them.

Accusations against ATA have sometimes been actively promoted in selective sectors of the media by PJV in an attempt to detract public attention from or discredit the serious concerns raised by defenders. Sadly, the overall impact of such publicity, whether intentional or not, has been to spawn a false perception that respect for human rights is contrary to security interests of the company.

Growing global inequalities, extreme poverty and pervasive discrimination are issues that cause widespread unrest and concern international financial agencies, governments, civil society at large as well as human rights defenders and social activists.

Lack of official commitment to tackle difficulties faced by human rights defenders is most obvious during judicial proceedings and investigations. Investigations into offences committed against human rights defenders are frequently veiled in secrecy, inconsistencies and irregularities as the perpetrators seek to cover up their crimes and pervert the course of justice. Most frequently, allegations are not taken seriously and no judicial investigation is initiated. Progress on a small number of cases is due in the main to pressure from the international companies and nothing materialises from the investigations.

Within the confines of this submission priority has been given to document and state substantial facts and the violations against protection of human rights of the Indigenous Alluvial Gold Miners of the Porgera/Paiela Valley.

Finally, this material sets the precedence to ensure that the National Government and the PJV stop the masquerade about investigations and policies. And turn the rhetoric into real commitments by compensating the victims and recognize that the protection of human rights in Porgera is essential as a priority on national, regional and international human rights agendas.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

4. PAPUA NEW GUINEA; A GENERAL PERSPECTIVE⁴

It is best at the start of this submission to put everybody in the picture with some country and facts on the Rule of Law so that we can appreciate the scale we are dealing with in Porgera. It is also necessary to discuss certain country facts within the confines of the context of this document.

Therefore, some information, facts and figures have been omitted to give due consideration to essential information to facilitate our pursuit in securing compensation with PJV.

4.1 PNG Country Profile

4.1.1 Government

PNG is a constitutional monarchy. The Head of State is the Queen of England, who is represented by the Governor General. The Prime Minister is head of government. There are nineteen provinces. The National Capital District (NCD), although located within the physical boundaries of the Central Province, is a separate administrative entity and is considered a province. The country achieved its independence from Australia in September 1975.

4.1.2 Geography

Papua New Guinea is situated on the South-Western rim of the Pacific Ocean basin, and occupies the eastern part of the largest non-continental island in the Pacific region. The western half of the island, which is called West Papua, is part of Indonesia. PNG, is a vast country of some 464000 square kilometers, and is dominated by massive mountainous terrain, provide an extremely rugged topography with numerous small, dispersed and isolated population centers. Coupled with its tropical monsoonal climate, producing areas of high annual rainfall (with some areas exceeding 7 metres per annum), its geographical characteristics have greatly influenced the country's social and economic development, and dictated the direction of library development.

4.1.3 Demography

The preliminary figures from the 2000 National shows a population of just over five million, and an annual growth rate of 3.1%. Whilst it has the biggest population of the newly independent developing nations in the South Pacific, Papua New Guinea still exhibits the common demographic trend of the developing nation, with 41.8% of its population under the age of 15.

⁴<http://www.terroismcentral.com/Library/Government/US/StateDepartment>.
US Department of State. Country Reports on Human Rights Practices 2001.

Approximately 85% of the population is considered to be rural based. With a subsistence style of agriculture or involved in informal economic activity. Even those in the urban areas reside mostly in small towns. Seventy-nine urban areas were identified in this last census, the classification determined by an area with a minimum population of 500 souls, a minimum density of about 195 persons per square kilometer, and provided with water, electricity, metalloid roads, and shop and commercial facilities. On the top 22% (17) of urban areas have a population greater than 300, and 75% of the urban dwellers are located in ten major centres.

4.1.4 Human Development

The United Nations Development Programmes Human Development Report published in 2000, ranks Papuan New Guinea 133rd out of 174 in its Human Development Index rating, which takes into consideration such things as life expectancy at birth, adult literacy rate, mean years of schooling, and real GDP per capita. Basically it is classed as a low human development country. Neighboring Pacific countries like Fiji (66th) Samoa (95th), Vanuatu (118th) and the Solomon Islands (121st) fare better in the ratings. Most of the other island nations do not appear on the index, presumably because of the lack of statistics. (As a matter of interest, Australia is placed 4th, New Zealand 20th, Japan 9th, Canada 1st Sierra Leone at the bottom of the table on 174th).

4.1.5 People

The indigenous population of Papua New Guinea is one of the most heterogeneous in the world. Papua New Guinea has several thousand separate communities, most with only a few hundred people. Divided by language, customs, and tradition, some of the communities have engaged in low-scale tribal warfare with their neighbors for millennia. The advent of modern weapons and modern migration patterns has greatly magnified the impact of this lawlessness.

The isolation created by the mountainous terrain is so great that some groups, until recently, were unaware of the existence of neighboring groups only a few kilometers away.

The diversity, reflected in a folk saying, "For each village, a different culture," is perhaps best shown in the local languages. Spoken mainly on the island of New Guinea-composed of Papua New Guinea and the Indonesian province of West Papua about 650 of these languages have been identified; of these, only 350-450 are related.

The remainder seems to be totally unrelated either to each other or to the other major groupings. Most native languages are spoken by a few hundred to a few thousand, although Enga, used in Enga Province, is spoken by some 295,000 people. (However, the Enga are subdivided into clans that regularly conflict with each other.) Many native languages are extremely complex grammatically. Melanesian Pidgin serves as the lingua franca. English is spoken by educated people.

Though cultures vary widely, traditional Papua New Guinea Social cultures are structured on strong social orient values and generally include the following characteristics:

- The practice of subsistence economy.
- Recognition of bonds kinship with obligations extending beyond the immediate family group.
- Generally egalitarian relationships with an emphasis on acquired, rather than inherited, status and
- A strong attachment of the people to land, which is held communally. Traditional communities do not recognize a permanent transfer of ownership when land is sold.
- Though land and other possessions may be inherited through the female line in some cultures, women generally are considered and treated as inferiors. Gender violence is endemic.
- Patterns and frequency of sexual activity, though never publicly discussed, contribute to the current rapid spread of HIV/AIDS.

Most Papua New Guineans still adhere strongly to this traditional social structure, which has its roots in village life.

4.1.6 Government and Political Conditions

Papua New Guinea, a constitutional monarchy, recognizes the Queen of England as head of state. She is represented by a Governor General who is elected by Parliament and who performs mainly ceremonial functions. Papua New Guinea has three levels of government—national, provincial and local. There is a 109-member unicameral Parliament, whose members are elected every 5 years. The Parliament in turn elects the Prime minister, who appoints his cabinet from members of his party or coalition.

Members of Parliament are elected from 19 provinces and the national capital district of Port Moresby. Parliament introduced reforms in June 1995 to change the provincial government system, with regional (at-large) members of Parliament becoming provincial governors, while retaining their national seats in Parliament.

Papua New Guinea judiciary is independent of the government. It protects constitutional rights and interprets the laws. There are several levels, culminating in the Supreme Court. Papua New Guinea's politics are highly competitive with most members elected on a personal and ethnic basis within their constituencies rather than as a result of party affiliation.

Members of Parliament have been elected on a "first past the post" system, with winners frequently gaining less than 15% of the vote. There are several parties, but party allegiances are not strong. Winning candidates are usually courted in efforts to forge the majority needed to form a government, and allegiances are fluid. No single party has yet won enough seats to form a government on its own right.

As the majority of Parliamentarians do not retain their seats (75% lost in 2002), party structure is weak and national leadership is not stable. The current government was formed by a coalition of several parties after the 2002 election in which virtually the entire previous cabinet lost their seats. Sir Michael Somare, the leader of the Melanesian Alliance (and the Nation's first Prime minister in 1975) was elected Prime Minister.

PNG has history of changes in government coalitions and leadership from within Parliament during the 5 year intervals between national elections. New governments are protected by law from votes of no confidence for the first 18 months of their incumbency, and no votes of no confidence may be moved in the 12 months preceding a national election. In an effort to create greater stability by reducing incessant votes of no confidence, the Integrity of Political Parties Act was passed in 1999, forbidding members of each party in Parliament from shifting loyalty to another party.

In 2003, the electoral system was changed to limited preferential voting, which many hope will encourage politicians to strike alliances and to be responsive to constituent concerns once elected. The new system was first used in a 2004 by-election with modest, but positive results.

4.1.7 Economy

Papua New Guinea is rich in natural resources, including minerals, timber, and fish, and produces a variety of commercial agricultural products. The economy generally can be separated into subsistence and market sectors, although the distinction is blurred by small-holder cash cropping of coffee, cocoa, and copra. About 75% of the country's population relies primarily on the subsistence economy. The minerals, timber, and fish sectors are dominated by foreign investors. Manufacturing is limited, and the formal labor sector consequently also is limited. High commodity prices in 2004 lifted both sectors after several years of declines.

4.1.8 Mineral Resources

Papua New Guinea is richly endowed with gold, copper, oil, natural gas, and other minerals. In 2001 mineral production accounted for 25% of GDP. This will inevitably decline as old discoveries are mined out. Years of sluggish exploration mean that few new deposits will be open in the coming years. However, recent regulatory and tax reforms have led to a resumption of exploration, which may boost the sector in the out years. Government revenues and foreign exchange earnings have depended heavily on mineral exports. Indigenous landowners in areas affected by minerals projects also receive royalties from those operations. Copper and gold mines are currently in production at Porgera, Ok Tedi, Misima and Lihir.

A consortium led by Mobil/Exxon hopes to begin the commercialization of the country's estimated 22.5 trillion cubic feet of natural gas reserves through the construction of a gas pipeline from Papua New Guinea to Queensland, Australia, however, the project has been stalled until major customers make purchase commitments. InterOil, an American firm, opened PNG's first oil refinery in 2004. It will produce 30,000 barrels of product a day, covering all of PNG's domestic requirements and leaving 15,000 b/d for export development.

4.1.9 Foreign Relations

Papua New Guinea's foreign policy reflects close ties with Australia and other traditional allies. PNG is by far the largest Pacific Island nation and has traditionally viewed itself as part of the Pacific. However, in recent years it has also been cultivating relations with Asian nations. Its views on international political and economic issues are generally moderate. Papua New Guinea has diplomatic relations with 56 countries.

5. AN OVERVIEW OF ALLUVIAL AND SMALL SCALE MINING⁵



Plate 2. Alluvial mining at the foot of South Anawe Stable Dump (Unfenced LMP/Customary land boundary)

Small-scale mining is a legally recognized economic activity and a significant contributor to the rural economy in PNG. Characteristics of gold mining are quite different from any other industry (cash crops, fisheries and timber) because the value of gold mined is paid directly to the miner. Most rural commodities are priced differently and the PNG growers are often paid a small percentage of the price paid by the ultimate consumer of the final product

Since alluvial gold is very common in PNG and it is readily seen and mined in all provinces there is a strong possibility to increase the present production rate of 4.0 tonnes a year valued about PNG K100m. There is potentially a high number of mines. Current estimates are between 50, 000-60, 000 and possibly up to 80, 000 to 100, 000. Approximately 90 percent of miners are categorized as grassroots miners and so most of the attention will be given to training and broadening the mining knowledge and skills of this group. PNG can achieve these objectives by:

- Encouraging new alluvial miners.
- Improving the efficiency of existing miners and
- Identifying new alluvial gold areas.

⁵ Report on Small-Scale Mining in Papua New Guinea.
Blasius Susapu and Geoff Crispin Copyright © 2002

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

It should be stated clearly here that small-scale village alluvial gold works is a livelihood and supporting then, PNG is promoting and supporting a substantial economic and business infrastructure development. PNG's strong desires and ambitious plans to expand the artisanal and small-scale mining sector has been inspired by the AusAid pilot and educational project undertaken in the last three years. The experience and encouragement drawn from the AusAid support is that, despite the financial constraints, small-scale mining functions can be developed and promoted by soliciting resources from within PNG and through external donor sources.

It is encouraging to note the country's only private metal-refining company (MRO) has consistently supported this pilot project while some medium and major mining companies have committed both logistical and organizational support.

The financial limitations encountered from national government annual budgets and the individual private company assistance are not solid enough foundation for future developments therefore external donor funds will be sought for the next five years.

The proposal by the Asian Development Bank to set up the pilot micro-finance scheme in Wau will be an encouraging incentive for the advancement of small-scale miners. It will provide financial support to members of the small-scale mining community who can show solid business ability.

Possible support from both the Japanese Social Development Fund and the European Union Sysim scheme will build solid foundations such as infrastructure, training facilities and pilot programs which will consolidate efforts to-wards long term development. Department of Mining's vision have been documented in a Five-year Plan for 2002-2006. The expansion program proposed for funding under ADB, JSDF and EU System Fund will be guided by priorities set in the Five-year Plan. DOM has strategic plan to become a corporate body within the next five years.



Plate 3.

A local alluvial miner at Anawe South LMP



Plate 4. Ladies Mining for alluvial gold at foot of tailing discharge creek at the Anawe erodiable dumps site

The largest section of PNG miners (approximately 90 percent according to a department of Mining (DOM) informal survey) are widely dispersed to people heavily dependent on panning dishes, shovels and rudimentary sluice boxes. These miners together with their families are exposed to harsh working conditions in order to gain some cash income. They are also in a high-risk situation, endangering their own health as well as that part of the surrounding environment.

The main centers of small-scale mining activities in PNG are;

- The Wau/Bulolo areas in Morobe Province.
- The Maprik area, East Sepik Province.
- The Mt Kare and Porgera areas in Enga Province and
- The Kainantu area of Eastern Highland Province.

However, alluvial and placer gold is found almost everywhere in PNG. Metal refining Operations Ltd (MRO), a company based in Port Moresby, has reported considerable gold coming from in from Oro Province, Sudest Island, Milne Bay, Rabual and even Bouganville, despite the social unrest in that region. None of these centres was previously considered was even a potential large small-scale (alluvial) mining, gold producing districts. It indicates the potential around the country for small-scale mining as a source of income for remote rural people.

The situation is further compounded by the global economic and regional financial crisis identified and discussed in the World Bank report on Poverty Reduction Strategy Papers (PSRP) and the PNG Country Assistance (CAS) of 1999. In addition to the poverty level discussed in the Asian Development Bank Report (ADB) describes the harsh conditions under which the miners work.

The pilot educational project funded by AusAid, PNG government and private companies during the last three years (1998-2001) shows that miners have to be educated and necessary skills acquired in order to perform mining activities in a safe and environmentally friendly manner. PNG will require external donor support and assistance in both finance and technical services to address internal and global crises affecting its small-scale mining industry.

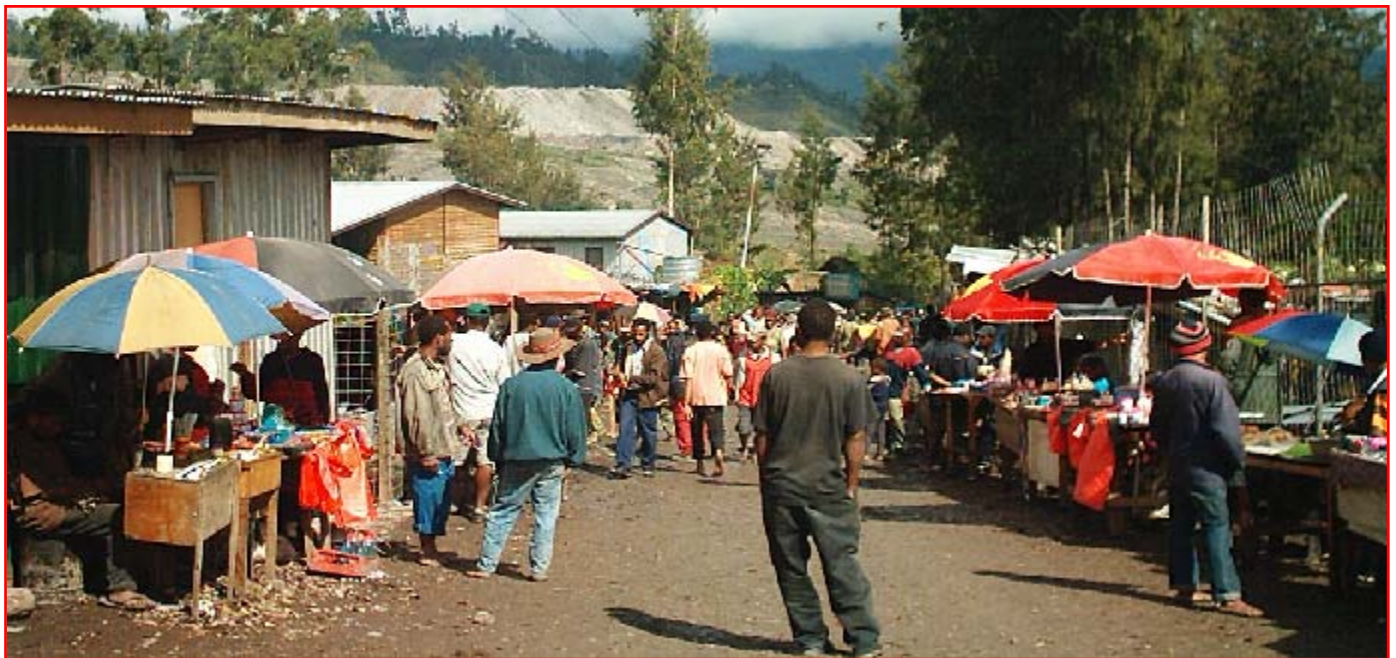


Plate 5. Local Alluvial Miners Market at Yans Kona, Pongera with the background view of the South Anawe Dump area.

6. HUMAN RIGHTS FROM INTERNATIONAL PERSPECTIVE

6.1 Human Rights and Transnational Mining Corporations⁶

Over the last few decades, there have been considerable changes in the structure of international society. Transnational corporations, including mining companies, have gained unprecedented influence over patterns of economic development – particularly in developing countries which are competing for foreign direct investment.

As stated in a recent Oxfam America briefing paper: "Foreign direct investment (FDI) has become such an important part of global development strategies that it has replaced foreign aid as the main source of external capital for many developing countries. Today, FDI amounts to about 60 percent of the international capital flowing into developing countries each year and is nearly ten times larger than official development assistance. In contrast, in the late 1980s, the amounts of annual aids and FDI in developing countries were roughly the same."

Recent figures also show that the revenues of five of the largest transnational corporations are more than double the combined Grossed Domestic Profit of the Poorest 100 countries.

Given the increasing power of the private sector throughout the world, including the mining and minerals sector, it is essential that companies contribute positively to poverty alleviation and development by upholding and promoting the human rights of people affected by their activities. This is especially important when mining companies operate in countries where the national laws are inconsistent with international human rights standards, or in the majority of cases, where human rights standards are integrated into national law yet the relevant government fail to uphold these standards.

6.2 Human Rights and Developments

Development agencies have long recognized the need for community participation and ownership of the development process. However, it is only relatively recently that these concepts have been extended and articulated in human rights terms and there has been recognition that human rights are intrinsic to development. Michael Dodson, Aboriginal and Torres Strait Islander Social Justice Commissioner compares a basic human needs approach with a human right perspective to aid.

⁶ <http://www.oxfam.org.au/campaigns/mining/ombudsman/index.html>
Mining Ombudsman Annual Report 2004

Policies and programs which rest primarily on a perception of need and powerlessness subtly reinforce the powerlessness of recipients who are seen as given justice rather than as receiving their rights. The recognition of entitlement is in itself an act of empowerment.

6.3 Involvement of Civil Society⁷

CAA is concerned that NGOs from developing countries have been under represented in human rights discussions. This is unfortunate as NGOs have a wealth of expertise in the fields of human rights promotion and protection and can offer a perspective from "civil society". Civil society can be broadly defined as the array of community organizations including NGOs, churches, unions and community groups who contribute to a culture of respect for human rights and "good governance" by advocating for responsive and representative government.

NGOs in Asia and the Pacific are becoming increasingly sophisticated and in recent years have begun to develop international linkages and networks in recognition that human rights concerns span national boundaries. As a result, NGOs are becoming increasingly prominent human rights advocates in international for such as the United Nations.

CAA believes it is vital that the debate on human rights is broadened to include civil society actors such as NGOs, who represent the views of the marginalised sectors of society, and can contribute to an understanding of the effects of international changes we call globalization on the human rights of the poor. CAA's submission aims to reflect the concerns and views of NGOs in Asia and the Pacific, including those of women's indigenous people's and workers organizations, whose participation is essential to a comprehensive understanding of human rights in the region.

⁷ Inquire into the Regional Dialogue on human Rights, October 1997
Oxfam Community Aid Abroad. Introduction. 1.6 – 1.7.

7. ENVIRONMENT

PORGERA GOLD MINE: HUMAN AND ENVIRONMENTAL TRAGEDY.



Plate 6. Impacts from erodible dump

Plate 7. Dwelling at edge Anawe LMP

Plates 6 and 7, Slipping South Anawe erodiabile dump, village house and gardens being degraded by impacts of the waste disposals.

7.1 Introduction

The Porgera Gold Mine, like other resource projects in the country, has attendant social and environmental costs as well as benefits. The brunt of such impacts is invariably felt most keenly by the local communities whose land has been alienated and whose traditional resources have been destroyed or degraded while the benefits are more widely spread throughout the country. In initially planning for the Porgera Gold Mine, detailed consideration was theoretically given to the likely environmental and social costs as well as the economic and social benefits. The major portion of the benefits go to the National and Provincial Governments in the form of company and income taxes and profits from equity holdings. The locals' meager benefits come in the form of royalty payments, compensation for loss of or damage to land and other resources, wages, contracts and other business spin-offs. They also bear the brunt of the inevitable negative impacts of the project.

Plate 8. Locals drinking unsafe water.

Drinking from contaminate water near the South Anawe Erodiable dump

7.2 Social and Cultural Impacts

The social and cultural issues and the environmental related concerns, directly or indirectly as a result of the Porgera Gold Mine, are more profound than initially envisaged. The limelight of the gold mine has attracted people of various ethnic groups, cultures and values into the relocated villages of the SML (Special Mining Lease) and other adjacent villages and settlements and has caused a lot of unbearable problems for the receiving communities. Over-crowding as a result of land shortage for people living in Kulapi, Apalaka, Panadaka, Yarik and Kulapi is beyond any conceivable mind. Food gardens are becoming extremely scarce and people are forced to cultivate land without fallow and this often results in very low yields.

