

Akali Tange Association Inc.



**Factsheets- Porgera Gross Human Rights
Violations Issues**

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**Akali Tange Associations' (ATA) Report Submitted
to**

**Alithia Barampataz
National Human Rights Officer**

Human Rights Adviser's Unit

**Office of the United Nations High Commissioner
for Human Rights**

Regarding

**Multinational Canadian Mining Company Barrick
Gold Corp's Gross Human Rights Abuses in
Porgera Papua New Guinea**

April 24th, 2017

FACTS: Abuse by Barrick Gold Corporation

As an organization representing and being mouth piece of all survivors of raped/gang rape, tortured, beaten, illegally detained and killed by Barrick Gold Corporation's security guards and its hired PNG Police Mobil Squads at the Porgera gold mine in Papua New Guinea, we are pleased to present towards your attention the following detailed report.

Canadian mining company Barrick Gold Corporation, the largest gold mining company in the world, operates the Porgera mine in Papua New Guinea (PNG), where security guards have raped and gang-raped hundreds of local women and girls and killed, injured, and tortured several local men. Akali Tange Association as the names implies in Enga Language meaning *"the rightful and legitimate custodians of deaths, rape victims and injuries"* was incorporated under the Association's Incorporation Acts of Papua New Guinea in 2004 by all the survivors of raped/gang raped, beaten and tortured victims and the immediate family members whose relatives were killed by Barrick security guards and its hired PNG Police Mobil Squads.

Barrick's Porgera Gold Mine

Barrick has owned and operated the Porgera gold mine since 2006, when it acquired the previous owner, Placer Dome. Barrick also acquired a legacy of environmental damage and human rights abuses that it has failed to remedy. Each day, Barrick dumps more than 16,000 tons of waste into the Porgera River and local creeks that villagers have long relied upon for drinking water, bathing, and washing clothes and food. The mine's ever-expanding waste dumps continue to take over the land and bury the homes of the original landowners that have lived in the region for generations, long before large-scale mining came to Porgera. Surrounded on all sides, villagers have no choice but to cross the dangerous dumps to reach agricultural land, commercial areas, schools or other villages. Many have not been compensated for the loss of their land and their homes, and Barrick has refused to relocate them. Without land to farm and sources of clean water, practically the only means of income available to some of the local indigenous communities is to scavenge for remnants of gold in the open pit or the treacherous waste dumps.

Barrick's Security Guards

Barrick employs a private security force to patrol the open pit and the waste dumps. Villagers who are caught scavenging in the dumps or pit are often detained in a holding cell at the mine site before being transferred into police custody for "illegal mining" or trespassing. The security force includes Barrick's hired PNG police officers and others with a police or military backgrounds who are employed by Barrick to protect the mine. Barrick has a Memorandum of Understanding with the government of Papua New Guinea to provide police reservists from its own security guards in order to augment the local police force; in practice, these reservists patrol the mine at Barrick's direction. Barrick also

provides financial and other support, such as housing on mine property and transportation, to the PNG Mobile Police squads, a branch of the national police force, to protect its facilities. The Mobil Police have a long history of serious human rights abuses, including shootings, beatings, rape, forced evictions, and burning of homes.



Photograph showing Late Wasato Iminji prepared for dressings after Barrick PJV's Security Guards shot him Point Blank PJV Mine site the 14th July, 2014. Police Crime Report confirms he was shot on head with high powered rifle. Photo courtesy of ATA

Systematic Sexual Violence and Gang Rape by Barrick Security Guards

For two decades, women and girls living near the mine have been brutally raped by the mine's security guards patrolling in or near the dumps. Many suffer from lasting physical and emotional injuries, as well as marginalization and social isolation in their community. One of rape victims and a member of ATA, a young girl at the time, was panning for gold with her older sister when they were surrounded by ten armed Barrick security guards. The guards handcuffed her behind her back, beat her and gang-raped her. They

then locked her in a holding cell at the mine site until she was transferred to police custody and jailed for “illegal mining.” It took her family a week to gather bail money, during which time she received no medical treatment for her injuries, which included broken bones and swelling from a blood clot. She still has trouble walking today. Another ATA member and a rape victim was caught by guards in the dump after they fired teargas at her group. She was beaten, cut with a knife, and brutally raped by ten guards. She had to be carried home by relatives and could not walk for weeks; walking still causes her pain. After her newlywed husband found out about the rape, he abandoned her, and she is no longer able to have children. She was ostracized by the community and had to move to live with relatives in another town. Dozens of women have suffered similar sexual assault by mine security guards. Local human rights group Akali Tange Association (ATA) began warning of abuses committed by mine guards before Barrick formally took over the mine; the company ignored or denied the problem for years. In 2008, Barrick’s CEO wrote in a letter to Porgeran leaders that the allegations of gang rape were “most distasteful, to say the least as you know these allegations to be untrue.” Finally, after investigative reports from groups like ATA, MiningWatch Canada, Human Rights Watch, and Amnesty International, the company admitted in 2011 that there was a problem.