People are also making gardens on hilltops, which results in associated environmental problems such as soil erosion and forest clearance. The congested villages are very unhygienic and living conditions are well below normal living standards. Ethnic conflicts, prostitution, drunkardness, gambling, polygamy and other associated social problems are sky rising and beyond control. Some of these problems are in-built into the system or society and have become a way of life for the people. It is really difficult to ascertain the nature of the social and cultural structure of these communities.

There is absolutely no way possible for the pre-mining IPILI way of life to be retrieved and practiced again. The current generation has completely lost track of the traditional customs and values and being self reliant, and have become so used to the PJV's cash handout mentality, and are living in some kind of an unstructured, undeveloped modern lifestyle with certain uncharacteristically uncaring attitudes.

Certainly the company (PJV) as well as the National and the Provincial Governments are to be blamed for overlooking or not initially considering that such problems would erupt. It is indeed a real joke to the international (mining) community and a shame to human rights advocates to witness settlements within 5-10 kms away from the parameters of the mine.

These people should have been rightly relocated away from the SML some 10 – 15 years ago. The company squarely is responsible for all the social and cultural problems within the SML and, possibly other adjacent villages and settlements. It is certainly a violation of human rights for villages to calmly live under noises of heavy machinery, blasts, air pollutants, drink/use contaminated water and be exposed or being in contact with environmental contaminants with absolutely no option of avoiding them.

7.3 Environmental Impacts: PNG Legislation

Issues relating to the biophysical aspects of the environment are not so much confined to the vicinity of the mine, but extend further to the Fly Delta, Strickland, Lake Murray and the entire length of the Porgera – Lagaip – Strickland River System. In essence, the protection of the environment is uniquely enshrined in the Fourth Goal and Directive Principle of the PNG Constitution (1975). It states: “We Declare our Fourth Goal to be for Papua New Guinea’s Natural Resources and Environment to be Conserved and used for the benefit of us all, and to be replenished for the benefit of future Generations.”

To give effect to this goal, Environmental Planning Act was enacted in 1978, but repealed in 2000 when the new Environment Act (2000) incorporating the Environmental Planning Act, Environmental Contaminants Acts and the Water Resources Act was enacted. The Environment Act also provides for and gives effect to the National Goals and Directive Principle and in particular:

- (a) *provide for protection of the environment in accordance with the Fourth Goal and Directive Principle **(Natural Resources and Environment)** of the **Constitution**; and*
- (b) *regulate the environmental impacts of development activities in order to promote sustainable development of the environment and the economic, social and physical well-being of people by safeguarding the life supporting capacity of air, water, soil and ecosystems for present and future generations and avoiding, remedying and mitigating any adverse effects of activities on the environment; and*
- (c) *provide for the protection of the environment from environmental harm; and*

- (d) *provide for the management of national water resources and the responsibility for their management.*

Legally, the PNG Legislation and the Constitution call for the protection and conservation of our natural resources. In a nutshell, the attendant environmental issues surrounding the Porgera Gold Mine include:

7.3.1 Waste Dumps.



Plate 9.

Plate 9: View from Kulapi looking towards Kongai stable dump



Plate 10.

Plate 10: Kulapi villages pose for a picture at the centre of their village.

The PJV currently operates three (3) waste dumps, excluding the abandoned Anjolek erodible dump. The Kongai Stable Dump sits right adjacent to the Kulapi relocated settlement. Competent waste rock dumping is continuing and, this man-made mountain is progressively growing larger and higher each year.

The two- (2) main issues of grave concern are:

- (a) Stability; and
- (b) ARD or Acid Rock Drainage.

The Porgera Valley is prone to landslides and numerous seismic activities (main reason the Retention Dump was not considered), and there is no guarantee that the Kogai Dump is resting on highly stable ground. Current Geotech studies may

prove the otherwise, however, these results are based on the possible movement of the hard rocks that are placed/dumped there.

There is no monitoring for movement of the actual ground upon which the waste rocks are placed. It is this bottom placement which is highly susceptible to landslides and earth movements.

The second is the North Anawe Stable Dump. Due to poor construction and planning of the basement of this dump, there is evidence of dump movement. This is potentially risky for people living nearby and below the dump. Both dumps have a high risk of Metal Leaching. Rocks exposed to outside atmosphere oxidize and leach out, and with the aid of rain and rainwater, the acidic metals are washed into the nearby creeks and eventually into the river system. All seepage out from these dumps are acidic and rendered unsafe for domestic or recreational use.



Plate 11. Preparing to build house at foot of South Anawe Dump. This is the face of Yanjakale village from the dumpsite

The company may maintain that the Potentially Metal Leaching (PML) rocks are encapsulated, however the operations are undertaken by machines which are not all that 100 percent efficient. Some PML rocks may be mistakenly placed in the open with other hard rocks and left to leach out or at other times, the encapsulation may not be undertaken effectively, leaving rocks exposed. The problem of metal leaching is certainly an attendant environmental issue, not only in the dumps, but also in the open pit, underground and the stockpiles.

Even after the closure of the mine, most creeks within the SML will still be acidic and not safe for human consumption/use.

The third is the Anawe erodible dump. Incompetent or soft waste rocks are placed there. Out of ignorance, however, certain hard rocks are also placed in this dump causing heavy or deep cuttings along the edges and resulting in unpredictable watercourse changes and landslides. It will take years after mine closure for the area to stabilize before available for any form of land-use.

Another point of concern is that the dumps are for the placement of waste rock materials. These are regarded as “**wastes**” and are, and will not be of any use to the company in any way. There could be traces of useful materials placed, however, they are still regarded under the definition of waste and uneconomical and costly for the company to mill. It is pointless the company having some interest in them again, after disregarding them as wastes.



Plate 12. View from Paiam town showing Open pit, Anawe erodible and Stable dump.

7.3.2 Riverine compliance monitoring.

The monitoring of the river system (Porgera – Lagaip – Strickland) for compliance is not that effective and trustworthy. The Compliance Point at SG3 is some 165 kms away from the point of discharge, and the results for water quality parameters taken are only true for that location (point of sampling) and do not represent conditions upstream that point.

The annual environmental reports and quarterly reports are so technical in nature that it is extremely difficult for ordinary people and locals to interpret. The sample results for compliance are based only on the Dissolved metals and not the Total Metals. The results for the total metals are very high, exceeding compliance limits.

In addition, the samples analytical data from external laboratories come both in hard copy and in electronic form. It is the latter form that is made available to the public, and it is quite dubious that there could be alterations made if the results are seen to exceed compliance limits. The water quality data for water samples collected at SG1, SG2 and at the junction of Pogema and the tailings outlet show incidences of high levels of heavy metals, but the results are never disclosed. To check on these results and the company's environmental performance, there is no auditing or counter sampling done by the government. It merely accepts what information is fed to them by the company and only do visual inspections, which are not that adequate.

7.3.3 Air Emission.



Plate 13. Large quantity of Air Emissions from the Autoclaves at the processing plant.

The company maintains that the emissions from the autoclaves is only steam and not hazardous. There are however, traces of sulphuric acid and other harmful elements released which are detrimental to human health. Although, the emittants are within Australian Air Emissions Standards, people live right next to the mill that they are constantly exposed to or are directly in contact, either their physical bodies or from drinking rainwater collected in their tanks. The effects may not necessarily be immediately visible, but defects and symptoms could be evident in future generations. The discoloration of vehicle and building roofs show that the emissions are not only steam, but do contain some elements of human and environmental concerns.

7.3.4 Mine Tailings.

The ore at Porgera comes in pyrite form and is crushed, then milled to a very fine powder form before being chemically treated and processed to extract the valuable minerals, particularly gold. The tailing (sludge) left after the gold has

been extracted consists of a mixture of water, mud, various metals and chemicals used in the extraction process. After treated, detoxified and neutralized, the sludge is discharged into the local creek, which eventually drains into the river system. The most poisonous chemical used in the extraction process is cyanide, which is also released after detoxified.

During operational changes in the mill, pH levels are purposely raised or dropped, and this affects the concentration of metals being discharged. When the pH is lowered (i.e. acidic conditions), the concentration of metals tend to be very high. They tend to break down and become available for uptake by aquatic life and also hazardous for people using the water when released into the river system. Some of these chemicals and metals accumulate and build up in the ponds that are created at the toe of the dumps, while others are washed down into the river system. The metals washed down are subject to natural dilution, however those retained in the boggy conditions and ponds are harmful as they break down over time.



Plate 14. Man made lake at Anawe South tailing disposal and erodiable dumpsite.

The ponds at the bottom of the dump are therefore, toxic and not safe for human or animal use. They are completely devoid of any aquatic life form. Any animal or person drowned in these ponds or boggy conditions is subject to chemical contamination.



Plate 15. Yanjakale Village kids playing in Tailing creek close to mouth of discharge.

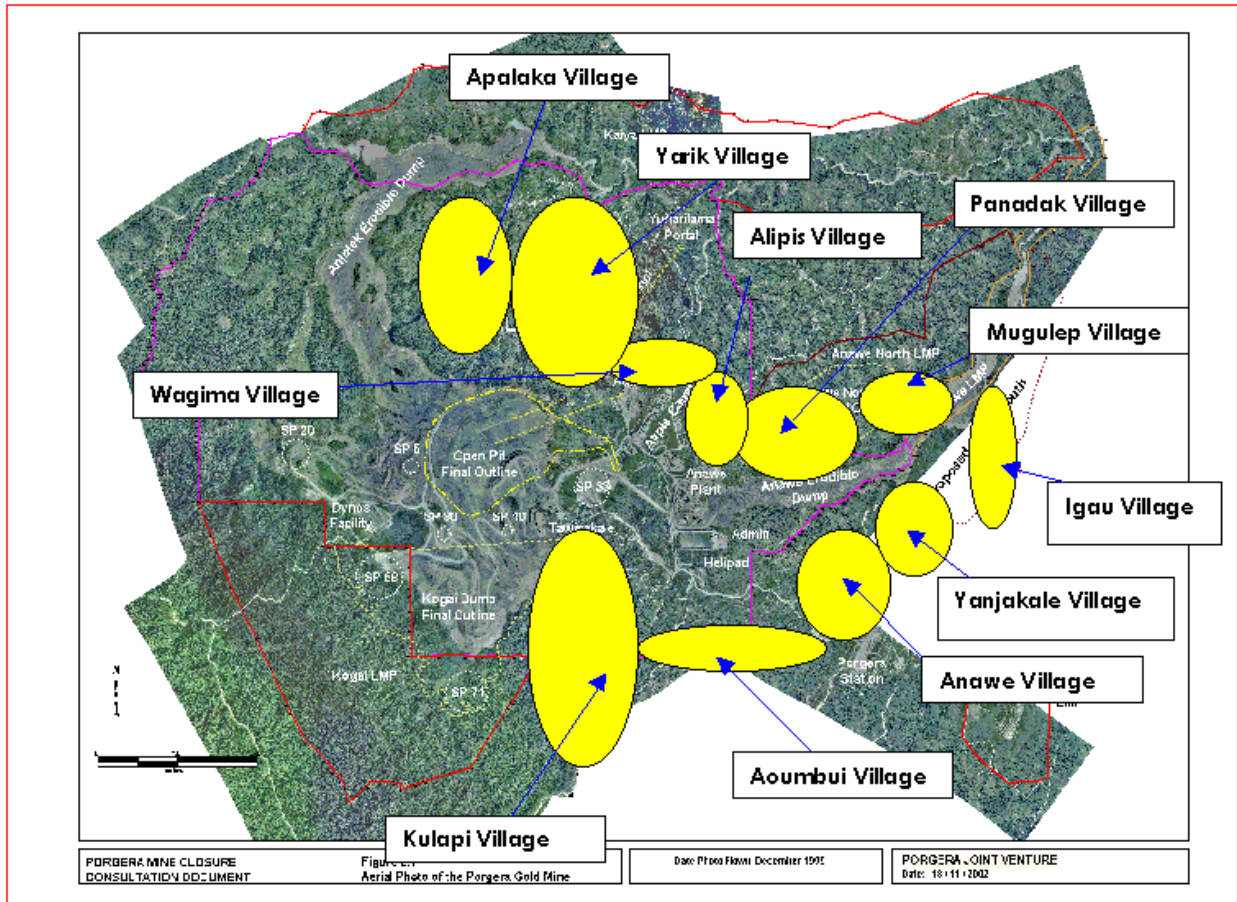
7.4 Conclusion

The highly technical environmental reports done by the PJV are only curtain labels. The happenings behind the scene, and the real environmental issues of human health concerns are never disclosed or addressed. The company obviously knows that their environmental performances are not that transparent. How could the local ignorant majority have any confidence that their health is safe and sound? For how long will the project area and the surroundings be able to physically accommodate the giant and ever expanding project? For how long will the environment be able to assimilate wastes from the project, and the local people be able to tolerate?

8. SPECIAL MINING LEASE (SML)

Figure 2. Arial View PJV Mine⁸

Plate 16. An Arial View of the SML and LMP area and the congested Villages.



Key: LMP - Lease for Special Mining Purpose

SML - Special Mining Lease

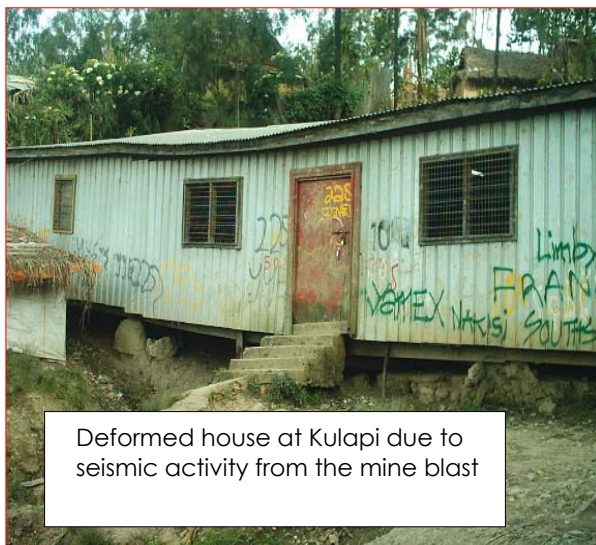
SP - Stockpile for low-grade ore

○ - Villages located between SML and LMP boundaries.

⁸ PJV Mine closure consultation document, Pg 11.

8.1 Special mining lease relocation issues

Re-location is a common call of Special mining lease residents. The company is caught in blind in that money will not be available for such an exercise. Pressure continued to build on population and garden land within the SML. On the critical state of the availability of food gardening land in Apalaka, Yarik, Yunalima and Kulapi. Increasing population, reports of declining soil fertility and the continues incursion of the Anjolek dump, the open pit, and exploration activities have all served to make these problems worse. Many residents of Apalak Yarik and Yunalima are finding life in these villages extremely difficult. Kulapi resident's report that although their food gardens are now better drained than previously, they continue to suffer from a basic shortage of land suitable for gardening.



Deformed house at Kulapi due to seismic activity from the mine blast

Plate 17. Deformed house. ATA photo file



Movement of Locals between Yanjakale and Panadak through South Anawe LMP. Crossing erodible dump

Plate 18. Traditional pathway. ATA photo file

The amount of land available within the SML for gardening has continued to be reduced. The mine operation has now directly excised almost 1000ha of the SML. Of the remainder, less than 600ha are able to potentially is used for gardening. If this area is fully used for gardens and allowing none to remain fallow then each individual has just over (0.1ha) of garden area.

At the same time at Kulapi dumping of stockpile make it more difficult and dangerous for the residents to extent their living conditions.⁹

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Porgera Joint Venture Community Affairs staff and management is aware of these issues but Solutions are not met. Relocation is common call for Special Mining Lease residents. The Company is not interested in the problem area where money is not available for such area, until further reserve have been identified around the existing known-ore body. Further exploration affects more gardens, and increases the problem¹⁰. There is also another problem that the residents are disturbed and affected by the mining activities every 48 hours.

Porgera Joint Venture stance is to plan and move quietly on this issue until such time as additional reserves are identified. It is clear to us that a relocation of these communities will be essential at any time regardless of weather or not further reserves have been identified.¹¹ It is impossible for Porgera Joint Venture to continue violation human rights and committing crimes against the communities for the last 15 years. The disturbance caused by these trends poses serious risks and associated threats of social disturbance to the mine over the remainder of its life.

Given these we believe it is essential that the PJV initiate discussions with Government and Landowner Organizations regarding the process which should be followed for such a move.

In the short term, there are certain areas such as the area affected by the large landslide in Yarik, which Landowners may be prepared for relocation. In Kulapi there is noise, air pollution and contaminated water tanks due to the locals residing very close to the mine site outside the SML under the term of the existing relocation agreement. While this may have implications at some future stage, in the short term it is desirable both from the point of view of these landowners and the Porgera Joint venture, as it would reduce stress within the SML.¹²

⁹ PJV 1996 Annual Report

¹⁰ 1996 Annual Report

¹¹ 1996 Annual Report

¹² 1996 Annual Report



Plate 19. Mugulep village right at the edge of South Anawe Dump

8.2 Concerns of SML Women

While women living in the Special mining lease are concerned with the entire problem, their primary issue in it was the lack of land for food gardens. They were also concerned about the conflict with their children over rights to relocation houses, problems with water supply and in all SML areas except Kulapi lack of firewood. Women in Kulapi and Panadak were also concerned that the smoke from the plant site that pollutes the air and forging the water tanks. Pollution of the Kongai was also mentioned.

Women in the Apalak, Yarik and Anawe areas were particularly concerned with landslides, which they attribute to mining activities especially trenching and blasting. They were also concerned about the distance their children have to walk to school at Porgera station through heavy traffic at the mine site¹³. They also fear the every five (5) o'clock dynamite blast from the open pit but the Community Affairs can not respond.

¹³ 1996 Annual Report

8.3 Overcrowding

Overcrowding in relocation villages, especially those villages within the Special Mining Lease Areas, has led to problems of rubbish disposal, sanitation and deforestation. In the absence of a recent census, the exact extent of the problem is not clear lot more people flocking in the relocated area added another pressure to the already overcrowding settlements¹⁴.

Plate



Plate 20. Congested Kulapi Village very close to Surface Mine (Open Pit)

8.4 Kongai Dump

Porgera Joint Ventures revegetation of the Kongai dump was accelerated in 2003. The total area of the dump slopes and benches planted was about 130 hectares, however re-vegetation is not straightforward and there are challenges ahead. The dump is constructed of thirty (30) metre rock benches. The top and sides are covered with only two meters of soft brown mud tones to provide basis for soil development and to seal the dump from air and water ingress¹⁵. Kulapi residents living along the sites of the dump fear it might cause landslide to the village in the future. It has become important that Kulapi village 2 and 3 should be given first priority in relocation because villages are pollution contaminated, noisy and residents are not living their normal life due to residing very close to the mining area and about 5-10 meters close to the open pit mining.

¹⁴ 1996 Annual Report

¹⁵ 2003 Annual Report

9. PJV'S OPERATING PATTERN AND IMPACTS

9.1 Poor Mine Plan

The Porgera Joint Venture at the initial stage should have relocated whole area of Yanjakale Government station with its nearby villages before starting up its mining operation in 1989. The Government station should have been relocated to Paiam town and from Ambui, Anawe, Lukulam, New town and whole area of Suyan should be shift to Karik and Tipinini. Kulapi Panadak, Yarik ,Yuyane and Yunalima relocated to as far as Small Moresby or inside the boundary of Paiela area. That should have given the Company enough spacing to do mining activities with less problems.

The present problem Company created due to its poor plan at the beginning of the mine operation. As a result the open pit gets narrow everyday risking PJV's own employees lives, locals form nearby villages and not enough room for dumping and mining purposes. The problem of everything in the mine site and to SML landowners are due to Companies own mistake at the initial stage of the mining operation in 1990s.¹⁶ Today Landowners, employees, and the general publics can feel the effect of it and is very hard for the company to bring up a solution. The communities living in and around the Porgera area are still watching closely to see PJV in corecting its spilt milk.

9.2 Projection and Re-Development

Identification of the Porgera Joint Ventures project areas is formulated on poor and baseless results. The mine was planned and developed in the form of narrow spacing. Collection of baseline information for the social and economic aspects of the project areas not evaluates to reduce negative impacts. The result affects the proposed project areas, therefore the level of detail in this description of study area is sufficient enough to convey to readers the general status of the mine situation and social economic resource condition of the affected areas in the villages

¹⁶ PJV 2003 Annual Report

Weather expensive exercise or not Porgera Joint Venture should relocate whole area of Kulapi for the dumping purpose. Anawe, Alpis, Yarik, Yunalima and Panadak should be immediately relocated to address the difficulties affecting the mine operation and that will also release the stress and pressure from the landowner residents.

9.3 General Observation

It is most important task for the PNG Government to investigate Porgera Joint Venture Company for campaigning and prevaricating people of Enga and the Country on its mine closure plan. The Government should introduce a bill that must stop any mining investors in the Country from adopting Placer Dome type policies and techniques to manipulate the resource owners in the Country. The people are very keen to see the PJV blocked from future investment in the country.

9.4 Long Term Sustainability

The prevaricated information spread by PJV since the Government has never initiated its part to properly monitor and investigate the company for such misleading information. The general development campaign about the best performance achievement by PJV are utter nonsense. Therefore, the PNG Government should take some critical measures to investigate the mine to allow procedures are properly implemented and adhered too for the benefit of all stakeholders. Otherwise direct the Porgera Joint Venture clean up the mess that they have created to settle the fast germinating problems.

If Porgera Joint Venture is very interested in striving to achieve Socio-economic and environmental balance in all decision making. It should promote the involvement of this document that presents communities in decisions which affect them and work towards consensus based on honest discussion and mutual understanding of concerns and needs. Establish on an ethical conduct and continuous improvement of evaluation all sustainability issues from development through closure and establish objectives and strategies for the management.

Implement effective environment protection and maintaining harmonious, relationships. Implement credible monitoring programs to measure impacts and verify compliance with legal requirements and policy commitments and report the results to stakeholders. With local communities work towards a better future for the support research programs to expand knowledge for managing the impact of mining activities on the environment and the community.

Review the sustainable policy, objectives and the management system to ensure that social economic development is tangible. The Company should also hear the demand of the landowners and review the mine agreement so they can change and bring in some positive development benefits imperatives.

The most important basic services needed in the Province and demanded by the Landowners employees and Public in the Porgera District are as follow;

1. Road sealing from Wabag, Laiagam, Porgera, Paiela and Mt. Kare to Tari.
2. Though the electricity is supplied by Hide Gas from Tari, it will stop power facilities to Porgera when mine shut down its operation, therefore people need Yongi Hydro Electricity connected from Wabag to Laiagam, Porgera and Paiela.
3. Provide effective communication system throughout the Province.
4. We suggest immediate attention be diverted to impacted environmental factors. Steps must be taken to recover and balance the environment conditions prior to the Mine closure. Other development yet to set foot should not fall into same line. Let this write-up be a benchmark

The environmental impacts associated with the Porgera Mine is predominant from the planning stage to its development until its closure. The Porgera mine itself being an impact of the environment. It has also boosted air, water, land and others. Any developmental aspects introduced by the Government should be for the people and to them and the environment in which it is directed. People's life and culture should foremost be considered.

The Porgera Mine has done endless damages including unnecessary loss of people's life. The impacts should be minimal. Life's of people and its surrounding community and their way of life requires ample recognition. All in all, the Porgera Mine is environmentally an unfriendly 'guest clan' in the Ipili area.

The Porgera is the World class mining and rated top inside the seventh. These are the most important sustainable development and the basic services needed urgently by the landowners, the general public and the Province as whole where that can be tangible and whole west Enga can be beneficial. Placer Dome has to initiate these project other wise elude sustainability program for people will achieve nothing when close down its mine operation indefinitely. When these three backbone services namely complete sealed road, permanent electricity and communication system are provided other minor services like school, aid post and small-scale mining and other business activities will fall in line.

PJV definition of sustainability contradicts with practical application indicators. PJV has not transformed its mush talked about sustainability model with feasible developments that reflects to meet the peoples wishes and aspirations in development that will benefit in the long term.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

10. OCCUPATIONAL HEALTH & SAFETY, AND ASSET PROTECTION

10.1 Village Small Scale-Alluvial Mining from Safety Perspective

The history of Gold mining in Porgera dates back to the 1939 Jim Taylor patrol, which found gold colours in the Porgera River. Early explorers and the Porgera people established successful alluvial gold mining operation in some of the local creeks. The entire Ipili people of Porgera heavily involved themselves in small-scale alluvial gold mining from then on.

Since the discovery of gold in Porgera, most people geographically close to Porgera through the cognatic kinship network with the close cultural ethics links including Laiagam, Mulitak, Kandep and Tari-Koroba moved into the Porgera valley as village alluvial miners to earn a living and permanently resided. With the development of the Porgera mine in 1989 more people moved in to live in Porgera, mainly in villages around the boundary of the Special Mining Lease.

The Ipili people have very close relationship with the people of Tari/Kandep and Laiagam/Mulitaka respectively. No one has tried to stop the inflow of young people who come to look for gold and job opportunities in the mine. Well then, alluvial gold mining came to dominate the cash economy of the immediate Porgera area. According to a recent survey by the Akali Tange Association Inc. estimates that the total annual village gold production ranges between K40 to K60 million in cash value. With the poor record of local young adults observed in formal employment by PJV operated mine, most are easily drawn into alluvial mining activities.

10.2 Education and Training

Between 1960 and 1990, a large number of children from the West Enga part have not been introduced to formal systems in the country. That has been mainly due to limited primary and high school education spaces and other factors such as tribal and social issues. About 25 percent of this uneducated young people dragged into the alluvial cash economy in Porgera and Mt. Kare making a living through village small scale-alluvial gold mining.

10.3 Employment by Porgera Joint Venture

The Porgera Joint Venture employees approximately 2,000 people from around the world. About 65 percent of this people are from Enga and Southern Highlands. Most of these employees are employed through the Local employment system, which qualify them as locals along with the original Ipili people of Porgera. This proves that the people of Laiagam, Muritaka, Kandep, Tari, Koroba, Paiela and other areas geographically close to Porgera are linked through the cognatic network and cultural similarities that qualifies them as Porgeran. People who do not qualify for a job continue to live either through subsistence agriculture, street vending or the very easily accessible alluvial mining.

This conatic network has been confirmed through various publications and foremost of them all is in PJV's own Site Induction book.¹⁷

An extract from Community Affairs – Porgera Version Two Statement.

“ The Division in the interface between the Porgera Joint Venture, which is a metropolitan/ western structure and the Ipili and Engan people. The Ipili in particular have faced massive changes in their lives and the environment since 1989.

The IPILI, as they are known from their language, are a minority group within the Enga Province. There around 12,000 of them in total with some 8,000 living in the vicinity of Porgera and the balance to the West around Paiela. They regard themselves as distinct from the Enga speaking people even though some of their customs are similar. They have kinship ties with Engans particularly in the Laiagam/Mulitake/Kandep areas and with the Huli people of the Southern Highlands. This in practice leads to a number of these relatives claiming the rights of the Ipili that have been granted under the various mining agreements. Some of these are -:

- (a) Employment preference.
- (b) The right to relocation into permanent material houses if the company needs the living area for mining purposes.”

In contrast to PJV's at the present held views that these people are squatters invading the mine and that is not otherwise the case from the actual facts.

10.4 General Safety Legislation

It is a requirement under the Independent State Of Papua New Guinea's Mining Safety Act Chapter 195 A that above all other activities, Safety is considered the highest priority within any mine held under a tenure. To apply the legislation, the PJV as produced considerable amount of books, documentation, mission statements, workplace directives and all other necessary work to execute this Legislation but practically failed to apply the legislation by failing to implement them such as including the surrounding community in its Safety awareness programs and this is reflected by the current poor records.

10.5 PJV's Safety Performance at Workplace

Since the establishment of Porgera mine, the Porgera Joint Venture assumed to have totally committed to the general safety of work place safety of all employees and operating equipment with an objective in increasing productivity. It has also reported some of the finest performance in contrast to other world class mines achieving extremely high production. But this high gold production has been at the expenses of human lives... '**Dirty gold**' .

¹⁷ PJV Site Induction Book, Version two, 22.10.94

10.6 PJV's' Safety Performance and the Public Community

In its efforts, PJV **Knowingly failed to provide safety for the local village alluvial miners and other community individuals** who live near and around the mining area. It is in quest whether a guideline was established either by the Independent State of Papua New Guinea or just a simple ignorance by the PJV to monitor the overall safety of the local village alluvial miners and the community. This has resulted in an enormous number of people being either **killed or injured** by PJV's own Lethal force, being poisoned by chemical exposure, drowning in erodible dumps, crushed by mobile equipment, killed by falling objects or overall being injured or death caused by PJV Private Security Force.

10.7 OH & S and Asset Protection Departments

Reporting to the Mine Manager, the OH & S and Asset Protection Department has two major Sections. The Security and safety Sections. Under some form of agreement with the State, a portion of the PJV Security has an armed lethal Force who are dressed in the PNG's Mobil Squad uniform which moves around in 'ZGV' plated Government vehicles. PJV has a large dog unit, a large static guard force, investigation unit, engages Local security contractors and other sections such as gold escorting armed force. Basically, the Security section is to protect company properties.



Plate 21. On guard at the Peak of the Open Pit Mine. Armed with a Sig. Rifle.

The safety section also comes under the Loss Control Department. The Safety Section manager's and coordinate's the overall performance of Mining Safety.

An extract from Staff Site Induction Manual 1994.

“The Loss Control Department, (present Asset Protection) is divided into; Security and Safety. The Loss Control Superintendent is Bruce Gray and his Assistant Superintendents are Graham Furlong (Security) and Brad Richards (Safety). There is also another Assistant Superintendent (Government Liaison), Boin Merire”

One of the main focuses of this documentation has been an attempt to examine the truth behind Boin Merire and the Government Liaison section of the Loss Control Department. Under cover of sheep wool, this wolfs unit deals direct with the Commissioner for Police by way of bypassing the Provincial and Highlands Regional Command. That section deals to cover up every crimes against humanity committed by PJV. In doing so, the PJV and the Independent State of Papua New Guinea are alleged to have conspired to violate the laws and jointly commit crimes against humanity.

10.8 PJV’s Dangerous Weapons a Safety Hazard.

The Porgera Joint Venture possesses some of the more destructive weapons ever known to mankind. The weapons known to the outside local community are the German Sig. Riffle, Pump Action shot guns, Gas guns and high caliber pistols. These guns have been used to kill harmless village alluvial miners and other trespassers of the special mining lease area including the waste dumps and erodible sites. These weapons are also used to kill people along the highway basically when protecting company property in transit.

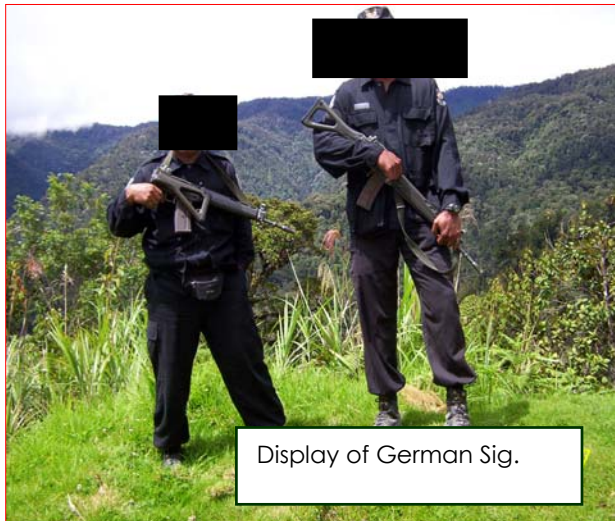


Plate 22.



Plate 23.

Plate 22 Photo displaying German Sig. Automatic Riffles. Plate 23 displays Pump Action shot guns. Imported to kill armless local trespassers at the LMP and SML. Some of the most destructive weapons known to mankind.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

10.9 Security Command System and illegal Force

The PJV Private Police Force has the properties of the Royal Papua New Guinea Constabulary, the command system that they operate from is in question. The Porgera Local Police operate under the control of the Porgera police station commander who then reports to the Enga Provincial police commander. The PJV Private Police does not report to the local police command system.

For the Porgera Joint Venture's Security Force, the command when to fire a gun is ordered from the PJV Head of Loss Control Department based on some form of agreement with the Independent state of Papua New Guinea. The common understanding is that there should be only one law, which should be governing the police force. Other such arrangements for a special operation in seen to be aiding the Porgera Joint Venture to kill the harmless people. This reveals the conduct of undermining the constitution and complete gross violation of human rights.

The command system and formation of this illegal force has resulted in killing innocent trespassers and caused some permanent injuries to the local community members. Investigations of death and injuries are not seriously looked at as this illegal Force seem to be operating with a shadow command direct form General Police Command in Port Moresby. When the truth is exposed reliable agencies will testify their criminal activities at a proper jurisdiction and accountable of all these killings and injuries.



Plate 24. PJV Police Vehicle



Plate 25. 'ZGV' plate numbered.

ZGV Plate numbered Police vehicles are operated by PNG Police only but PJV was allowed to operate a police force outside the normal police system of PNG.

10.10 Porgera Joint Venture's Mission Statement.

The Porgera Joint Venture has sound mission statement. The following is an extract from the PJV Employee Handbook Preface.

- *To provide a safe and satisfying work place at Porgera for our employees and to enrich the quality of life in our multicultural community.*
- *To achieve the financial objectives of our owners, the Papua New Guinea Government and its' partners, whilst maintaining environmental excellence for the benefit of us all¹⁸.*

Twenty-one innocent local community members have died at the time of this document when trespassing the mine area and more people have been injured. Such mission statement to provide a safe and satisfying work place is just a good colour to gain recognition for PJV's business success. The reality of the dirty willful killings and torturing has been hidden and isolated for a long period of time in the absence of proper domestic rule of law.

10.11 Occupation Health and Safety Policy

In line with the mining safety Act of Papua New Guinea, It is the objective of the Porgera Joint Venture to minimize loss by achieving and maintaining a safe, healthy working environment for all people who are involved with, or affected by its operations.

PJV is committed to a policy of ensuring that everything practicable will be done to prevent injury and damage to property, and protect everyone, including employees, contractors, visitors and members of the surrounding local community from work related hazards.

The Company undertakes:

1. To ensure managers, supervisors and supporting staff and safety of people under their control at their place or work.
2. To ensure compliance with standards, codes of practice, regulations and provisions of appropriate legislative requirements.
3. To provide such instruction, information, supervision, training, re-training and education necessary to enable all employees to carry out their work in such a way as to prevent injury to themselves and to other people.
4. To ensure that all premises, means of access, plant and equipment, vehicles and processes are designed, constructed, maintained and used, so far as is reasonably practicable, with regard for health and safety.

¹⁸ PJV Employee Handbook preface

5. To maintain Loss Control Committees in appropriate areas and provide for employee consultation in order to achieve our goals of preventing accidents and damage to property.
6. To ensure, so far as reasonably practicable, that employees are aware of their statutory obligations as regards responsibility for their own safety and the safety of fellow workers.
7. To continually review the adequacy of this policy to ensure the ongoing health and safety of our employees¹⁹.

This occupational health and safety policy was implemented to safeguard Porgera Joint Venture's employees and its operating units only. PJV did not provide a similar policy or guideline to protect and monitor the safety of the majority of local communities who live around the mining area. PJV knowingly failed to relocate the local landowners from its area of operation and further failed to provide adequate policies to protect the local community. Total ignorance has contributed to the death of twenty-one innocent local trespassers and more permanent damage such as landslides, local building disorders due to land movement by explosives and creating a terrifying environment. With the absence of local leadership and inadequate negotiating skills the benefit of protecting the community is at stake while PJV continues to capitalize on these disadvantages. This is total abuse of human rights.

10.12 Reporting of Sub-standard Acts and Conditions

The PNG Mining (Safety) Act Section 45 requires that every person who becomes aware of anything likely to cause injury or damage is to promptly report the fact to a person or persons in authority²⁰. Every person employed in or about a mine or works who becomes aware of any thing in or about the mine or works which is likely to cause injury or to a person or to the mine or works shall promptly report the fact to a person in authority at the mine or works²¹. Reporting of hazardous situations is highly encouraged by PJV. The PJV has a duty of care to both its employees and the community to operate the mine in a safe environment.

However, the Public Porgera Community have made numerous identifications of high-risk hazardous situations and formerly reported to PJV authorities. The K30 million-compensation claim from the compensation working committee identifies most of the hazardous situations²². The landowners have made numerous calls to relocate them, such as the land relocation court case for Kulapi village, which is

¹⁹ PJV Employee Handbook Pg 1/3

²⁰ PJV Employee Handbook Page 6/3

²¹ Mining (Safety), Ch. 195A, Division 6, Section 45, (1) P20

²² Compensation working Committee K30 million claim 19th May 2004

located next to the open pit. The following are some of the extremely high-risk hazardous situations identified since construction of the mine.

1. Local landowners and other public communities were allowed to living very close to the mine operating areas.
2. No adequate security fencing to surround all areas of operation including the waste dump and erodible dump sites.
3. No chemical tailing dams to monitor the presence of dangerous chemicals discharged from the mouth of the processing plant.
4. Trespassing the mine operating areas by increasingly large numbers of local landowners and village alluvial miners
5. No visible warning signage of explaining the dangers involved at the various stages of the mine including the waste and erodible dumps.
6. No procedure in place to educational in-house awareness talks about different aspects of safety for the public community.

The Porgera Joint Venture has a tradition of negligence to claims and identifications of such hazardous situations. The K30m claim submitted highlighting the above bad situations was totally ignored. When responding to the claim the Mine Manger did not mention a point on these preventative measures. The Managers' respond was reflected to ordering the committee to seek legal assistance to sort out the claim and preventive measures. Failing to work with the community is total injustice and due to this sort of behavior the PJV has committed crimes against humanity.

10.13 Recommendation of Remedial/Corrective Actions of Substandard Acts and Conditions

Considering the duty of care policy and regulation several reasonable remedial measures/actions have been recommended to the PJV to be immediately considered and implemented to eventually create a safe environment to operating the mine and well being of the community. The following are some of the remedial actions recommended to the Porgera Joint Venture. The K30 million claim was submitted with an intention of stopping any further killing and torturing with the following preventive measure recommendation²³.

1. Immediately relocate all resident non-employees, remove or exclude local landowners and the public community from its area of operation.
2. Immediately build adequate fencing to surround all areas of operation including the waste and the erodible dumps.

²³ K30m claim, Compensation working Committee 19th May 2004.

3. Immediately build some dangerous chemical testing dams from the mouth of PJV's chemical tailing discharge before releasing into the riverine system.
4. Immediately provide in-house awareness talk to all the community about the dangers involved in its operation.
5. Immediately provide large visible warning signage of dangers involves at its various mine areas including the waste and erodible dumps.

Immediate relocation was observed as the nucleus solution to achieving best results to completely eradicating the trespassing of community members. Reagent tailing dams was seen as a long-term preventive measure to protect the environment and its people. Adequate fencing to safeguard its area of operation was also a nucleus solution to the current dying situation at the mine site. Community awareness was the key element to educate surrounding communities of dangers involved at the mine site. Warning signage was crucial to display to educate people of the dangers.

Under the Mining (Safety) Act 195A Section 45 (3) requires the Manager on becoming aware of any danger existing in or about a mine or works, shall take such steps as are necessary to eliminate the danger. Moreover, the negligence caused by every person who is guilty of negligence in or about a mine or works by which a person is injured or killed is guilty of an offence²⁴. Porgera Joint Venture Management continues to neglect appropriate actions to operate the mine in a safe environment. With the objective of free cash on a 100% basis in its financial accomplishments the simple language from the rightful resource owners is not understood. In doing so, Porgera Joint Venture is accountable at tort law.

10.14 PJV's Reaction to Hazardous Conditions Identified and Action Recommendation.

PJV has a duty of care to both to the local community and its employees to operate the mine in a safe environment. From PJV's fatality risk assessment analyses on these potential hazardous situations, **PJV knowingly failed** to comply with the duty of care policies to create a safe environment.

The Porgera Joint Venture knowingly failed to carry out reasonable preventative measures, which were highlighted. The concept of failing to comply with the duty of care policy as exposed innocent people to be killed, injured, tortured and detained. This is a gross violation of human rights and crime against humanity.

10.15 Effects of Failing to Comply with the Duty of Care Policy.

Failing to comply with the duty of care has allowed the village alluvial miners and other public trespassers to enter the mine area **exposing** the trespassers to injury

²⁴ Mining (Safety) Act 195A Section 45 and 56

or death. The incidents are either through shooting, chemical poisoning, drowning in tailings, grievous bodily harm caused, torture, arbitrary arrest and detentions are all under expense of dirty gold

10.16 Current Situation on this Issue.

At the time of writing this documentation the process of ignorance is a method of operation. The killing, torture, detention of people is continuing. Both the Papua New Guinea Government and the Porgera Joint Venture continue to neglect the carries from the small local people of the Porgera valley regardless of numerous attempts to have the bad situation highlighted to be controlled. Carrying out reasonable precautionary measures to stop the continual of these death and injury is an impossible theme in the face of our government and the Porgera Joint Venture.

10.17 ATA Inc Comments

The injury and death to the local alluvial miners and the public community caused by PJV's security and general operation pattern is reported as they occur. Porgera Joint Venture's constant negligence to perform cause of actions identified by the public to prevent further death or injury is a gross violation of Human rights.

The Akali Tange Association Inc can not except an International Company operating in Papua New Guinea to behave in such a manner leading to these unlawful deaths, injury and other in-human operation to continue. Furthermore, Akali Tange Association Inc dose not except the Independent State of Papua New Guinea's government to aid the Porgera Joint Venture to continue in its bad operation method to kill and hurt hundreds of innocent people of the country.

The Government of Papuan New Guinea and the Porgera Joint Venture are held accountable and responsible for the deaths and injury. These hard evidence proofs the PJV and the independent state of PNG have committed crime against humanity and are answerable.

Full compliance of the preventive conditions is a requirement and this Association will stand its ground to ensure that is done and we suggest that appropriate measures are necessary to eradicate the pressing issues.

11. CRIMES AGAINST HUMANITY; The Liability for Grave Violation of Law by Porgera Joint Venture

11.1 Summary

The Crimes Against Humanity to the extent exposes unaccounted scenes that are nothing but the truth about willful killings, chemical poisoning, grievous bodily harm caused, torture, and arbitrary arrests and detention of community individuals. These crimes being revealed must have never been told before and as such they do hold and alleges the Porgera Joint Venture (PJV) shareholders and State accountable for crimes against humanity.

The grave violation of laws reflects the inhuman and satanic faces of some so-called reputable international mining companies. Their transcripts of business conducted are contrary to International Standards, National Goals and Directive Principles, and the spirit of the Papua New Guinea constitution.

11.2 Introduction

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of local communities in Porgera. And that undermining the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want that has been proclaimed as the highest aspiration of the common people.

There is a climate of impunity surrounding economic activities that promote or sustain conflict and human rights abuse. Porgera Joint Venture (PJV) in search of extractive resources and inexpensive labour operates one of the worlds biggest gold mines in Papua New Guinea (PNG) beset by violence, repression, where effective governance and accountability are absent.

In many cases, PJV has become embroiled in willful murder allegations, grave human rights violations perpetrated by employees of the company. The exploitation of and trade in minerals has also provided a major source of revenue for criminalized shareholders.

This climate of impunity raises a number of questions. In the absence of effective domestic rule of law, and little economic regulation of these activities or sectors, what law applies? Is there some kind of humanitarian law that applies to criminal business actors? Can Porgera Joint Venture shareholders and associates be held criminally account for or liable at tort to pay specific compensation when employees use excessive force to murder harmless local members of the

surrounding communities in Porgera? Do such multi-national that supports murder of common people become complicit in the abuses committed by employees.

To date, it has been primarily the responsibility of the PNG government to ensure that PJV do not violates people's rights. This reflects the power historically wielded by the state, both individually and collectively through institutions like the UN. However the increasing global power and influence of trans-national like Placer Dome Inc Canada, the managers of the Porgera Joint Venture means that they, alongside the PNG government must be responsible for upholding human rights within spheres of their influence.

The UN Universal Declaration of Human Rights and, the National Goals and Directive Principal that underlie our constitution codifies not only the moral responsibility of PJV to uphold rights of the affected people in Porgera and other communities in the highlands regions of PNG but is increasingly seen as implying their legal liability as organs of society to respect, promote and secure human rights. Re-owned international legal scholar, Professor Louis Henkins states that;

*"Every individual and every organ of society excludes no one, no company, no cyberspace. The Universal Declaration applies to them all."*²⁵

Concurring the spirit of these fundamental rights and the supporting domestic legislation's, the crimes of PJV are accountable by shareholders of the company, Placer Dome Inc of Canada, Durban Roodepoort Deep of South Africa, Mineral Resource Enga Ltd of PNG and the Independent State of Papua New Guinea. Ultimately, ATA Inc presents a modest attempt to provide some facts about the Mens rea and extent of Negligence to translate ill-gotten minerals into their advantage.

As UN Serectary-General Kofi Annan has noted:

*"The fragility of globalization... poses a direct challenge to the self-interest of the corporate sector, and central part of the solution is the need... to accept the obligations-and not merely the opportunities- of global citizenship."*²⁶

²⁵ UN Universal Declarations

²⁶ UN Serectary-Geeral Kofi Anna

11.3 Extent of Negligence

PJV and the PNG government have failed to exercise the standard of care as obliged to protect the local people and to uphold the standards of human rights. The 1989 Porgera Mine Development Agreement was entered into between the Independent State of Papua New Guinea and Enga Provincial Government for that purpose supported by other domestic legislation. That agreement is valid for the life of the mine and contains a clause holding PJV financially accountable while providing redress and relief for victims identified in this document.

As stated to protect ALLUVIAL GOLDMINING:

" The National Government through the Department of Minerals and Energy (now Mining), undertakes to:-

- (a) Monitor the effect that effluent from the Porgera Mine Projects Operations has on alluvial gold working in the Porgera area,*
- (b) Establish appropriate guidelines for adequately compensating alluvial Goldminers for loss or damage to workings,*
- (c) Ensure that compensation for any loss or damage is promptly paid by the Porgera Joint Venture."²⁷*

Local village small-scale alluvial gold mining records way back to 1950 and earnings from alluvial works has dominated economic life style of the inhabitants of the Porgera area and will remain a mainstay for a long time yet. Although, royalties and social wages, e.g. subsidized food, health services and education, have come as benefits from development of the Porgera Mining project for the local communities, these benefits have been merely rewards for gross exploitation and nothing in sustainable measure for the long term.

Cabbage farms, fishponds and an expensive International School are not the type of sustainable projects. A sealed highway from Wabag to Porgera, electricity grid from Hides-Porgera connecting Laiagam-Wabag, opening of the Laiagam-Kandep and Tari highway, a all weather Porgera- Paiela road and the Porgera-

²⁷ Mining Development Agreement, May 1989 Pg 15.

Tari highway are sustainable infrastructure developments for the long term benefits of the communities within the region. Otherwise the recently constructed Paiam town will inevitably become a ghost town.

Nevertheless, these social wages where in late part of the century for the extraction of gold and silver from Porgera gold deposit. The incentives alone has not made a significant impact apart from the regular benefits derived from working in the alluvial gold which came together with price of death and injury from PJV.

A recent survey conducted for this purpose confirms the outset that about “K1 million” ²⁸in cash circulates weekly in Porgera from sales of alluvial gold at local trading price of K19.00 to K 22.00 per gram (mercury gold). And moreover, earning from wages by local PJV employees normally comes out on fortnightly basis and that has become somewhat an insignificant factor to compare the earnings from alluvial gold.

That despite the huge amount of cash circulation, high level poverty, law and order problems are still a major issues to be properly addressed. These social and economic problems can only be reduced if PJV with the help of the state upholds the human rights of people affected by the mining activities. This has become particularly important for major mining company like Placer Dome, which operates a mine in one of the remotest areas, a last frontier on earth amongst some of the illiterate and most vulnerable communities.

The PJV has almost completely denied the standard human rights and complicit in crimes against humanity, including willful killings, chemical poisoning and causing grievous bodily harms, torture, arbitrary arrests and detention of community individuals.

It has become very embarrassing to find PJV take shield under the Mining Act section 40. 2(a) & (b), exclusive occupancy and owning all minerals mined. That exclusiveness... DOES NOT permits the same rights to cause grievous bodily harm and directly removing human life forever from the face of the earth.

These crimes by the PJV are often committed at every stage of the project. The local people are vulnerable because they are usually the quite marginalised groups in this part of Enga, and quite honestly because of the crimes have been committed where effective governance and accountability absent, (natural justice and basic rights are writings of the law books only and practically absent).

²⁸ ATA Inc Survey February,2005

Most notably, loss of so many lives, damage to the traditional alluvial mining lands, loss and damage to the waterways, native flora, fauna and sacred sites with which they have longstanding.

PJV has not adhere to these basic human rights standards and brought about a significant negative impacts on the local communities. More than twenty one (21) small-scale alluvial miners, and ordinary local community individuals were either willfully killed or fallen victims to PJV's mining activities, about eight (8) sustained fatal injury, more than "1277"²⁹ tortured in company lock-ups and arbitrary arrested, and detained. All these crimes committed directly by PJV's private security forces just for trespassing the Special Mining Lease (SML) and Lease for Mining Purpose (LMP) areas. These crimes are committed contrary to the fourth goal of the state and PJV's own mining policy and principles;

"Social Progress PJV; Respect the right of traditional communities to maintain customary lifestyles, cultures and livelihood, both during and after the mines life: Environmental Stewardship; Utilize risk management principles to identify, communicate and minimize potential for long-term risk to public health and safety and/or environmental values."³⁰

One very important factor that enormously contributed to these awful situation amounts to, poor mine planning at the initial stage of the mine project development. According to a study, Porgera Socio Economy Study reported in June 1987. The SML expected land area to cover was "2,070 ha".³¹ The current SML and LMP disturbed land only amounts to "1,160 ha".³² Refer source to PJV Porgera Mine Closure Consultation Document, December 2002. A quite huge difference. This could have been attributed to the state rushing into get the Porgera Mining Development on stream to make-up state revenue shortfall caused by the Bougainville crisis whilst PJV knowingly constructed the mine.

Against the backdrop of this poor plan, PJV failed to comprehensively isolate the nearby dwelling local communities from the SML area. That most local people live a metre from the SML and LMP boundaries. Notwithstanding, PJV failed to erect proper fencing the whole SML area preventing foreign intruders. That includes

²⁹ Porgera Police, 2005.

³⁰ Consultation Document December, 2005. Appendix 2.

³¹ Porgera Socio Economic Study. Pg 12.

³² Consultation Document December, 2005. Pg 16.

safety signboards and hazards warning systems to keep living animals and human beings away from the danger areas.

Stationing of what we have witnessed 380 fully armed private security on guard reflects the work of a desperate company only interested in mineral wealth rather than value for human life, the all purpose of safety. On that note, isolating the local communities through the PJV's so-called relocation program to a far distance could have been a healthy solution for the mine owners rather than just a shift from one side of the street to the other.

The Open pit, Stock-file at surface mine, Kongai stable dump, Anjolek Erodible dump, the Anawe Erodible dump and the Anawe stable dump, all these sites are open and lack security fence and any body can enter these areas at any one time. This kind of ridiculous arrangement in one of the biggest gold mines in the world only hints the insecure climate of operation conducted by PJV. To make matters worse for the operator, the traditional footpaths that run through the SML and LMP areas are still concurrently being use by the local communities with PJV and most of the casualties of the crime senses are alone those pathways and traditional ritual sites.

Many innocent local community members have lost their lives at a cost of PJV's poor planning at the beginning and yet, the domestic laws have failed to address the mistakes allowing PJV to continue the killing sphere. On record the Police in Enga have failed to appropriately prosecute the perpetrators under the Criminal Code Act while the Mining Inspector has also failed to execute provisions of the Mining Safety Act. That Act requires the Inspector to do a comprehensive investigated report on any accidents that occurs at a mine site with appropriate recommendations. This has never been the case for almost all the deaths and injuries inflicted on local village small-scale alluvial miners and that leads to conclude that the state law enforcement agencies and the PJV conspired to commit the crimes.

Some similar wrong doings of the parent company, Placer Domes world wide operations that went astray and causing environmental disaster for members of the local communities in which they operated mines demonstrate to confirm evil activities conducted in Porgera: -

In 1999 a lawsuit was filed by five environmental groups in Montana District in the United States against the Montana State Department of Environmental Quality and 100% Placer Dome owned Golden Sunlight Mine. The lawsuit alleges that:- “ the expansion approval by the state department violates certain Montana

regulations." ³³On the 16th February 2000 the court ruled that the Montana Metal Reclamation Act required the defendants to impose a partial pit back-filling requirement. Incident recorded Placer Dome Inc annual report 1993.

On March, 1996 Marcopper Mining Corporation, a 40% owned by Placer Dome in the Philippine caused a fatal environmental disaster by discharging naked mill tailings into the local eco-system. Placer wrote off its investment totaling more than US\$43 million with Marcopper Mining Corporation and exited from the Philippines. ³⁴However, the Philippine Government held back Placer Dome accountable for the off- site clean up, compensation for damage to the local communities and to remain back to mitigate the environmental impact of the disaster. The total cost occurred to meet these extra liabilities so far records more than US\$ 90 million. Oxfam March, 2005.

The Porgera mine is located in the backyard of the traditional communities who knew what is worth hard rock or alluvial gold far back from 1950 and how can one of the worlds class mine continue to operate in such a insecure environment. This could be a joke to somebody but that's reality. PJV has conducted a mining business that falls below the legally recognized standard of taking reasonable care under the circumstances that features killing harmless local community individuals.

From a local perspective, the company's waste dumpsite is the designated area for disposal of non-useable materials and how can an international company justify killing people in a waste dumpsite? And yet, the company's preferred riverine tailings disposal methods are improper and have costed more than 3 lives and has had a significant impact on the environment and traditional land holding structure.

PJV seems to paint a good picture in many reports that the system used is the best method suitable for the projects viability, but the number of lives lost and environmental impacts felt on the ground so far do sheds some light on what we believe a large scale environmental disaster is still in the waiting.

When taking into account of all these failures, and the values and the magnitude of the crimes, there is never a point that will warrant a merit to justify the killings or substitute gold for life and it will be never. Mankind has been brought up in different environmental settings on the planet. And the good God above gave

³³ Placer Dome Annual Report 1999. Pg 57.

³⁴ Oxfam March 2005.

us this part of the planet to inhabit, multiply and live to the fullest of life but, apparently under the pretext of social wages, our own government has failed by way of allowing a evil international company to kill and destroy life just like that.

When reading the various laws that regulates the mining industry in the country, trespassing is a minor offence under the Summary Offences Act and illegal prospecting for mineral constitutes fine but does not permits shooting with intend to cause death or grievous bodily harm to a person.

Further, section 167 and sub-section 4 of the Mining Act provides the basis to punish bigger company offenders but obviously it is salient on dealing with traditional small-scale alluvial miners and local community individuals. The intention of that particular provision appears to fit a large-scale operation and not otherwise a traditional small-scale mining activities or a person who is just walking through traditional pathway that lacks the preventive measures.

PJV's own Porgera Mine Closure Consultation Document December 2002 admits that: *" Small- scale alluvial gold mining was a primary source of cash to Porgerans long before the development of the Porgera Gold Mine. PJV is committed to working with stake-holders to explore opportunities for enhancing the efficiency and sustainability of small-scale mining, while promoting methods that are safe and environmentally responsible"*³⁵

The PJV as known to be operating a private illegal police force and policing system outside the regular Royal Papua New Guinea Constabulary Act. Even than, on whatever sleazy arrangements PJV has to shield from, reservist policeman under the Act are not allowed to handle or discharge lives ammunition from a firearm. Accordingly that restricts the right to be in charge of gun which is one of the most destructive weapons known to mankind.

In addition and without doubt, PJV operates one the biggest armory outside the states military armory in Port Moresby. This armory has on stock some of the advance and most sophisticated firearms, e.g. German Sig automated raffles, M16, pump action 7 & 9 rounds etc. Some of these fire arms license must have been obtained for the purposes and in particular to providing security for the gold room and movement of gold bullion and cash in/out from Porgera. However, PJV as diverted from the purpose the license where issued for and instead armed its employees to eliminate lives of harmless innocent local community individuals. There is no valid proof that the company was attacked or attempted arm hold on

³⁵ Oxfam March, 2005.

PJV's gold bullion and cash movement at any one time of the entire life of the mine.

PJV admits and knew for long time that small-scale alluvial mining activity by the next door neighbors (the local communities) was a never-ending situation even after the mine closure. What matters than, PJV falls below on its responsibility to isolate the communities at the first instance from the SML and LMP areas. PJV's sustainability missions statement, "the commitment to explore opportunities for the enhancement and sustainability of small-scale mining while promoting methods." That statement contradicts with actual applications to deal with the issue at contention. Practically nothing has materialised and the sweet talks are just to take cover and deviate attention from the crimes against the very communities PJV promised to assist.

PJV's on site killings and causing grievous bodily harms are crimes against humanity and that draws a clear picture, a case of complicit. Whereas complicity occurred when PJV aided or abetted- that helped or encouraged the perpetrators to carry out the crimes while on company pay-roll and using resources during the cycle of the Porgera mine project. There are elements that proof beyond reasonable doubt that PJV guilty of complicity at law: Supporting case law cheated:

Crime Report No 1609 of 2002. The STATE Vs FRED BUKOYA, Wabag & Mt.Hagen: JALINA, J. JUDGEMENT ON VERDICT 14th September 2005.

"JALINA, J: This accused has been charged with 2 counts of wilful murder of two illegal miners at the Porgera Joint Venture mine site on the night of 3rd February, 2002. Both deceased were killed when he allegedly fired a shotgun in discriminately in the direction of the deceased's as they were fleeing from the waste dump were they where looking for gold.

Not necessarily. This is because s. 539(1) of the Code does empower the court to return alternative verdict on an indictment charging a person with wilful murder depending of course on what the evidence reveals.

In the present case, there is more than ample evidence that the intention of the PJV security guards including the accused was for the accuseds group to go to where the illegal miners were and chase or cause them to move towards the area where Pitu Lapais groups were to effect arrest of those illegal miners.

I am not satisfied therefore that the security guards including the accused had the intention to kill anyone. I accordingly find the accused not guilty of wilful murder. Since the accused was in charge of a gun which was one of the most destructive weapons known to man, he ought to have foreseen before he fired

*in-discrimately onto the direction of the illegal miners that death or grievous bodily harm could be caused to one or more of them. I accordingly convict him of murder as an alternative verdict. Imprisonment 10 years hard labour.*³⁶

Note: At the time of this documentation, we have learnt that an Appeal was filed against this conviction. Appeal file No. SCRA- 80/2004 entered 21/10/2004. Our case reference is based on the conviction.

The State Vs Fred Bukoya incident was brought to justice upon pressure from communities on a very rare occasion only when such a crime was successfully brought to trail and the accused was convicted. Accordingly, ATA Inc strongly reaffirms the held view that the entire deceased and injured victim's case list could have resultant with similar convictions if only the state law enforcement agencies have not neglected to discharge lawful duties.

Accordingly, the trial judge did convicted the person from murder and that proofs beyond reasonable doubt that liability at tort to pay compensation specific claim has become inevitable. Therefore, that deems to present the element of liability on PJV and the state now to do so.

Even than, as provided in the Criminal Code of Conduct Act, section 299-305, willful murder is a serious crime and on conviction a defendant can be to the extreme sentence to face the life sentence penalty.

As stated by National Court Judge Justice Moses Jalina when handing a decision to sentence a young mother to 10 years imprisonment for manslaughter on 21st July, 2004 at the National Court sitting in Wabag:

*“ No man or woman intentionally or unintentionally has the right to take another persons life.”*³⁷

The Criminal Code section 3, sub-section 291 describes killing as, “ any person, who causes the death of another, directly or indirectly, by any means, shall be deemed to have killed the other person.”³⁸

³⁶ Justices Moses Jalina 2004

³⁷ Justices Moses Jalina 2004

³⁸ Section 3 Criminal Code

11.4 Particulars of Victims

We are able to list here only those ' fatal incidents' which have come to our notice with exclusive authority to do so in which more than twenty one (21) people where killed and more than eight (8) injured. This incomplete list of victims, supported by medical and police reports, and the anonymous numbers do present a element of guilty of complicity at law... a crime against humanity... that PJV did contributed in cash and material (direct and substantial) to the crimes; and there is element of intent/ or knowledge, such that the PJV did intended the crimes to be committed or even been reckless as to its commission.

On third page, paragraph 3,4&5. The State Vs Fred Bukoya 14th September, 2004 Wabag & Mt. Hagen.

" In this case, there is no dispute that at the relevant time the accused was employed by the Porgera Joint Venture (PJV) as a Security Guard Supervisor at the mine site at Porgera and part of this responsibility involved providing security for the assets, operations and employees of PJV. This responsibility included responsibility to ensure that his employer's properties were not damaged or stolen by anyone.

*It is also no disputed on the night of the alleged shooting, the accused was informed by radio that some illegal miners were at the waste dump site stealing gold and he proceed to the area with two groups of guards. One group went to the other side while he led a group to one side with the view to chasing them towards the other side to be arrested. There is also no dispute that both deceased's were killed by pellets from shots he fired with his shotgun that he was armed with at the time."*³⁹

Therefore, the deceased and injury list can only hint at the appalling magnitude of the Porgera Joint Ventures *Shooting Fields*, death and injury toll and the grief of families and communities. Note that hard copies of medical and a few crime reports for the identified victims are withheld for obvious reasons. However, for the benefit of the parties alleged to commit the crimes, extracts of the reports are written bolded with code mark with no footnote insert.

³⁹ Justices Moses Jalina 2004

1. Henry Tendeke (deceased)

Shot by PJV security on 12th March 1996. Married with 5 children, from Ekanda village Tari District in the Southern Highlands Province. He was age 35. Medical report confirms was shot death at the mine site.

“ The course of death was obviously from one single gun shot which damaged most of the vital organs in the chest. Dr. Alphonse D. Tay, Mt Hagen General Hospital.”

2. Alonge Laswi (deceased)

Assaulted by PJV security and thrown into the open pit to die on the 4th September 2004. Married with one child, from Kera- Bridge in Laiagam District, Enga Province. He was age 30. Medical report confirms he was assaulted to death at the mine site:

“ The cause of death is most probably from cervical spine and internal haemorrhage. Dr Anthony Kurame, Laiagam District Hospital.”

3. Peter Yape (deceased)

Died from falling rocks caused to slide and fall by PJV working machine on the 21st April 2002. Married with one child, from Yakenda village, Laiagam District Enga Province. He was age 25.

4. Jacob Nembo (deceased)

Died from falling rocks caused to slide and fall by PJV working machine on the 21st April 2004. From Yakenda village in Laiagam District Enga Province. He was age 24.

5. Appeal Kepai (deceased)

Got drowned in the waste tailing floods at the Anawe South waste dumpsite while on normal routine from gardens on the 25th December 2003. A child age 7.

6. Taitia Maliapa (deceased)

Shot by PJV security on the 28th February 2000. Married with a child and from Kakaren village, Koroba District in the Southern Highlands Province. He was age 28. Medical report confirms he was shot at the mine site;

“ Cause of Death: Caediorespiratory Arrest due massive left intraperitoneal hemorrhage due to injury to the left lung, spleen, stomach, pancreas and abdominal aorta secondary to penetrating gunshot wound. Moises V. Granada MD, Porgera Hospital Payam.”

7. Minata Pita (deceased)

Assaulted by PJV security and thrown into the open pit to die on the 6th January 2002. From Kulapi village, Porgera in the Enga Province. He was age 18. Medical report confirms;

“ In my opinion the deceased died primarily due to the loss of blood, from the ruptured right kidney and from the neck bone (C2 to C5) fractures. Dr Samson Amean, MBBS General Practitioner, MAMAKI MEDICAL CENTRE LTD”

8. Paul Pindi (deceased)

Shot death by PJV security at Anawe waste dumpsite on the 28th January 2004. From Kitalya village Kandep, Enga Province. He was age 20. Medical report confirms he was shot to death;

“ Gun shot wounds at the Thorax spine with traumatised left lung and complete destruction of spinal cord causing paraplegia or paralysis from waistline below and haemopneumothorax causing the death. Dr. Moses V. Granada, MD Physician-Surgeon MVG/ITY, Porgera Hospital Payam.”

Police case still pending for arrest and stand trial on criminal code.

9. John Wangia (deceased)

Shot to death by PJV security at the Anawe waste dump site on the 16th April 2004. Married with 3 children and from Mamale village Laiagam, Enga Province. He was age 25. Medical report confirms he was shot to death at the mine site. Note attached photo of victim in appendix.

“ Based on the number of 12 gauge shotgun pellet that enter the body of the deceased and the injury to skull and Intracerebral tissue. The deceased was shot at the distance of more than 25 to 30 feet away. Dr. Moises V. Granada, MD MVG/ITY.”

A statement of truth by Sgt. Vincent Kala Reg 8009 CID Porgera Police.

“ That the late John Wangia and the rest who are death or sustained injury are victims of a cowardic and unlawful shootings by Porgera Joint Venture and at the same time the state neglected to protect its own citizens.” ⁴⁰Sgt. Vincent Kala-Reg No. 8009 CID Porgera Police.

⁴⁰ Sgt V.Kala

The latest development on Police case Crime Report 0805 entered 14th April, 2004 to stand trial the PJV security who pulled the trigger is not knowing at the time of documentation.

10. Pyakane Eremi (deceased)

The victim was assaulted and thrown to eventually die in the open pit by PJV security on the 6th September 2003. Married with 5 children and from Kembos village, Laiagam in the Enga Province. He was age 45.

“ Late Pyakan Eremi probably died of increased Intracranial Pressure, after bleeding into the dura. Dr. Pinai Smith- MBBS Medical Officer- Surgery, Enga General Hospital Wabag.”

11. Tatape Lombai (deceased)

The late Lombai got drown at the floods caused from Anawe soft waste and tailing disposal site sometimes in mid- October 1991. Age about 30 and from Paiam village Porgera. He got drowned and buried life on traditional footpath. The decomposing body never recovered. PJV did admitted liability and paid K20, 000.00 funeral expense money and never fully compensated. Instead awarded security contract to immediate relatives and the contract was terminated after 1 year & 5 months of engagement. Relatives were shut out when further inquired.

12. Pyakani Tombe (deceased)

Shot to death by PJV security on the 6th April 2003. Married with 4 children and from Wanpos village, Laiagam in the Enga Province. He was age 35. Medical report confirms the deceased was shot at the mine site;

“ To reconstruct the course of events, the pellets which entered the upper abdomen lacerated the small bowel and the stomach and then penetrated the diaphragm, went through the lung and excited between the ribs but had lost momentum and could not penetrate the skin of the right chest wall, but were easily felt under the skin.

The pellet which went through the left anterior chest tore a major bronchus and also the aorta. This explains the massive bleeding into the left chest and the collapsed lung. This explains why death occurred only a short time after the shooting.

Cause of Death:

Assphyxiation and Exsanguination from Aortic Tear.” Dr. Harald Giebel, MD, FACS . Porgera Hospital Payam- Porgera.”

13. Thomas Dop (deceased)

Died from falling rocks caused to slide and fall by PJV working machine on the 10th September 2004. Married with two wives. He was age 28. Police and witness statements proves that he was found death at the mine site;

“ This is to certify that the dead body of a certain Mr. Thomas Dop, an alledged illegal miner and who was crushed to death when body was covered with tons of mud and stones from a land slide, was placed in the Morgue of Porgera Hospital for three night (September 10-12, 2004}

Dr. Gauvin O. Flores- MD. CEO, Porgera Hospital Payam.”

“ With that I was unable to submit a report of death to Coroners because the angry relatives had taken the body home for burial without having to do an autopsy on the body and also I was never allowed to visit the scene where where heavy machines work.”D/CNR 11081 Patric Aipamu, CID Porgera⁴¹.

14. Yandari Pyari (deceased)

The deceased was shot by PJV security at SML area on the 3rd February, 2002. From Saimanda village Laiagam. Confirmation, ***“CR 1609 OF 2002 The State Vs Fred Bukoya, Wabag & Mt. Hagen: Jalina, J 14th September, 2004.”***

15. Jerry Yope (deceased)

The late Jerry Yope was shot death by PJV security at the SML on the 3rd February, 2002. He originates from Kulapi village Porgera. Confirmation, ***“CR 1609 OF 2002, The State Vs Fred Bukoya: Wabag & Mt. Hagen: 14th September, 2004 Judgement on Verdict, Jalina, J.”***

16. Jackson Yalo (deceased)

On 25th November, 1993 the deceased was in custody on allegation of stealing by PJV and was in a police van to be transported to Baisu CIS on the way at Pompopos bridge he attempted to escape with other fellow prisoners and was shot during the chase. Coroner report confirms the death.

“ Jackson presented to our Outpatient Department on 25/11/93.He had wounds in ® Chest Arm and Shoulder as well as one entry wound into ® chest from what appeared to be bullet wounds. Patient initially presented with rapid respiration

⁴¹ Patric Aipamu 11081 CID Porgera

and respiration stopped.” Dr. Paco Munoz, Acting Medical Superintendent, Sopas Adventist Hospital.”

“ I recall that I arrested a suspect namely Jackson Yalo of Walupim village, Kandep on the 13th October, 1993 at Porgera for the offence of stealing K2, 000-00 cash money from PJV cash office. The incident took place on the 12th October, 1993 at the Porgera Mine site.”⁴² Cst Maliso Makoso, Arresting Officer Porgera Police Station, 30/11/93.”

17. Sep Minalane (deceased)

The deceased got drowned from floods caused by tailings and erodible dumps on the 21st September, 2001. He was age about 47 and married with 7 children. He was on his way on a traditional footpath to his village within the South Anawe LMP area when he got drowned at the Maiapam and Pogema river catchment by floods caused from tailings and soft waste disposals. Confirmation, Medical report from Porgera Hospital.

18. Dully Mora (deceased)

The deceased Dully Mora, 52 years old, male a residence of Pajalia, Tari, SHP, married to two wives with 9 children. The late Dully Mora was found death from chemical poisoning at the place of work PJV mine site. Medical report from Payam Porgera Hospital confirms both lungs were infiltrated with carbon materials.

“Physical findings:

HEET=Contusion and abrasion at the right occiput.

Back=Bruises at the back

Extremities=contusion and abrasion at the anterior of both legs.

Inverted Y incision was made at the sternum and to the abdomen. Strenum was split with chsel and incesion allthe way down to mediastinum and intra abdominal cavity. The heart looks normal both lungs were infiltrated with carbon materials. Intra abdominal organ not remarkable.

Circular scalp incision done at the occiput down to the nape.

Skull bone was open with chisel. Epidural sheet was open exposing the brain substance and moderate amount of haematoma at the brainstem was noted.

Cause of Death:

Cardiorespiratory arrest due to subdural. Haematoma due to blunt trauma.

Dr. MOISES V. GRANDA, MD Physician- Surgeon”

⁴² Cst Maliso Makoso

19. Joe Opotaro (deceased)

The deceased was shot to dead by PJV security police on road patrol at Yakananda village out side Wabag on the 19th May, 2003.

“Post Mortem Report:

The deceased was allegedly shot death by Porgera Joint Venture Security Police on the 19th May, 2003 and Post mortem done on 30th May, 2003 at Yakananda village. Examination:

A young man apparently died some time ago.

Findings:

Head - No abnormalities detected.

Neck - NAD

Chest - Deep penetrating wound on the antrior aspect of the chest on the on the left side.

The wounds was 2 cm x 2 cm in size, deep penetrating 30% to the skin surface. There was also a large penetrating wound 5cm x 5cm size on the lateral aspect of the right chest. Conclusion:

In my opinion the deceased may have died of hyporolaemic shock due to internal bleeding leading to cardiac arrest as a consequence of the injury sustained.

Peter Paulson

**CHEO- Enga General Hospital
Wabag. “**

20. Agilo Wija (deceased)

The deceased Agilo Wija was shot to death by PJV security guards on the 6th March 2005 at the South Anawe dump site. He was age about 25/M from Pajjaka area in Tari SHP. **Police report taken by Wabag Police and Medical Postmortem done at Porgera Payam General Hospital confirms. The shooting incident was also reported in the National NewsPaper on 16th March 2005.**

21. Bikulu Leo (deceased)

The deceased Bikulu Leo was crashed to death at the surface mine site on the 14th March, 2005 by falling rocks during hard rock blasting. He was married and age about 34 from Alipis Porgera area. **The incident was reported at Porgera Police station on 15th March, 2005. Porgera Payam hospital staff refused to conducted postmortem on request from PJV. Postmortem was presumed to be done at Laiagam Hospital. At the time of documentation we were unable to sight the report.**



Plate 26. Late Bikulu Leo was paid last respect before burial at Alipis home funeral

22. Mina Mulako Yambu (injured)

Fatally injured by PJV security on the 16th January 2004. Married with 3 children and from Margarima in the Southern Highlands Province. He is age 30. Medical report confirms the fatal injury;

“ Bullet injury through chest to the abdomen with possible injury to liver. Further investigation and treatment is necessary. He was discharged with medication on the 28/01/04. No surgery was done on him. Bullet still. Still has abdominal pain & jaundice. Further treatment and possible operation might be necessary. Dr. Harald Giebel, MD and Dasisy Atua, Health Extension Officer.”

Also surprise but not surprise, note that a Discharge Release Agreement entered between PJV and Mina Mulako dated 12th May, 2004 was executed under suspicious circumstances with criminal intent to void future litigation; The agreement reads in part:

WHEREAS

“ A. Mina MULAKO was involved in an incident at the Anawe waste dump with Porgera Joint Venture Security which resulted in him receiving a single shot gun pellet wound to his chest. B. Placer and Mina MULAKO , Amos YAMBU, Giwa MULAKO, David Tindi and Jacob YALLAN are desirous of resolving this matter without any admission of liability and solely for the purpose of avoiding the uncertainty and expense of future litigation.”⁴³

Signed for and on behalf of Placer (PNG) Limited by R.J. Mossop, A/Asset Protection Manager in the presence of: Witness G. Obree, Ops Coordinator Asset Protection. Mina Mulako, Amos Yambu, Giwa Mulako David Tindi and Jacob Yalan.



Plate 27. Mr. Mina Mulako pointing at his injured body

23. Thomas Tiane (injured)

Sustained injury caused by PJV security on the 12th February, 2003. Married with 4 children and from Payjaka village, Tari in the Southern Highlands Province. He is age about 35. Police, medical, and witness report confirms PJV security caused the injury to the victim.

“ He sustained multiple injuries to face and general body. Post traumatic Syndrome-Eye ® Injury. Dasisy Atua, Health Extension Officer. Porgera Hospital at Payam.”

24. Buka Lita (injured)

The victim male/adult of Yanjakale village Porgera, Enga Province was physically assaulted by PJV security guards on the 16th April, 2004. Married with 4 children. Medical report confirmation from Porgera District Health Services Centre.

“Mr. Lita was physically assaulted and beaten up by PJV Security guards on the 16/04/04 at around 11 Am midday.

⁴³ Mina Mulako Discharge Agreement

He sustained:

- **Swollen and bleeding right mouth.**
- **Lacerated upper right inner lip.**
- **Two upper right molar teeth broken off.**
- **Lost approximately 50-70 ml blood.**

The laceration was suffered under 5 ml local with 6 stitches.

Healing was good with anti-biotic. Loss of his 4 teeth will be for his lifetime.

**Jerry Maku
OIC/DNO”**



Plate 28. Mr. Buka Lita pointing to his broken teeth and dislocated jaw

25. Nisera Malyio (injured)

Mr. Malyio fatally injured by PJV security on the 3rd February, 2002 at the SML area. From Kandep and currently lives at Kulapi in Porgera. Confirmation, CR 1609 of 2002, **“The State Vs Fred Bukoya Wabag & Mt. Hagen: Jalina, J. Judgement on Verdict, 14th September, 2005.”**

26. Amos Kalimu (injured)

Mr. Kalimu fatally injured by PJV security guards on the 15th May, 2004 at the Anawe South Waste dump tailing site. Male age about 32 and married with 5 children. Originally of Koroba SHP and lives at Anawe village Porgera in the Enga Province. Medical report confirmation from Mt. Hagen General Hospital.

“The above mentioned was seen at the Outpatient Department on the 20th May, 2004 complaining of severe backache over the chest region.

Prognostically he is expected to improve on this treatment with no further complications anticipated. Dr. Guboro Urae, MBBS/ Medical Officer, AOPD/A&E.”

27. Nigel Pongem (injured)

Mr. Pongem was intentionally forced to fall into the open pit by PJV security guards causing fatal injury resultant with lost of the right leg on the 25th May 2003. From Ipai village Laiagam and lives at Alipis village, Porgera. Age about 40 and married with 3 children. Confirmation, Medical report from Payam Porgera Hospital.



Plate 29. Mr. Nigel Pogem lost his right leg permanently

28. Waro Marcus (injured)

Sustained injury from gun wounds by PJV security on the 6th January, 2005. From Multake, Laiagam in the Enga Province. He is age 18. Medical report confirms the cause of the injury;

29. Kurun Lyai (injured)

Sustained injury from falling rocks caused by PJV security on the 4th February 2005. He is age 27 and from Alipis village Porgera. He was arbitrary arrested and detained under handcuff in the hospital bed giving doctors not enough freedom to treat the patient. Medical report yet to be obtained, the victim still admitted in Payam Porgera Hospital

The incident involving Kurun Lyai was published on the 25th February 2005 stating that an illegal miner rescued after falling into the open pit.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

The photo and the content of the story published where framed and falsified publications with intent to cover up the true side the entire crimes against humanity situation in Porgera. The hard fact remains that the poor man was forced by security to fall into the open pit to die but somehow he survived the ordeal. Than the securities pretended to rescue him. Thereafter, they took the fatally injured victim to Payam Porgera Hospital and chained him to the hospital bed by handcuff denying room for treatment. ATA Inc upon receiving report of the inhuman situation wrote to Porgera Police Station Commander on the 7th February 2005 to intervene.

30. Cathy Kalo (Injured)

The injured victim was caused to bodily harm by PJV security guards on the 6th March, 2005 at house from Anawe South dumpsite. The victim is a female school student age about 12 from Mugulep area, Porgera.

“Porgera Police report, O. B No. 680/2005.

Reported that on Sunday 6th March,2005 at about 6pm at Anawe dump some PJV SECURITY FIRED THE FIREARM at the people and the girl who was attending Porgera Community School in Grade 4 standing on the hill near her house at Mugulep got gun pellet on her back right side. The doctor examined could not find the pellets. Police report now as mentioned above. “

11.5 Torture, Arbitrary Arrest and Detentions

From early as the year 1989 most community individuals where tortured in company lock-ups by way of: strip too naked, electrocuted, hosted with high-pressure water and lockup in security dog cages. Arbitrary arrested and detained under the Summary Offences Act section 20, unlawfully on premises. In year 2001 the application of section 20 was dropped and applied section 167, sub-section 4 of the Mining Act, illegal prospecting for minerals. ATA Inc obtained OB entry from the Porgera Police station for years 2002(362), 2003(506) & 2004(409) established that a total of 1277 arbitrary arrests and detentions were made for the three years.



Handcuffed to Hospital bed

Plate 30. Mr. Kurun Lyai denied medication and tortured by way of handcuffed in hospital bed, Payam Hospital for a week February 2005

The 1277 figure has somewhat reckon to be an alarming statistic to draw conclusion because most of the detainees are local community individuals. They are detained on traditional footpath or ritual sites, looking for firewood or hunting for wild animals, gardening or looking after domestic animals, but few a detained on account of searching for hard-rock and alluvial gold. Despite of the various reasons, PJV enters charges on either one of the two grounds by private police at the mine site and just passes the buck on the regular police at Porgera to complete formalities to pretend that the detentions are done according to law.

That private policing gives rises to the legitimacy of the police at the mine site. The National Constitution allows only three regular forces. They are, Defense, Correctional Institutional Services and the Royal Papua New Guinea Constabulary. These law enforcement agencies functions are regulated and

discharge of duties are confined to that of the law but the nature of the crimes prove that a far more serious illegal arrangement exists at high level without the knowledge of subordinates on the ground. It has then become obvious that the domestic laws failed to ratify the worsening situation to protect the locals who otherwise are obliged to be protected.



Plate 31. Armless local females detained at SML.



Plate 32. PJV Detainees

Photograph Plate 31 displays local village ladies arrested for trespassing the SML area.

Photograph Plate 32 displays local trespassers detained at Mukuramanda Jail in Wapenamanda, Enga Province, Papua New Guinea.

11.6 Liability of Porgera Joint Ventures Parent Companies and the State for Crimes Against Humanity.

The first observation to be made here is that empirical research investigation into these willful killings, chemical poisoning, causing grievous bodily harm, torture, and arbitrary arrest and detention of community individuals suggest that the crimes were committed within the SML and the LPM of the PJV. This suggests, therefore, that, while domestic legal frameworks are weak, the internalization of the damage cost can make the difference between disaster and prevention and between irresponsibility and responsible business practice. From the outset operations, compensation specific claims are paid, pollution is prevented, human rights are respected, and the plant closure is accompanied by clean-up, reclamation and social impact mitigation and planning.

Notwithstanding the salutary fact that explanations are found for each of the incidents that occurred, and one way or another these relates to mismanagement, it remains the case that PJV is judged by its poorest-performance. So, increasingly, the Akali Tange Association Inc requires response on the compensation specific claim by shareholders of the Porgera Joint Venture, Placer Dome Inc Canada, Durban Roodepoort Deep of South Africa, Mineral Resource Enga Ltd and the Independent State of Papua New Guinea. As yet, failure to comply the compensation specific claim will clearly link by civil tort lawsuits at a jurisdiction that permits, and that the specific compensation claim exist on an informal basis and requires collaboration and mutual trust to determine the settlement. Research and recent events suggest that PJV do ignore such imperative at the peril.



Plate 33. The Mine view from Paiam Town.

- Legend:**
- Red Line indicates unfenced SML and LMP boundaries
 - Blue line indicated fenced PJV processing and key operating area.
 - Yellow line indicates traditional Pathway currently being used by villages

This kind of ignorance can only be proven with the company's own actions. There have been some recent (25th & 26th February, 2005) publications on the Post Courier and The National newspapers pertaining to local community members invading the mine site. This has been due to PJV just recent relaxing of security

arrangements after ATA Inc served notice of intention to sue and seek compensation to frame that the situation was caused by community individuals. However, the ATA Inc therefore reiterates that the hard fact remains that PJV has committed crimes against humanity amounts to killing, chemical poisoning, causing grievous bodily harm, torture and, arbitrary arrest and detentions of the local village small-scale alluvial miners.

Hence, the ATA Inc strongly affirms that the reports or publications made on the newspapers have been misleading, falsified and unsubstantiated. The source of problem to this effect is crimes against humanity and not otherwise the issue of safety. Practically, safety measures are mend to protect lives and not with intend to kill. Moreover, engagement of 380 plus security guards have directly eliminated so many lives that contradicts with the notion of safety and that's just an attempt shield to elude from liability. Killings and compensation specific claims are the harmless issues invading the mine site resultant from poor mine operating patterns and not illegal miners the problem.

However, now a new operating paradigm exist. No longer PJV shareholders and the state are obliged to 'do no harm'. They need to demonstrate positive benefit and engage directly in the compensation specific claim to ensure that the host traditional small-scale miners and community individuals, particularly those indirectly and directly fallen victims by their operations, receive immediate benefits rather than wait for a possible 'trickle down' effect from the court room.

The PJV and the state are alleged to have conspired to completely deny the standard human rights and complicit in crimes against humanity, including willful killings, chemical poisoning and caused grievous bodily harms, torture, arbitrary arrests and detenting community of individuals.

The PJV employee(s) security guards and others who directly come under the control of the company management committed the crimes. The security employee(s) and others are engaged in salaried contract and award conditions of employment, which presents the elements of proof that the company did, contributed materials in, "direct and substantial" to commit the crimes. That during the entire cycle of the mine, the company and the state knew all alone that local community members were being killed, fatally injured or arbitrary detained and nothing was done to address the situation according to law. Accordingly, that proofs the element of intend and/or knowledge, such that the PJV and the state have intended that the crimes be committed or have been reckless as to their commission.

Elements of proof;

As reported in the National Newspaper Online service copyright © 2003.

Quote:

“Government to probe shooting of 19

The shooting of 19 people at the Porgera Mine site would be investigated by the government, Mining Minister Sam Akoitai said yesterday.

Minister Akoitai told Parliament that the shooting of these people was a serious issue and he would be approaching the authorities at the mine to establish why it happened.

The Minister was responding to concerns by Enga Governor Peter Ipatas during Question Time.

Mr. Ipatas said as result of the shooting, 10 of the 19 have died and this was causing a very tense situation in the area, which could become explosive and threaten the existence of the mine.

Mr. Ipatas said the 19 people have been shot by guards at the mine site, and the criminality of these shootings have not been investigated by police. He said the 10 people have been left to die like dogs after being shot, and enraged relatives could strike back at the mine anytime to avenge their deaths.

The governor wanted to know if the government was aware of these shootings incidents, and if they were being investigated. Minister Akoitai said the government was fully aware of the situation at the project site.

He said he would investigate these with the company PJV with the assistance of the Internal Security Minister.

“We will get to the bottom of how they were injured or killed at the mine. We will try to work out how we can address this.”

It has been reported in the media in the past that guards at Porgera gold mine have shot at locals who have trespassed onto the mine, especially to mine waste dump areas in search of gold nuggets.

In a separate statement issued yesterday, Porgera Landowners Association Chairman Mark Ekepa said he was concerned that no investigation has been conducted into the shooting, and no coroners inquest has been conducted as a result of the 10 deaths.

Mr. Ekepa alleged that the mine security personnel are heavily armed, are dressed like the police and drive around in government plated vehicles, but do

not seem to be answerable to the normal police chain of command in the province.”⁴⁴

Furthermore, an independent observers revelation in August 2003 by Mr. Berry Mini from Mendi in the Southern Highlands Province and a graduate Mine Engineer by profession. Mr. Mini was employed as Mining Engineer for a period of (6) years with the Mine Technical Services Department at Porgera Gold Mine. He vacated his employment due to re-amendment to a clause in the contract of employment without his constant. Sought relief from the court in breach of contract. The information cheated relevant extracts from a whole document he wrote about what he witnessed as unlawful.

The full transcript was disseminated through the media and by electronic mail to all computer terminals in PJV mine site and Placer Dome Canada.

Quote:

“Breach of Contract

Have you ever experienced PJV capitalizing on inequality of bargaining power to bulldoze changes to contract/policies without honoring its commitment to people effected? I have never been given an opportunity to apply for a Housing Scheme, which it is a clause in my contract. Furthermore, in my contract I was supposed to work ten (10) hours daily but due to the nature of my job I worked twelve (12) hours plus. This had imposed a great danger in my health.

Do we have laws protecting foreign companies exploiting our citizens, like for my case working 12 to 14 hours per day? Isn't that inhuman? On the event that a lawsuit was taken against PJV for the above clauses breach for many hundreds and thousands of current and former employees, isn't that a huge liability for PJV? Do you employees feel you have been overworked and underpaid?

“ Killings of Illegal Miners

A lot of local miners have lost their lives in the mining area. Most of them shot though defenseless by so-called company police (paramilitary?!) at 'Point Blank'. To date there is no Coroner Inquest in to these deaths that are aware of. Does that mean the company police have their own laws, or do they operate within the laws of this land? How can the company escape without being penalised?

Or is it that bribery is working? If such was happening elsewhere, this could definitely be on the headlines of the media. How many of PNGans know that such

⁴⁴ The National Online 2004

activity is evident at Porgera? This is a very sensitive issue and will be very interesting for general public, government of Papua New Guinea and other bodies operating in the country. Does the Gun Law have allowance for PJV to operate using high sophisticated weapons like M16, AKA47, SIG-riffle plus many more to terrorize and kill innocent citizens?"

Racism

Do you ever believe that such is happening at Porgera? Certainly I know there is things like 'Job reserved for whites only in Porgera'. Have you ever experienced the attitude and feeling of black being inferior? Have you ever being suppressed by a white pier? I know all of this is happening at Porgera. PJV started in 1989, but how comes there was no national professional trained to take a senior management position for the last 10 years or more. Whatever answers given by PJV must be checked against other mines like Ok tedi and see if PJV is telling the truth." ⁴⁵End of code.

The exemplified cases establishes the elements of proof and it has become obvious that the PJVs shareholders and state can not elude from liability from civil suit at tort law. The wilful killings, causing grievous bodily harms, torture and arbitrary detentions could have not occurred in the same way if the PJV and the state had not so acted. This do mean that a vital relationship do exist with the PJV and the state. Furthermore, for the PJV, no crime would have occurred suppose not aided the employees. Involving company employees and company related activity establishes the burden of proof that the company aided the perpetrators to have an impact on the circumstances and means of the crimes.

And for the parent companies of the PJV, Placer Dome Inc Canada 70% owner and managers of the project, Durban Roodepoot Deep of South Africa 25%, and the Mineral Resources Enga Ltd 5%, any attempts to elude from the compensation specific claim or civil suit at tort litigation would obviously be impossible. That in particularly means attempt to shield themselves from liability under their subsidiaries with complex legal arrangements to appear independent.

The parent companies of the PJV do have direct connection and that link is sufficiently substantial. Placer Dome exercises some degree of regular control and knowledge about events and the decisions occurring at the Porgera mine site. Most of the sustainability polices and documentations are direct from Placer Dome Canada for the PJV.

⁴⁵ Berry Mini Tamatai Lawyers 20/August,2003

As such, a address on the Placer Dome Inc Corporate Strategy by the President & Chief Executive Officer, Mr. Jay Taylor. That statement was published on the local Ipili Wai Pii, Issue No.128, November/December, 2003. The Ipili Wai Pii is a PJV magazine published bi-monthly writing news and articles about happenings at Porgera.

At the time when ATA Inc was on the final phase of putting together this documentation, PJV surprisingly made an attempt to disseminate unfound and false information to the Papua New Guinea general public. On the occasion of the Sixth PNG Community Affairs Conference held in Port Moresby on the 22nd February, 2005 PJV Asset Protection Manager Bruce Gray presented that, "squatters settlers are invading the mine site⁴⁶" and if there was no control than possibility of instant mine closure imminent.

Apparently, taking into account of all the failures identified that assisted and facilitated to commissioning of the crimes accomplished, ATA Inc question what PJV is up to? The squatters are not aliens who have just arrived but community individuals who have the birth right to be where they are and a off course, invited to participate because poor mine plan that's lacks the isolation of these community individuals. The company's reasons differ from the truth about the actual situation on the ground. PJV and the state conspired to neglect and violate the rights of the local community individuals. The company and the state have failed to exercise the standard of care that a reasonably prudent company and a state should have exercised in the situation.

11.7 Summary

This chapter of the Crimes Against Humanity concludes with two very interesting Corporate Commitment statements by senior executives of Placer Dome Inc Canada;

" Time is overtaking us. What was good enough yesterday is not good enough today. What may be acceptable today won't be tomorrow. So we need to leap forward. We need to begin to move towards sustainability. We are challenging ourselves so we can learn today what will allow us to retain our position as a successful gold mining company tomorrow"⁴⁷.

Dick Zandee

⁴⁶ Bruce Gary PJV 6th March, 2005.

⁴⁷ WE CARE PJV 1997. Pg 17.

Managing Director
Placer Pacific in "Taking on the Challenges"⁴⁸
1997 PROGRESS REPORT TOWARDS SUSTAINABILITY

"I believe that we must assimilate our activities into global society or perish, and that we may have as little as half a generation to get it right. Therefore, at Placer Dome, we have adopted a sustainability policy to guide our activities around the world. Our definition of sustainability is the exploration, design, respect and responds to the social, environment and economic needs of the present generations, and anticipates those of future generations in the communities and countries where we work."⁴⁹

Address by John M. Wilson, President and C.E.O., Placer Dome Inc. at the 21st Financial Times World Gold Conference, Barcelona, Spain.

ATA Inc. do appreciate the statements, but in-essences, time has overtaken to live up-to the commitments to meet the compensation specifics and correct the mistakes. What was good enough yesterday is not good enough today on revelation that crimes were directly committed against humanity undermining the very own commitments. The Placer Dome definition of sustainability stinks from day one and only provides the basis to conduct human genocide in Porgera, Enga Province Papua New Guinea's situation has become no exception.

⁴⁸ D. Zandee 1997. Source. Pg 17.

⁴⁹ PJV WE CARE 1997, Pg 17.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

12 AN ENGAN PERSPECTIVE:

ON ISSUES AND TRADITIONAL PRACTICES IN THE CONTEXT OF ENGAN SOCIETY.

12.1 Introduction

The indigenous form or a group class legal suit at tort from an established jurisdiction. The ball is in the PJV shareholders and the PNG government's court to select the best to effect a settlement on the Compensation Specific with Akali Tange Association Inc.

Compensation Specific by ATA Inc representing more than 21 deceased, more than 8 caused to grievous bodily harm and over 1227 torture, arbitrary arrests and detentions of harmless community individuals. These crimes are unaccounted for and grave violation of international human rights. ATA Inc will push to the limits of any jurisdictions that permits to seek compensation re-dress and relief. Notice of intention to do so was served to the parent companies of the Porgera Joint Venture and the Independent State of Papua New Guinea dated 24th January, 2005.

However, we do also acknowledge the existence of the fully developed indigenous form of compensation but that system was intentionally ignored. The perpetrators have all undertook this with an equal right to direct and benefit from the endeavour, as a result of which one or more participant's negligence has imputed to the others.

At the outset, for the burden of proof, an attempt has been made to briefly examine the Indigenous Form of Compensation, a customary developed underlying law that operates dually with the imported Common Law in the country.

12.2 Society and Culture

Papua New Guinea is a unique country in terms of the rapid modernization that it has experience. There are about 700 languages, which is indicative of its cultural diversity. There are common cultural features and cultural differences as well between the Papua New Guineans. Parts of the country such as the highlands have virtually jumped from the stone age to the computer age within half a century and Porgera community is no exception.

The substance way of life is a key factor, which has shaped the cultural attitude of the local people. Porgerans are proud of their culture and traditions. Most of the cultures and traditions are no longer practiced due to the influence of early missionaries and the giant mining company. Like other Papua New Guineans the local people adopted to the changes and development taking place rapidly with the development of the mine in the 1990s.

However, few traditional cultures are still being practiced. Like many other highlands, the family ties are very strong and these ties place heavy obligations on individuals whilst in turn ensuring support from them in hard times. Clans/ family members contribute wealth and support for members during these difficult times such as funerals, bride-price payments, compensation payments, tribal fighting and any other socio-economic or political crises in the clan or family unit. The mining company has never given due consideration and respected the peoples cultures and traditions which have been handed down form generations past.

The Papua New Guinean culture is highly human-orientated. Papua New Guineans are brought up to care for their family and relatives. The wantok system carries with its traditional obligations and responsibilities. The mining company and other agents of change see these traditional obligations and responsibilities as deterrent to their achievement and advancement. Thus they have been instrumental in diminishing its existence.

12.3 Land and Landownership

For most Papua New Guinean's the ownership and use of land is of paramount importance. Most of the land in the country (more than 97 percent) is customary owned according to a complex land tenure system that various from place to place reflecting the enormous cultural diversity of the country. General, outright ownership lies with a group and membership of the group depends on a mixture of descent, residence and participation in common activities. Different systems of land rights may be applicable to different categories of land use such as gardening, hunting, or village land.

Customary land can not be sold, leased or disposed of except to citizens in accordance with customary law and to the state. Under the Mining act the State guarantees the licensee the right to exploit minerals owned by the state usually owned customary land.

Land disputes are not uncommon in Papua New Guinea and in some parts of the country can lead to tribal fights. Such disputes are an important issue for the industry especially as they can arise or be exacerbated through an increase, or perceived increase, in the value of the land created by the industry's activities.

Thus, where intense exploration is carried out disputes may develop as to whom are the customary landowners, and how benefits related to the land should be distributed.

However, it is important to recognize that communities in Papua New Guinea generally strongly support exploration and mining because of the benefits it brings to the community and it is not unusual for groups to approach the Chamber or the Mining Department seeking a company to come and explore on their land. This sentiment provides a basis for developing a rapport with the local community, which can be fostered and expanded should any exploration be successful.

Companies have to appreciate the importance of this cross-cultural relationship with the landowner communities. It requires trust and commitment, and resources, which include community relations' specialists.

12.4 Management of Benefits

In recognition of the importance of land in the fabric of traditional society and to provide direct economic benefits to affected communities, the national government provides considerable direct benefits to owners of land impacted by mining (landowners) and the provincial governments that represents them. These benefits are in the form of royalties (2 percent royalty is apportioned between the two parties), equity provided from the government back-in, extra budgetary payments to host provincial governments known as Special Support Grants and infrastructure.

In addition to these, there are many other direct benefits that accrue to landowners provided by the developer. These include employment, education and training, business development, and service industry spin-offs, compensation payments for land use healthcare and other infrastructure.

Papua New Guinea has developed a system of benefit distribution which recognizes the lower levels of government as well as the wider community impacted by a particular mining which is a model for other mining nations. The challenge now for the state and the industry is to ensure that the benefits streams, both cash and non-cash, provide sustainable long-term benefits to the community, particularly after mine closure.

Mining projects already have in place a number of mechanisms for investing portions of landowner income and there is currently considerable discussion as to how the scope of this investment vehicle might be expanded. There is a need for the National Government to ensure that similar apparatus is in place for provincial government to invest a portion of the cash benefits accruing to them from mining projects, to ensure they are sustainable in the long term.

Mining communities and provincial and local level government that represents them need guidance and training in managing infrastructure benefits. This includes planning to ensure that infrastructure requested by the community is appropriate and sustainable during and after mine life.

12.5 Indigenous Form of Compensation

Firstly, research and recent events suggest that the shareholders represented by PJV do ignores such indigenous form of compensation specific at the peril. This kind of ignorance are proven with the company's own actions. A K 30 million claim was presented to PJV by relatives of ten (10) deceased under the Death Claim Committee dated 19th May 2004.

The, then Mine General Manager Brad Gordon responded in a letter dated 8th July 2004 by singling out the chairman of the group to issue court proceedings against the PJV. By contrasting that letter, the PJV was well aware, the advantage was that the individual actions so far regarding similar cases have ended up abandoned due to constraints in resource coupled with inability of locals to push to the limits.

Brad Gordon wrote, " We note that you seek compensation of K 30 Million for the death of the late John Wangia and others ' community members'. Please note that the incident in which the deceased (John Wangia) was shot was reported to the Police. We understand that the Criminal Investigation Division of the Wabag Police is investigating the matter. Until such time the investigations are completed, we cannot comment on the matter. If you believe however that the PJV was negligent by failing to take steps to prevent the deceased from trespassing onto land over which the PJV holds leases granted to it by the State, the appropriate course for you to take is to issue court proceedings against the PJV."⁵⁰

Mr. Gordon further wrote on to conclude that; " In addition to the above, if the dependents of the persons allegedly shot by security officers of the PJV feel that the PJV is liable and should pay compensation, the dependants should take court proceedings against the PJV."⁵¹

⁵⁰ B Gordon PJV 2004

⁵¹ B Gordon PJV 2004

By carefully concurring the intend of the response, the PJV did concluded that due to the former weak points and considering that any individual attempts to seek relief in a form of compensation will eventually die without justice entered.

The indigenous form of compensation for such killings in Enga Province and almost the entire Highlands region is well developed even before the 'first contact' from out side world some 67 years ago. The true spirit of this well developed system has formed one of the very important basis for social and economic civilization of men kind in this part of the world. The indigenous or the Enga 'Tee (Maku)' form of compensation was inherited and passed on from generation to generation and figures prominently in the dispute resolution processes of Enga Province.

The Enga Tee system enables those adjudicating any dispute to gain fuller appreciation of the forces at work and " achieving a balance of exchange in all their relationship" ⁵²(Philip England, Griffith University Book Review 1998). The Enga Tee form of compensation is paid not only after a defendant is found guilty or a party to a killing death offence being committed but a person alleged is morally obliged to do so, in order to void repercussions and to settle the dispute.

One of the very common practices that a liability to pay compensation falls upon an innocent person is a poor guy that lives next to a bridge over river. The kind of unforeseen circumstances to accept liability arises when a person who uses the bridge falls and gets drown in the river by accident without any contributing cause from the landlord who resides nearby the bridge. The landlord is morally obliged by customary laws to pay compensation.

An other interesting and classical indigenous form of excepting liability to pay compensation arises when a person is killed or shot for self- defense or any other reasons that includes a person who participates in a tribal fight and shot dead by the enemy tribe. Even, still the deceased was a tribal enemy or a person from an other tribe who just assisted the enemy tribe to rage the fight, the other opposing tribe as a moral responsibility at customary law to pay compensation regardless.

The 1994 PJV site induction manual page 5 exemplifies the former that; " In order that the problems are resolved satisfactorily, the village chiefs negotiate for a compensation payment. When a compensation payment is made, the opponents forget about what had happened in the past and return to normal. It

⁵² Philip England, Volume 2 1998

is a custom and is still being practiced today, in paying of compensation, called the ' Maku' in Ipili language."⁵³

The Ipili Wai magazine, a bi-monthly publication of the PJV published an article on page 12 being cheated to proof beyond reasonable doubt that the indigenous form of compensation, a prime compensation claim settlement method, but knowingly ignorance by PJV has become the stumbling block.

The full transcript of the publication;

“ Porgera Clan Pays Huge Compensation (heading).

A clan in Porgera Enga Province has paid what is believed to be the biggest compensation ever to be paid by anyone in the country. The Muape clan of the Tiene tribe recently gave 407 live pigs, one cassowary and K 2,000 in cash to the Ulga clan of Nebilyer, Western Highlands for the death of one of their clansmen.

Earlier, it had paid another K 12,000 in cash as sorry money for the death of the late Paulus Wak, a father of four young children who was murdered at the Porgera market in January this year while selling vegetables.

It is understood the accused had taken out his anger and frustration on the late Paulus Wak because he was from Western Highlands, an easy target for retaliation over the adulterous affairs of his wife who comes from Minji but was going around with someone from Banz.

The accused who is now in police custody awaiting trial is the younger brother of prominent Porgera leader and businessman, Nixon Magape who personally handed him over to police to allow justice to take its course.

Relatives of the deceased had demanded K600, 000 and 300 pigs from Mr. Magape's Muape clan but on 23rd May 2004, the clan responded with what it could gather- over 400 pigs and K 2,000. According to Mr. Magape, most of the pigs had been bought, costing more than K 507,000.

Ulga Councilor, Joeseeph Makap said his people were happy to receive such big compensation, saying any ill-fillings that may have existed between the two clans was now over and that Porgerans should feel free to travel to Mt. Hagen to do business and other activities. He said the only concern he had was the amount of cash that was paid, saying it was not enough to help his people hire trucks to take the pigs back to Nebilyer. He said the number of pigs should have been reduced

⁵³ PJV site induction 1994 Pg 5

to half and the value of the other half given in cash. However, after much debate, the Nebilyer people finally accepted the pigs and money but sold some of the pigs later to help hire trucks to take the rest home,"⁵⁴

Against this backdrop, the initial K 30 million compensation claim was demanded on true spirit of the underlying customary laws with the view to settle the compensation liability without re-course to further justice. Even the accused cheated on the Paulus Wak incident was awaiting criminal trial whilst his clan members honored the customary obligation burden to settled the liability.

Accordingly, Porgera Joint Venture being an international corporate citizen of the host Province and the Country, that qualifies the company's social obligations to effect amicable settlement. However, the PJV and its shareholders have stubbornly bullied to just ignore, otherwise ATA Inc affirms nobody is above the law. Placer Dome, majority shareholders and the managers of the joint venture have not so far behaved like responsible corporate citizen of the host province Enga and so, violations of human rights have become a common occurrence at Porgera.

12.6 Compensation Specific at Tort Law

It has become inevitable for ATA Inc to prepare a legal challenge with a group class action due to ignorance by PJV owner's to resolve the matter at contention through the indigenous method. This document had examined earlier in depth the nature of the crimes, the criminal aspects of the crimes and the civil liabilities.

The criminal aspect of the crimes have been undermined by absents of domestic laws. What should have been done by the state law enforcement agencies to comprehensively investigate, charge, and fire, and establish punishments for convicted offenders. Supposing that was done so, than the relatives of the victims could have been relieved from over mental stress and society obligations. However, that has not been otherwise the case, the laws that suppose to protect the local communities have failed at the expenses of social wages attached with the pretext of national development.

One reason for this could be law enforcer's, few local and national leaders have," readily accepted developer's terms that are favorable to themselves but

⁵⁴ PJV Ipili Wii Pii, Pg12

at the expense of the majority of other landowners who remain ignorant and excluded.”⁵⁵

These kind of ignorance and ineffectiveness of the domestic rule of law only affirms and establishes the burden of proof to upheld the conspiracy allegations against the PJV owner's and the state.

Re-visiting the Motupore Declaration by Landowners from existing mines and proposed mines to be developed on 18th July, 2003 that;

“ We declare that the current mining operations in the country are environmentally destructive and socially unjust and promotes unequal distribution of benefits. Many communities are now affected by impacts of mining because of the government's failure to monitor environmental and social impacts and to enforce environmental regulations to hold mining companies accountable for their activities. The communities will continue to suffer for many years to come and the scars of destruction will be there forever.”⁵⁶

The Motupore Declaration was adopted after witnessing the destructive effects of mining on human and was a wake up call for the stakeholders in the industry to correct their mistakes with pro-active measures, than a mere reaction as such the case in Porgera. When the Notice of Intention to Sue was served on PJV owner's, they surprisingly started to re-act by erecting new warning sign boards, fencing the Mill operations and Kulapi SML boundary areas and a so called awareness through Lagaip LLG Councilors and Enga Provincial authorities. This kind of re-action only indicates the work of desperate attempts to cover up rather than pro-actively demonstrating to eradicate the problem.

In this context, Placer Dome Inc Canada, majority shareholder and the managers of the PJV has global reputation for causing mining disasters with catastrophic effects on local communities where they operate mines. One example of such as been cheated and needs to be re-examined to grip the extend of disaster and the consequences.

In 1996, the Marcopper Mine in the Marinduque Islands in Philippines caused a environmental disaster through discharge of live tailings without due care. Placer Dome owned approximately 40% of Marcopper Mining Corporation. The consequences of the disaster were far more catastrophic that Placer Dome

⁵⁵ Philip England Volume 2 1998

⁵⁶ Motupore Declaration July 2003

exited from the mine living behind an environmental and human disaster legacy. The Placer Dome's 40% shareholdings were written-off and at the same time spend more than US\$90 million to clean up and compensation payments to local communities.⁵⁷

Apparently, the Marcopper case demonstrates that Placer's crimes in Porgera committed against armless individuals deserves a fair treatment. The International corporations implicated do one way or another reputed around the globe for causing humanitarian disasters.

Moreover, another incident that needs to be presented and the case plainly exposes the cover up arrangement to escape from future liability. The case involves one of the victims, Minai Mulako and that requires careful examination to establish the reasons behind to enter into a Discharge Release Agreement.

Minai Mulako, a local small-scale alluvial miner was fatally injured from gun wounds sustained while searching for alluvial gold at the Anawe South Waste dumpsite on the 16th January 2004.

That sometimes earlier May 2004 PJV lured Minai and three of his relatives through promise of job and cash incentives to discuss about the incident after realized that the company was at fault. On the 12th May, 2004 Minai and his relative where invited again and this time they were told to sign a paper without explaining the contents. After signing the document, they were given K6, 000 cash and told that Minai and one of the relatives will be employed as guards. They were further informed that the signed document was just a receipt showing that the money was paid to Minai and his relatives.

The very important element to be noted here is that Minai Mulako himself and neither one of his relatives are formerly educated. Mina's team relatives were all illiterates so therefore, they just thought that it was true a receipt signed for the cash given.

Therefore, conclusion has been drawn from this Discharge Agreement that PJV with criminal intend obtained signatures without constant of the other part. Obviously, than it rises the question of PJV owner's genuine in other dealings of the same nature. The agreement was obtained with criminal intend so, to void redress and justice for a crime that warrants punishment.

⁵⁷ Oxfam, March 2005

On that notion, ATA Inc reaffirms that the shooting fields of Porgera Joint Venture defines the company owners and the state complicity in the context of human rights violation. Therefore, the fact remains that 'precise crimes' committed by the PJV establishes liability. Rather, knowledge that by the violence have been committed by the company employee's as result of corporate conduct such as employing the security guards, directives to provide security, the provision of fire arms etc are without reasonable doubt burden of proof to establish liability.

In particular, the Porgera Joint Venture and the State have got directly involved and in a substainal way. The crimes would have not been committed in the same way if the PJV and the state had not so acted. That the complicit partners all alone knew that, their involvement was the main factor to facilitate the crimes.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

13. ACRONYMS

| | |
|------|----------------------------------|
| ADB | Asian Development Bank |
| ATA | Akali Tange Association Inc |
| BA | Bachelor of Arts |
| BEC | Bachelor of Economics |
| CAA | Community Aid Aboard (Oxfam) |
| CPS | Compensation Specific Claim |
| CSA | PNG Country Service |
| DoM | Department of Mining |
| DRD | Durban Roodepoort Deep |
| EU | European Union |
| EP | Enga Province |
| FDI | Foreign Direct Investment |
| GDP | Gross Domestic Product |
| INC | Incorporated |
| JSDF | Japaness Social Development Fund |
| LMP | Lease for Mining Purpose |
| MRE | Mineral Resource Enga Ltd |
| MRO | Metal Refining Operations |
| NGO | Non-Governmental Organisatin |
| OH&S | Occupational Health & Safety |
| PA | Public Administration |
| PDI | Placer Dome Inc |
| PJV | Porgera Joint Venture |
| PML | Potential Metal Leaching |
| PNG | Papua New Guinea |
| SCRA | Case Reference Appeal |
| SHP | Southern Highlands Province |
| SML | Special Mining lease |
| SP | Stockpile for Low-grade ore |
| UN | United Nations |
| UPNG | University of Papua New Guinea |
| US\$ | Untied States Dollar |

14. REFERENCES

Dr. Glenn Banks, Richard Jackson, Susanne Bonnell and Gary Simpson. Porgera. NSR Environmental Consultants Pty Ltd, Unisearch Limited. Mine Closure Consultation Documentation December 2002

Porgera Joint Venture, Employee Handbook – Porgera Project

Independent State of Papua New Guinea and Porgera landowners Memorandum of Agreement Relation to the Development of the Porgera Gold Project, May 1989.

Site Induction, Porgera Joint Venture – 1995

Independent State of Papua New Guinea, Chapter No. 195A, Mining (Safety) Prepared for inclusion as at 1/1/1980

Unlocking Value, Annual Report 1999, Placer Dome pure Gold

Pacific Agribusiness June 1987, Porgera Socio – Economic Study, Draft Mid – Term Report, Prepared for PNG Department of Minerals and Energy and Placer (PNG) Pty. Ltd.

1998 Sustainability Report, Porgera Mine, Placer Dome Asia Pacific.

1993 Annual Report, Placer Dome Inc.

PJV Environment Department, Environment 1997.

Criminal Code Act Chapter 262, Revised Laws of Papua New Guinea, January 1993.

James Jimmy Wangia 19th May 2004. Death Claims Committee, K30 million compensation Claim.

Independent State of Papua New Guinea, Mining Act 1992.

Ipili Wai Pii, September/October 2004, PJV, Issue No. 134

Ipili Wai Pii, November/December 2003, PJV, Issue No. 128.

Ipili Wai Pii, January/February 2004, PJV, Issue No. 129.

Ipili Wai Pii, July August 2004, PJV, Issue No. 132.

Nasa Luai, Jethro Tulin, J. Simpson and Ethan Kissak 2005. Akali Tange Association Inck, Wai Lapa, Issue 1, Volume 2.

Sgt V. Kala Porgera Police Station 2004

[http:// www.vanuatu.usp.ac.fj/journal_Splaw/Book_Reviews/England 1.html](http://www.vanuatu.usp.ac.fj/journal_Splaw/Book_Reviews/England_1.html).
By Philippa England Griffith University, Compensation for Resource Development in Papua New Guinea, Book Review 11 of Volume 2, 1998. Law Reform Commission of Papua new Guinea (Monograph no. 6) and the Resource management in Asia and the Pacific Research School of Pacific and Asia Studies, the National University, Canberra and the National Center for Development Studies, the Australian National University, Canberra (Pacific Policy Paper 24) ISBN 0-7315-2353-9.

Newsbreak No. 882, March 18th , 2005, Placer Dome, A weekly Bulletin of News for the Placer Dome Team.

Post Courier, Wednesday March 23, 2005, Home News, "Close Porgera Mine!" Porgera Landowners' Chairman, Mark Ekepa.

By Daniel Kumbon, Post Courier, Wednesday March 16, 2005, Finance, Deaths mar PJV mining,

The National News Paper, Highlands weekly news highlights form the Highlands Region, Wednesday, March 16, 2005, Police Probe the death of alluvial miner.

Universal Declaration of Human Rights.

The Motupore Declaration, July 2003.
<http://www.minesandcmmunities.org/Country/png2.htm>.

Banks, Glenn and Bonell, Susanne; 1996; Porgera Social Monitoring Program, Annual Report 1996.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

15. APPENDICES: Table of Contents

| | |
|--------------------|---|
| Appendix 1 | PNG Map |
| Appendix 2 | ATA Inc. Certificate of Incorporation |
| Appendix 3 | Profile of Akali Tange Association Inc |
| Appendix 4 | Death Claims Committee (K30 Million) Claim Letter to PJV Management. |
| Appendix 5 | PJV Respond to the K30 million Claim by Brad Gordon (PJV Mine General Manager at the time). |
| Appendix 6 | Mines Inspector Accident Report and Particulars of Incident. |
| Appendix 7 | Photo of Late John Wangia |
| Appendix 8 | Porgera Clan Compensation Payment |
| Appendix 9 | Mina Mulako: Discharge Release Agreement |
| Appendix 10 | Photo of local women tending pigs close to the LMP |
| Appendix 11 | Photo of a Local fetching water |
| Appendix 12 | Kongai stock file |
| Appendix 13 | Garden close to dump site |
| Appendix 14 | Local Miners in Anawe staple Dump |
| Appendix 15 | Delegation of Authority (SAMPLE) |
| Appendix 16 | Top end surface mine area |
| Appendix 17 | Village next to dumpsite |
| Appendix 18 | Anjolek dump causing slides |
| Appendix 19 | A Family at the Anawe Erodible dump |
| Appendix 20 | Garden and surface mine |
| Appendix 21 | Man made lake |
| Appendix 22 | Kids playing field at LMP and dangers |
| Appendix 23 | Location of Incidents |
| Appendix 24 | Village house at Bottom of Dumpsite |

- Appendix 25** Tailing discharge on erodible dump.
- Appendix 26** Traditional pathway between villages on SML.
- Appendix 27** Security in Action after Murder

FOR

A

FAIR

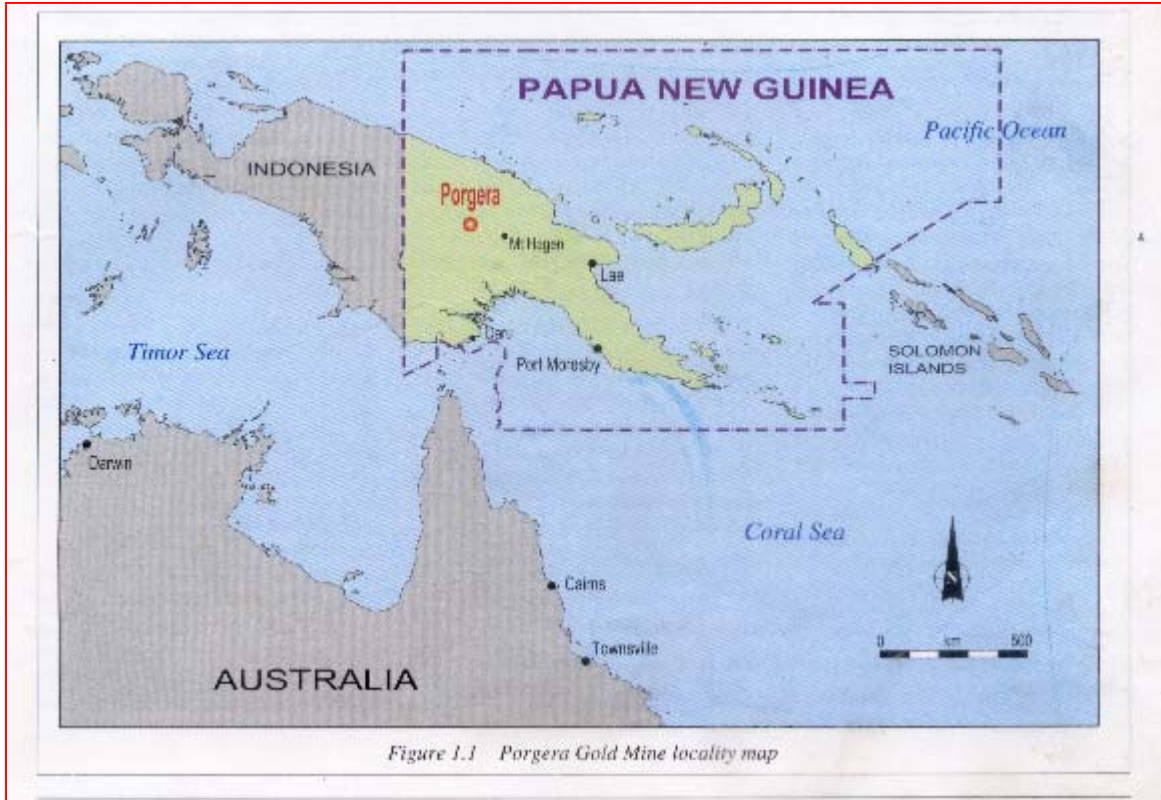
AND

EQUITABLE

COMMUNITY

Appendix 1.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Map of Papua New Guinea

Porgera Gold Mine locality map indicating Porgera where the Giant Placer Dome Inc Canada is owning 75% share and Managers of the Porgera Joint Venture.

Map extracted from Porgera Mine Closure Consultation document December 2002.

00006525259

PAPUA NEW GUINEA
Associations Incorporation Act

Form 3

Reg, Sec. 4

Association No.: 5-2167

**CERTIFICATE OF INCORPORATION OF
AN ASSOCIATION**

Certificate of Registration of the Akali Tange Association Inc

This is to certify that, under Section 7 of the *Associations Incorporation Act*,

AKALI TANGE ASSOCIATION INC.

has this day been incorporated under that Act.

Given under my hand and seal, 9 November 2004.



Teup Goledu
Registrar of Companies

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

APPENDIX 3.

PROFILE OF AKALI TANGE ASSOCIATION INC

Formation of Akali Tange Association Inc; A General Perspective

“The ATA Inc has been conceived after constant failure to come to an agreement with the PJV in terms of undertaking compensation specific claims for the families of the victims who have been wrongfully killed by PJV’s security personnel.”

(Source: Akali Tange Association Waii Lapa; Pg. 1)

I. Introduction: Persecution of Communities by Multinational Business Organizations.

The persecution of communities and its local people is as much a characteristic of the history of some underdeveloped countries as it is of the present in Porgera in Papua New Guinea. The end of several protracted conflicts, deaths and unsubstantiated commitment models have not always produced expected dividends in the exercise of fundamental developments for the community and its local people.

II Democracy and Individual Rights

Nothing has been achieved from the wrongful deaths and the exercise of fundamental democratic rights is still fragile in many countries and Papua New Guinea is not insulated from this fact. We have witnessed past practices designed to silence critics, and this has frequently guided and shaped the behavior and actions of government entities and organizations.

In a few cases, notably in other developed countries and South Africa and in the Americas, serious regressions are becoming an issue of worldwide concern. Against this backdrop, representatives from civil society working for the promotion, protection and defense of human rights have emerged as crucial actors in the struggle to ensure that governments and multinational business organizations account for their actions and strive to uphold the principles of the Rule Of Law.

III. Human Rights Defender

In the world today, human rights defenders have fought, often against the odds, to establish fairer, more equitable societies. In doing so they have enhanced human dignity and helped alleviate the hardships of many of the most impoverished, marginalised and deprived sectors of the population.

The establishment of the AKALI TANGE ASSOCIATION INC has set the precedent. And will further serve the sole purpose of being the human rights defender of the local people namely the Alluvial Gold Miners of the Porgera / Paiela Valley who have been wrongfully killed and/or have become victims of injustice act by the Porgera Joint Venture's security personnel.

IV. Circumstances surrounding the formation of ATA Inc

In the process of extracting gold the Porgera Joint Venture Company has caused a large numbers of unlawful deaths and fatal injuries at the mine site on the trespassers from the neighboring communities who share the same land, which are without proper boundaries. It is an every day occurrence at the waste dump-site and stockpile areas of unrest and shoot to kill by the armored mine securities against the harmless neighboring community individuals who pan for gold dust as the only source of every day income and food security.

These has been no mining inspection, no safety and environmental awareness interrelation to the killing inflicted on the community populous by Porgera Joint Venture Company. Even after the matter or concerns were raised with relevant government authority in the likes of the Police Department, the Enga Provincial Government, the Mining Department etc. Further still, there has been no (CID) Criminal Investigation Division Investigation, no Coroner's inquest neither government input or direction for the injustice suffered. Thus our concerns and grievance have fallen on deaf ears.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Consequently the Akalitange Association Inc has been formed by the community members surrounding the SML Special Mining Lease and the general public of like-minded and relatives of the deceased and injured and membership being extended to provincial and nation wide. The main purpose being to unveil the mining policies, legal requirements and civil suits to bringing about peace and justice to protect the rights of people within the vicinity of mining areas, Enga and the country at large.

The Porgera Valley is home of the Ipili people. They are distinct from their neighbors, the Engans in the Enga Province and the Hulis in the Southern Highlands Province. Before mining operations began in 1989, Porgera station was only a small out-station with a sub-district administrative office together with several trade stores. The people were involved mainly in subsistence farming and small-scale alluvial mining.

The soils of Porgera Valley have generally low fertility and high altitude is close to the limit for cultivation of traditional food garden produce. The pre-mining Porgera economy was divided between subsistence gardening, pig raising and alluvial gold mining being the main source of cash income and **main stay** in the economy.

Subsistence food production remains a vital part of the economy and should not be weakened. Despite unfavorable geographical and climatic factors the Porgera/

Paiela subsistence agriculture remains dynamic and productive within those limits. The Enga Provincial Government's development strategy recognizes the importance of subsistence agriculture and its role is one of the two basic ways in which the volume of goods and services available to the Enga people can be increased.

The inhabitants of Porgera share Huli and Enga highland cultural traits. Contacts with colonial influence began in the 1930s. Adaptation to Western influences has been rapid and the blending of cultures is widely in evidence. The Ipili follow a cognatic kinship system which allows extensive social network formation and results in families generally having claim to several land parcel

Formal education has not thrived amongst the Ipili people. Primary school enrolments has been low, attrition has been high by PNG standards and compared unfavorably with the Enga average of 70-80 percentage of 7-12 year old population attending primary school. Until this basic educational foundation is improved, all other further programs are limited. Health services for Porgera are reasonable by provincial standards and suffer the same general problem of Enga health care.

V. AKALI TANGE ASSOCIATION INCORPORATED (ATA INC)

Incorporated Under the Association Incorporation Act (Chapters 142) Papua New Guinea

Name, address and situation of registered office:

Akali Tange Association Inc

Lower Yans Kona

**Porgera Station
P. O. Box 100,**

Porgera.

**Enga Province
Papua New Guinea**

E-mail: akalitange_association@hotmail.com

Ph: +675 547 9579

Fax: +675 547 9544

Executive Board Members

Chairman James Jimmy Wangia

Deputy Chairman Lote Sanda
Serectary Ethan Kissak

Treasurer Robert Taropen

Public Officer Jethro Columbo Tulin

Committees

1. Nasa Luai
2. Geff Simpson
3. John Lilya
4. James Kurange
5. Agen Laneago
6. Newman Kamakali

Special Compensation Working Committee (SCWC)

9. James J Wangia
10. Jethro C. Tulin
11. Ethan Kissak
12. Nasa Luai
13. John Lilya
14. Geoff Simpson

Engaged for Consultancy;

7. Benny Tanda
8. Lybian Bush

The ATA Inc has been conceived after constant failure to come to an agreement with the Porgera Joint Venture in terms of undertaking compensation specific claims for the families of more than 21 killed and more than 30 sustain injures on account of unlawful acts by Porgera Joint Venture security personnel. The anonymous numbers can only hint at the appalling magnitude of death and

injury toll and the grief of families and communities in the Enga and Southern Highlands Provinces of Papua New Guinea.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

This crime against local people is a case for grave concern and the indigenous people have become victims under the pretext of development or social-wages. That during the entire cycle of the Porgera Gold Mine Project, these crimes have been committed systematically so, to escape undetected and held accountable. This kind of continue gross violation of rights and crime against humanity has prompted concerned minded citizens and relatives of victims to conceived ATA Inc with the sole purpose of being a human rights defender. The ATA Inc intends to work tirelessly to seek justice and redress for the wrongful killings and the fatal injures sustained from Porgera Joint Venture.

VI. Objectives and purposes of the Akali Tange Association Inc

The Objectives and Purposes of the Akalitange Association Inc. are briefly stated forthwith.

1. To protect and foster the best interest of all Alluvial Miners by any means consistent with the provision of the laws of the country.
2. To ensure monetary compensation and redress for injustice suffered by Alluvial Miners and their defendants' pursuant intentional or unintentional removal of lives and injuries sustained in the hands of the mining companies and associates.

- FOR
A
FAIR
AND
EQUITABLE
COMMUNITY
- a) To make claims and enter into negotiations to obtain equitable rates of compensation for victims.
 - b) To provide assistance for humanitarian relief in time of need in the local alluvial mining communities.
 - c) To ensure that no middleman to negotiate or act on behalf of the victims and defendants.
 - d) To formulate and pursue schemes for social, political, educational, cultural or health benefits for all alluvial miners and their defendants.
 - e) To enter into contracts and agreements for the purpose of furthering directly or indirectly any or more of the objectives.
 - f) To raise money by contributions and levies or fines for the purpose of carrying out the objectives.
 - g) Trustees for all compensation payments due to the victims and their dependants generally or such trustees shall have power to control and invest same subject to the direction of the Executives.
 - h) To arrange for and procure for the associations or alluvial miners on such terms as the association shall deem fit, all such legal advice, expert opinion,

assistance and help in connection with the matters or in defending or prosecution of the rights of Alluvial miners.

- FOR
A
FAIR
AND
EQUITABLE
COMMUNITY
- i) To generally purchase, take or lease or otherwise acquire any real or personal property and any rights and privileges which the association may think is necessary or convenient for the purpose of the Associations benefit or convenience of the Alluvial miners and its dependents.
 - j) To print, publish and distribute any newspaper, periodical books, documentaries, and leaflets that the association may think desirable for the promotion of the objectives of the association.
3. That the association will apply it's profits (if any) or other income in promoting its objectives and;
 4. That, the association will prohibit the payment of any dividend or payment in the nature of a dividend to its members.

VII. Association and Membership

The Akalitange Association Inc. was formed and incorporated under the Papua New Guinea Association Incorporation Act on the 9th of November 2004.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

In record we have 21 people who have lost their lives or sustained injury through the poor operating patterns of the Porgera Joint Venture. Knowing the criminal aspect of this situation the serial killing activity is likely to continue unattended by responsible agencies. This initiative taken by the association is specifically to help the poor illiterate people who have been left helplessly by our government and the giant PJV.

Any person is qualified to be a member of the association upon payment of the membership fees and that includes alluvial gold miners, community members particularly within the vicinity of the Porgera, Mt Kare, and the Enga Province and like-minded people throughout the country of Papua New Guinea.

According to the Universal Declaration of Human Rights the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

The disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of common people.

Porgera Joint Venture and its own employee's of the Loss Control Department are part and puzzle of a guest clan invited to live and work in our local area. The

continued use of excessive forces with intend is a case of crime against humanity by economic actors and therefore the situation can not be attended by law enforcement agencies of our country. The deaths are deliberate and cold blood murder acted with intends linked to a **mercenary type security operation by PJV.**

Porgera Joint Venture acted unlawfully to eliminate and remove lives of armless innocent citizen, (local alluvial miners). The death or those who sustain injury are victims of a cowardice and unlawful shootings by PJV and at the same time the state has state neglected to protect its own citizens. These people are shot death at the Special Mining Lease (SML) area and are left to die like pigs and dogs.

"That the continued removal of lives by Porgera Joint Venture on whatever account is a planned cover-up operation connected with higher authorities with little or no knowledge of the local Porgera Police,"

as stated by Sgt. Vincent Kala, Rank # 8009 the, outgoing Porgera Police CID. The police have done little or nothing at all to establish the criminality of these deaths.

Without reasonable doubt, Placer Dome and its Joint Venture partners were granted special mining lease to dig for gold and not otherwise, the license shot to kill. The company is to bear in mind that they do operate a mine in the Enga Province, which conditions the element of community obligation to compensate the deaths as the saying goes... 'When you are in Rome, do what the Romans do'. Compensation payments in Enga and most of Papua New Guinea is a customary practice which resolves the thoughts and minds to avenge. However the request for compensation have all fallen on deaf ears of the mining company.

VIII. The ATA Inc Special Compensation Working Committee (SCWC)

SCWC was specifically tasked to research and document Porgera Joint Ventures conducts and features the concept of negligence at tort law. And from unprocessed materials gathered so far by the committee, it appears that certain level of direct correlation between the actions of the Porgera Joint Venture and the PNG Government and the crimes suffered by the victims exist.

One other point not to be forgotten about is that the anonymous number of victims and the conduct in which a multi transnational committed those crimes, willful killing, torture and detention for **just trespassing** on traditional land that has been not isolated from mining areas desires in-dept explanation at a proper jurisdiction or otherwise crimes have already been committed to account for. The list of deceased and injury toll at the mine site holds sufficient evidence to prove the shareholding joint venture partners of the Porgera Joint Venture accountable for their role in human rights violation based on the doctrine of complicity.

Whereas, the SCWC's task is only confine to gather materials to support a compensation specific claim and that could inevitably be in a form of civil suit at a jurisdiction that can permit to hold the joint venture partners accountable to pay compensation, others interested can take on to prosecute criminally.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

In-addition, due to the failure of PJV to carry out reasonable measures to exclude illegal miners and others, 10 people have been killed by the actions of PJV and its security staff and some serious injuries have occurred to PJV employees.

We claim K30 Million compensation for the death of community members killed on the mine site through the negligence of safety for the community by PJV and further require the following preventive conditions;

1. That PJV immediately relocate all resident non-employees from its area of operation.
2. That PJV provide adequate security fencing to surround all areas of operation including waste dumps.
3. That PJV immediately provide large visible warning signage of dangers involved at its various mine areas including the waste dumps.
4. That PJV provide in house awareness talk to the community about the dangers involved in its operations.
5. That PJV train and provide 100% increase in national security staff for the remaining mine life.

Our claim s based on our estimate of PJV's income for one month of which PJV has stolen from the community as profit rather than spend on **reasonable precautions to prevent these ten (10) deaths.**

Of the K30 Million compensation claim, K1 Million each to be paid to the deceased dependents and the balance to be paid to the Enga Provincial Government for the benefit of the Province's community development.

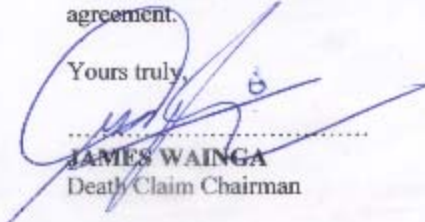
Although this claim is as a result of the most recent death of Late John Wainga, we as PNG Nationals, can not accept an International Company operating in PNG in a manner leading to these unnecessary deaths.

While we accept Late John Wainga may have been trespassing on the dump area he was **trespassing on the dump area** filled with waste, useless and valueless rocks. Not stealing from the stockpiles, mining pit or the gold ore extracting process plants. We extremely sorry for a PJV mobile security guard was injured, however, our brother is dead. There is no work in Laiagam. We don't enjoy royalties. How do we stop our young trying to find gold PJV have thrown away? This is PJV's responsibility.

We require your agreement with this claim within 30 days of this notice otherwise we will be forced to take action in support of this claim.

Full compliance with the above conditions is required within 6 months of acceptance of the agreement.

Yours truly,


.....
JAMES WAINGA
Death Claim Chairman

Appendix 5.

PORGERA JOINT VENTURE

Managers Placer (P.N.G.) Pty. Limited
 PO BOX 494, MOUNT HAGEN, WHP, PAPUA NEW GUINEA.
 TEL 547 9900 FAX 547 9375 (PORGERA SITE)
 TEL 545-1288 FAX 535-1314 (MOUNT HAGEN OFFICE)

PORT MORESBY OFFICE PO BOX 151, NCD
 TEL 322-4900 TELEX 21569 FAX 112-4924



Thursday, 8 July 2004

Mr James Wangia
 Laiagam District
 LAIAGAM
 Enga Province

Dear Sir,

K30 Million Compensation Claim

We refer to your letter dated 19 May 2004 and to your recent discussions with officers of our Community Affairs Department.

We note that you seek compensation of K30 Million for the death of the late John Wangia and other "community members".

Please note that the incident in which the deceased (John Wangia) was shot was reported to the Police. We understand that the Criminal Investigation Division of the Wabag Police are investigating the matter. Until such time the Police investigations are completed, we cannot comment on the matter.

If you believe however that the PJV was negligent by failing to take steps to prevent the deceased from trespassing onto land over which the PJV holds Leases granted to it by the State, the appropriate course for you to take is to issue court proceedings against the PJV.

With respect to your claim relating to other persons allegedly shot by security officers of the PJV, please note that the PJV's policy is to report all such incidents to the Police for appropriate action to be taken.

If the Police, through their investigations find that security officers employed by the PJV were at fault, the Police will be free to lay appropriate charges against the officers. The PJV will cooperate with the Police to ensure that the officers are properly tried by the courts.

In addition to the above, if the dependants of the persons allegedly shot by security officers of the PJV feel that the PJV is liable and should pay compensation, the dependants should take court proceedings against the PJV.

Yours faithfully

Brad Gordon
 Mine General Manager

Appendix 6. Letter to Mines Inspector.



P. O. Box 100, PORGERA
Enga Province, Papua New Guinea
e - Mail: akalitange_association@hotmail.com

25th January, 2005

The Chief Mine Inspector
Department of Mining
Private Mail Bag,
Port Moresby
National Capital District

Dear Sir,

SUBJECT: ACCIDENT REPORTS FROM PORGERA JOINT VENTURE

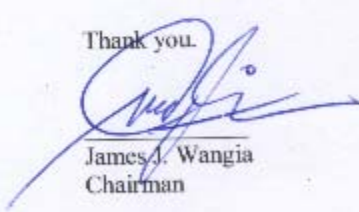
The Akali Tange Association Inc represents relatives of the deceased victims and those bodily injured at the Porgera Mine site. At the onset, the particulars of the victims are attached herewith and we write to Enquirer did the Porgera Joint Venture reported the accident from time to time has they occurred.

As required under the Mining (Safety) Act CH. 195 Reg., Sec.171 and 358(1)(a) particulars of every accident a to be reported to your office as and when occurs.

We suspect that Porgera Joint Venture must have not reported these accidents and your office is to confirm or dined. The association is pursuing a compensation specific claim by way of damages as for a tort committed by the owners.

We will appreciate your cooperation.

Thank you.


James J. Wangia
Chairman

Letter to mines Inspector for confirmation of incidents. No respond at time of final documentation.

ATA Inc suspects that something-fishy going on between the



LOWER VANG KONA, Pergera Station,
 P. O. Box 100, PORGERA
 Enga Province
 PAPUA NEW GUINEA
 e-Mail: akalitange_association@hotmail.com

SPECIAL COMPENSATION WORKING COMMITTEE (SCWC)

Particulars of the Accident

| Deceased or Injured person's - | | Result of injury (fatal or non-fatal). | Description of deceased or injury. | What done with deceased or injured (treated locally, sent to hospital, etc.) | Name of doctor attending. | Cause of accident. | |
|--------------------------------|------|---|--|---|---------------------------------|--------------------|---|
| Full name. | Age. | | | | | | Status (married or or single). |
| Henry Tendeke | 35 | Married with 5 children | Killed | Deceased 12/03/96 | Mt Hagen hospital | Dr Alphonse D T'ay | Gun shoot. |
| Alonge Laswi | 30 | Married with 1 child | Killed | Deceased 04/09/04 | Laiagam District Hospital | Dr Anthony Kulame | Assaulted and thrown into Open Pit. |

ATA, INC: 26th Jan, 2005

REPORT OF ACCIDENT:
 Deceased and Injured

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

| | | | | | | | |
|---------------|----|----------------------------|---------|----------------------|---|---|---|
| Peter Yape | 25 | Married with 1 child | Killed | Deceased 21/04/02 | YET TO | | Crashed to death by heavy equipment. |
| Jacob Nembu | 24 | Single | Killed | Deceased 21/04/02 | YET TO | | Crashed to death by heavy equipment. |
| Appeal Kepai | 7 | CHILD | Drowned | Deceased 25/12/03 | Paiam Hospital | Dr Moses V Granada MD | Drowned in the Tailings Dam. |
| Taiya Malaba | 28 | Single | Killed | Deceased 28/02/00 | Paiam Hospital | Dr Moses V Granada MD | Gun shoot. |
| Minata Pita | 18 | Single | Killed | Deceased 10/01/02 | Emmanuel Lutheran District Hosp. Wapenamenda | Dr Moses V Granada MD Dr Samson Amean & Dr Anthony Kugulame | Fell down in the Open Pit while in pursuit. |
| Pysiane Tumbi | 35 | Married with 2 children | Killed | Deceased 06/04/03 | Paiam Hospital | Dr Herald Giebel MD, FACS | Gun shoot. |

ATA INC: 26th Jan, 2005

REPORT OF ACCIDENT:
Deceased and Injured

2

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

| | | | | | | | |
|----------------|----|-------------------------|---------|--------------------|----------------|---|---|
| Pyriane Eranti | 45 | Married with 3 children | Killed | Deceased 06/09/03 | YETT TO | | Fell down in the Open Pit while in pursuit. |
| John Wangia | 25 | Married with 2 children | Killed | Deceased 16/04/04 | Paian Hospital | Dr Moses V Granada M.D | Gun shoot at Anawe Waste Dump. |
| Paul Pindi | 20 | Single | Killed | Deceased 29/01/04 | Paian Hospital | Dr Moses V Granada M.D | Gun shoot at Anawe Waste Dump. |
| Thomas Dopp | 28 | Single | Killed | Deceased 10/09/04 | Paian Hospital | CID Report, Porgera D/CNR 11081 Patrick Aipanna | Killed by falling rocks in the Open Pit. |
| Scp Minalane | 60 | Married with 7 children | Drowned | Deceased Year 2003 | Paian Hospital | Dr Moses V Granada M.D | Drowned in the Tailings Dam. |
| Yandari Pyan | UK | Married | Killed | Deceased | Paian Hospital | Dr Herald Giebel M.D | Gun shot. |
| Minaul Mulako | 30 | Married with 2 children | Shot | Injured 30/01/04 | Paian Hospital | Dr Herald Giebel M.D | Sustained fatal gun shot injury. |

ATA INC.: 26th Jan, 2005

REPORT OF ACCIDENT:
Deceased and Injured

3

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

| | | | | | | | |
|--------------|----|----------------------------|----------|----------------------|-----------------------|-----------------------------|-------------------------------------|
| Thomas Tiane | 35 | Married | Assulted | Injured 12/02/03 | Paian Hospital | Health Extension Officer | Sustained fatal injury. |
| Buka Lira | 36 | Married with 2 children | Assulted | Injured 16/04/04 | Paian Hospital | YETT TO | Sustained fatal injury. |
| Nigel Pongem | 38 | Married | Assulted | Injured 25/05/03 | Paian Hospital | Health Extension Officer | Sustained fatal injury. |
| Simon Yai | 52 | Married with 4 children | Assulted | Injured Year 2004 | Paian Hospital | Health Extension Officer | Sustained fatal injury. |
| Waro Marcus | 18 | Single | Shot | Injured 06/01/05 | Paian Hospital | Health Extension Officer | Sustained fatal gun shot injury. |
| Jackson Yalo | 26 | Single | Killed | Deceased 25/11/93 | Sopas SDA Hospital | Dr Paeo Munoz | Gun shot. |

ATA INC: 26th Jan, 2005

REPORT OF ACCIDENT:
Deceased and Injured

4

Appendix 7.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Photo of Death body late John Wangia

Late John Wangia was shot death by PJV Security at the South Anawe dumpsite on the 16th of April 2004.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

ATA Photo File 2004

Appendix 8.

PJV News letter Ipili Wai Pii May/June 2004 issue Number 131

Porgera Clan Pays Huge Compo

A clan in Porgera, Enga Province has paid what is believed to be the biggest compensation ever to be paid by anyone in the country.

The Muape clan of the Tieni tribe recently gave 407 live pigs, one cassowary and K2,000 in cash to the Ulga clan of Nebilyer, Western Highlands for the death of one of their clansmen.

Earlier, it had paid another K12,000 in cash as sorry money for the death of the late Paulus Wak, a father of four young children who was murdered at a Porgera market in January this year while selling vegetables.

It is understood the accused had taken out his anger and frustration on the late Paulus Wak because he was a Western Highlander, an easy target for retaliation over the adulterous affairs of his wife who comes from Minji but was going around with someone from Banz.

The accused who is now in police custody awaiting trial is the younger brother of prominent Porgera leader and businessman, Nixon Mangape who personally handed him over to police to allow justice to take its course.

Relatives of the deceased had demanded K600,000 and 300 pigs from Mr Mangape's Muape clan but on 23 May 2004, the clan responded with what it could gather – over 400 pigs and K2,000. According to Mr Mangape, most of the pigs had been bought, costing more than K507,000.

Ulga Councillor, Joseph Makap said his people were happy to receive such big compensation, saying any ill-feelings that may have existed between the two clans was now over and that Porgerans should feel free to travel to Mt Hagen to do business and other activities.

He said the only concern he had was



the amount of cash that was paid, saying it was not enough to help his people hire trucks to take the pigs back to Nebilyer. He said the number of pigs should have been reduced to half and the value of the other half given in cash.

However, after much debate, the Nebilyer people finally accepted the pigs and money but sold some of the pigs later to help hire trucks to take the rest home.



Part of the crowd that witnessed the compensation (below). The pigs, money and cassowary are being displayed (above) and top, Nixon Mangape (in traditional gear) handing over a pig to Cr Joseph Makap (in stripe shirt)



Appendix 9.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

DISCHARGE RELEASE

THIS AGREEMENT is made the 12th day of March 2004

BETWEEN

PLACER (PNG) LIMITED (Manager of the Porgera Joint Venture) a company duly incorporated under the laws of Papua New Guinea and having its registered office c/- Blake Dawson Waldron, 4th floor, Mogoru Moto Building, Champion Parade, Port Moresby ("Placer") of the first part

AND

Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN of Tari, Southern Highlands of the second part.

WHEREAS

- A. **Minai MULAKO** was involved in an incident at the Anawe waste dump with Porgera Joint Venture Security which resulted in him receiving a single shot gun pellet wound to the chest.
- B. **PLACER and Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN** are desirous of resolving this matter without any admission of liability and solely for the purpose of avoiding the uncertainty and expense of future litigation.

NOW THIS AGREEMENT witnesses as follows: -

1. In consideration of the payment by **PLACER** to **Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN** of the sum of **K5,000.00 (being for travel expenses), K1,000.00 (being an advance of salary for Mini MULAKO), plus medical expenses for Mini MULAKO associated with treatment for the aforementioned injury, plus employment as a Stockpile Guard for Mini Mulako and one other person (name to be provided at a later date)** does hereby forever completely release and discharge Placer from any liability howsoever arising out of the facts and circumstances of the injury.
2. **Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN** hereby acknowledge that this agreement has been reached without any admission of liability and is solely for the purpose of avoiding the uncertainty and expense of future litigation.
3. **Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN** warrants that they have relied on their own enquiries and have not entered into this agreement or signed this document in reliance on or as a result of any representation, promise, statement, conduct or inducement by Placer otherwise than as has been recorded in this agreement.
4. **Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN** agree that the terms and conditions of this agreement are to remain

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

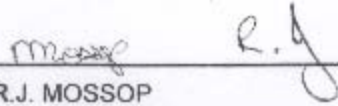
FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

confidential and shall not be disclosed to third parties without the written consent of PLACER.

- 5. **Minai MULAKO, Amos YAMBU, Giwa MULAKO, David TINDI and Jacob YALAN** further acknowledge that this agreement may be pleaded as a bar to any actions, claims, demands whatsoever and howsoever brought by them or on their behalf and howsoever arising out of the facts and circumstances of the injury.

IN WITNESS WHEREOF the parties hereto have executed the agreement on the date hereinbefore written.

Signed for and on behalf of
PLACER (PNG) LIMITED
by



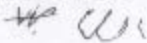
R.J. MOSSOP
A/Asset Protection Manager

in the presence of:
Witness.
Signed



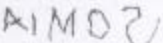
G. O'BREE
Ops Coordinator Asset Protection

Signed



Minai MULAKO

Signed




Giwa MULAKO

Signed




Amos YAMBU

Signed

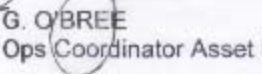


David TINDI



Jacob YALAN

in the presence of:
Witness.



G. O'BREE
Ops Coordinator Asset Protection

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Appendix 10.



Local women tending pigs at the LMP.

Is the dumpsite SML or LMP? For the local ladies it's normal life style. For the Porgera Joint Venture it is a criminal activity. Who is at fault? Is it the Government of Papua New Guinea, Placer Dome for Porgera Joint Venture or the Local Ladies of Porgera community at fault?

ATA Photo Files 2005

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Appendix 11.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Local villager fetching water from a dirty creek.

Absolutely no water supply provided for the entire local community at Porgera. Is this **WE CARE SUSTAINABILITY?**

Porgera Joint Venture operated in Porgera, Papua New Guinea for 15 years already. **Dirty Water! Dirty Gold!**

ATA Photo files 2004

Appendix 12.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Stock file near Kongai dump at the SML, surface mine.

Lack of fencing has promoted any person to enter the area at any one time to search for gold.

ATA Inc Photo File 2004.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Appendix 13.



Garden close to Anawe Dump site

Local Garden beside Anawe erodible dump. Chemical Tailing from the mill is also discharged into the erodible dump which flood into the gardens during rainy seasons.

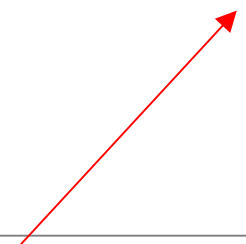
FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

ATA Photo Files

Appendix 14.

THE SHOOTING FIELDS OF PORGERA JOINT VENTURE
TO COMPENSATE AND JUSTICE TO PREVAIL

**Local miners wait
for dump truck to**





Local Miners in Anawe Staple Dump

Local alluvial miners waiting at bayside slopes for the 777 dump truck to dump waste at the Anawe staple dump. Its a common sight at present. The waste dump site lacks security fencing and other security measures to prevent the local from the entire high risk operation area.



ATA Photo Files 2004

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

Appendix 15. DELEGATION OF AUTHORITY-SAMPLE.

DELEGATION OF AUTHORITY

This AGREEMENT made the 8th Day of December, 2004

AKALI TANGE ASSOCIATION INC: (ATA) an Association duly incorporated under the Association Incorporation Act of Papua New Guinea and having its registered office located at Lower Yans Kona, Porgera District, Enga Province, Papua New Guinea of the first part;

AND

CASPAR PINDI, SAKARIAS TUNI, PALUS TALUPI AND LYEP WAIM of Murailya clan, Biep tribe, Kitailya village, Kandep District, Enga Province, Papua New Guinea of the second part;

WHEREAS

- a. That **Late Paul Pindi** male and age 20 was shot to death in an unlawful incident at the Annawe waste dump site by the Porgera Joint Venture Security on the 20th of April, 2004.
- b. **AKALI TANGE ASSOCIATION INC** and **CASPER PINDI, SAKARIAS TUNI, PALUS TALUPI AND LYEP WAIM** are desirous to **Delegate Exclusive Authority** on pursuing the matter to seek monetary compensation from **Porgera Joint Venture** and **others** solely for the purpose, compensation of the deceased.

NOW THIS AGREEMENT WITNESS AS FOLLOWS:-

- 1 In consideration of the amount of work, time, money and resources that will be committed to pursue the matter, seeking compensation and justice does hereby **forever completely Delegate Authority to Akali Tange Association Inc and its Special Compensation Working Committee to represent Casper Pindi, Sakarias Tunu, Palus Talupi and Lyep Waim**
- 2 It is hereby agreed that **Casper Pindi, Sakarias Tunu, Palus Talupi and Lyep Waim** will deposit a non-refundable sum of K2000.00 as determined by the Association for membership and assist advance the matter in relation to compensation.
- 3 That in consideration to clause 2, **Casper Pindi, Sakarias Tunu, Palus Talupi and Lyep Waim** do **not** deposit the amount prescribed than it is hereby agreed that Akali Tange Association Inc upon recommendation from the Special Compensation Working Committee will determine what penalties to impose.

DA- PP



FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

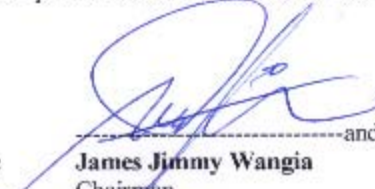
- 4 **Casper Pindi, Sakarias Tunj, Palus Talupi and Lyep Waim** do forever completely Authorise the **Special Compensation Working Committee of the Akali Tange Association Inc** to make claims and take action at a court of Law, and appear as principle witnesses and enter into negotiations all solely for the purpose to obtain equitable rates of compensation for unwarranted shot to dead of Late **Paul Pindi**.
- 5 **Casper Pindi, Sakarias Tunj, Palus Talupi and Lyep Waim** do forever completely Authorise the **Special Compensation Working Committee of the Akali Tange Association Inc** vested with the Exclusive right to obtain compensation monies and trustees for all payments, and shall have same power to control and determine what amount of money shall be made payable to both parties.
- 6 In acknowledgment of clause 5 and in recognition of the duress and hardship, considering the amount of effort and work, time and resource, cost and legal cost, commissions and material cost, miscellaneous and other unforeseen factors, **We Casper Pindi, Sakarias Tunj, Palus Talupi and Lyep Waim** do hereby forever completely authorise the **Special Working Committee of the Akali Tange Association Inc** do posses the legitimate and exclusive power to determine and distribute compensation monies obtained on the body of the Late **Paul Pindi**.
- 7 That in acknowledgment of clause 5 and 6, **Akali Tange Association Inc through the Special Compensation Working Committee** will act in accordance with exclusive authority delegated to further the compensation payment from the Porgera Joint Venture and others.
- 8 **The Akali Tange Association** does hereby declare and recognise that **Casper Pindi, Sakarias Tunj, Palus Talupi and Lyep Waim** are the only legitimate relatives and shall only deal with them.
- 9 The **Akali Tange Association Inc, Casper Pindi, Sakarias Tunj, Palus Talupi and Lyep Waim** do hereby fully understand the content of this agreement and do fully endorse that **STATUTORY DECLARATION** signed by Public Officer, Jethro C. Tulin of Akali Tange Association Inc bears the same and the truth but the truth of what has been sealed in this Agreement.
- 10 **Casper Pindi, Sakarias Tunj, Palus Talupi and Lyep Waim** further acknowledge that this Agreement be pleaded has a bar to any acts, claims demands and whatsoever and howsoever brought by any other on behalf and howsoever arising out of the fact surrounding the dead of the Late **Paul Pindi** whereas except only **Akali Tange Association Inc** is empowered with the exclusive Authority to do so.

DA-PP




IN WITNESS WHEREOF the parties hereto have executed the Agreement on the date herein before written.

Signed for and on behalf of
Akali Tange Association Inc
By:


-----and finger Print
James Jimmy Wangia
Chairman



In the presence of:
Signed:


-----and finger Print
Jethro C. Tulin
Public Officer (ATA)



Signed:


-----and finger Print
Casper Pindi
Elder Brother

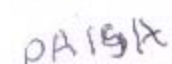


Signed:


-----and finger Print
Sakarias Tunj
Uncle



Signed:


-----and FingerPrint
Palus Talupi
Uncle



Signed:


-----and finger Print
Lyep Waim
Father



In the presence of:
Witness


-----and ATA Stamp
Jethro C. Tulin
Public Officer (ATA)



DA- PP

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Appendix 16.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Top end surface mine area and Explosive storage yard.

This area is completely not fenced and insecure.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

ATA Inc Photo File 2004.

Appendix 17.



A local village next to the Anawe staple dumpsite.

The photo demonstrates lack of preventive measures and a human trap set by PJV.

ATA Photo Files 2005

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

Appendix 18.



Overlooking Apalaka Village.

Impacts by Anjolek erodible dump sliding.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

ATA Photo File 2005.

Appendix 19.



A family at Anawe Erodible Dump

Mother, child and son at the erodible dump on their way to pan for gold. Lack of preventive measures allows them the freedom to do what they like despite of the high risk in the area. Also note that these people are armless.

ATA Photo File 2005.

Appendix 20.



Garden and Surface Mine

A traditional garden in Kulapi village next to the Stock file surface mine. Presents of sulpheric acid and other deadly toxic substances are commonly presence in the area and people just live with it not knowing the side effects in the long run.

ATA Photo File 2005

Appendix 21.



Man made lake

Garden, local villages at the foot of the South Anawe Erodeable and
Staple dumps. The river catchment of the Apamam creek, Aipulugu
creek and the Pogema river is blocked by sediment built up from the
dumps.

The natural waterway seen here has no way to flow creating a man
made lake at the foot end of the Anawe LMP. This is a known safety
hazard to the local community.

ATA Photo File 2005.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Appendix 22.



Kids playing field at LMP and dangers

Kids though playing in natural sand but not, reality has been they are enjoying the day from tailing discharge sediments at the foot of Anawe LMP.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

ATA Inc Photo File 2005

Appendix 23.



THE SHOOTING FIELDS OF PORGERA JOINT VENTURE
NOW A CASE TO COMPENSATE AND JUSTICE TO PREVAIL

Location of incidents

The man in the photo points at the location where three victims have lost their life due to flooded tailings flow and the tide built up as man made lake caused by blocks to the natural water way. Asapam creek, Aipulugu creek and the Pogema river.

ATA Inc Photo File 2005

Appendix 24.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Mugulep village houses at face of bottom Anawe South Stable Dump

Locals living in fear of seismic earth movement and attack from Porgera Joint Venture's Security Force.

ATA Photo File 2005

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY

Appendix 25.



Tailing discharge at South Anawe erodible dumpsite.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY

Chemical discharged from the edge of the ore processing plant down the erodible dump into the Asapam creek, further into the porgera River and finally into the Lagaip river.

The concentrated poisonous chemical danger data obtained are not disclosed to the public. No awareness danger signs are placed along the tailing creek allowing villages living down stream to use the creek. Kids frequently play in this poisonous creek and alluvial miners seek for alluvial gold regularly.

ATA Photo Files 2005

Appendix 26.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Traditional pathway through Anawe waste dump from Panadak village to Anawe village still existing.

If local people are continuously allowed to live around the mining area and continue using the short cut pathways through SML area then why shooting and detaining them?

ATA Photo Files 2005

Appendix 27.

FOR
A
FAIR
AND
EQUITABLE
COMMUNITY



Security in action after murder

A death body of an unknown local alluvial miner killed and carried down from the Kongai Dump site.

ATA Inc was somehow privilege to obtain this photo showing PJV security in action.

Photo from PJV Files.

FOR

A

FAIR

AND

EQUITABLE

COMMUNITY