Barrick’s Remedial Framework

In 2012, Barrick set up a “Remedial Framework” to enable rape survivors to apply for limited benefits. This was designed to be an “Operational Grievance Mechanism,” as envisioned by the U.N.’s 2011 Guiding Principles on Business and Human Rights, but from the outset the Remedial Framework failed the U.N. criteria. For example, the Guiding Principles state that such mechanisms should be “Based on engagement and dialogue: consulting the stakeholder groups for whose use they are intended on their design and performance” Barrick did not consult the women or their local advocates in designing the Framework. More than two hundred women lodged complaints of rape and gang rape; ATA believes that the actual number of victims is even higher. Barrick claimed that it would assess each woman’s needs and offer a flexible benefits package that might include financial reparations or even relocation where appropriate. EarthRights International (ERI) a not for profit NGO law firm based in the US had represented several dozen women who lodged claims with the Remedial Framework, but soon discovered that they were not being offered appropriate financial compensation commensurate with the gravity of the abuses. Nearly all of ERI’s clients or the ATA members were offered benefits packages that were calculated to amount to exactly the same value – 21,320 kina, about \$8500 and 30,000 kina respectively at two different intervals. When many of ERI’s clients objected and asked for appropriate compensation, the Remedial Framework rejected their request. In a statement (see below), the Framework’s Advisory Panel accepted that the claimants had suffered horrific abuses – “physical assault and imprisonment as well as aggravated rape.” But they rejected the notion that compensation for “aggravated rape” should rise above \$8500 per woman, regardless of the details of her experience, for several reasons:

- ✓ The Panel suggested that, since other women had already accepted their standard packages, it would be “unjust” to them to give these claimants anything more.
- ✓ Although the Panel recognized that “compensation is a traditional form of redress,” it suggested that this culturally appropriate remedy – well-enshrined in international human rights law – was inconsistent with the “dignity” of the women, as protected by Papua New Guinea’s Constitution.
- ✓ The Panel believed that – despite the fact that the women themselves were asking for compensation – it was better to treat these rape survivors as an economic development project, by giving them “income-generation skills training” and “start-up” grants.

Two of the benefits packages, with names redacted (see below), demonstrate that the women were offered almost identical benefits regardless of their desires and circumstances. The largest component of the packages is a business training program; after attending Barrick’s mandatory training, women could get a “business grant” of 15,000 kina – about \$6000 – which they were expected to use to start a small business raising chickens or selling second-hand clothing. No exceptions were made to the mandatory business training program – not even for an 87-year-old woman. The rest of the value of the package was made up small components, such as school fees (in a country where such fees have been abolished) and vouchers for counseling services. Then the packages included a “financial supplement” of up to 5,000 kina (about \$2000), in order to make up the difference to 21,320 kina. In order to accept these packages, women were required to sign an agreement (see below), promising never to sue Barrick for their injuries. The women that ERI represented were apparently the only women in the process with any representation by legal counsel. All of the women who were not represented by ERI accepted the agreements.

The outcomes of the Remedial Framework fail the fundamental test that, under the U.N. Guiding Principles, such a process should be “[r]ights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights.” Providing manifestly inadequate benefits in exchange for waivers of legal rights – especially for unrepresented women, most of whom are extremely impoverished, with little formal education – is inconsistent with international human rights standards, which require remedies that are proportional to the gravity of the abuses. Eleven women represented by EarthRights International rejected the agreements offered through the Remedial Framework. The **“Concerns regarding the Non-Judicial Grievance Mechanism for Women Victims of Sexual Violence by Barrick Porgera Joint Venture Security Personnel”** further stated below.

Routine Beatings, Shootings and Killings by Barrick Security Guards

In addition to the systemic violence against women, over the course of the mine's existence, local men and boys have been routinely beaten, shot, and killed for entering the open pit, the dumps, or simply being near the mine's property. ATA has documented numerous incidents of violence and killings by mine security guards and Mobil Police squads working for the mine over the past 20 years. In 2005, just before Barrick took over the mine, its predecessor, Placer Dome, acknowledged some of those deaths, but alleged they were all in self-defense. Most killings have not been independently investigated, however, and Barrick generally continues to deny any responsibility. In 2006, the PNG government initiated an investigation into the unusually high number of deaths near the mine; no report was publicly released. One victim was only 15 years old when he was shot and killed. He was staying with a relative in Porgera, and one night, he followed a group of locals to a gap in the mine fence. The group attempted to gain entrance to the open pit to look for gold. Guards stationed at the entrance, behind a fence, began shooting into the crowd. The boy was killed by a shot to the head. His relatives and the ATA had reported the shooting to the police but no one was ever prosecuted for his death. Barrick's Remedial Framework was limited to claims of sexual violence. Relatives of men killed by security guards have tried to lodge complaints with Barrick's local community relations grievance office; none have apparently resulted in reparations.



Photo showing an 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

Not an Isolated Case

Unfortunately, the abuses at Porgera are not unique among Barrick's mines. Violence by police affiliated with the company and the company's own security guards at the North Mara mine in Tanzania is eerily similar to the violence committed near the Porgera mine. Tanzanian villagers filed suit in the United Kingdom against Barrick in 2013 after their relatives were killed at the gold mine and others were injured by police officers working under contract with the company to provide security to the mine.

Further Reading

ATA Case Document, [*The Shooting Fields of Porgera*](#)

Human Rights Watch, [*Gold's Costly Dividend: Human Rights Impacts of Papua New Guinea's Porgera Gold Mine*](#)

Amnesty International, [*Undermining Rights: Forced Evictions and Police Brutality around the Porgera Gold Mine, Papua New Guinea*](#)

International Human Rights Clinic, Harvard Law School & Center for Human Rights and Global Justice, New York University School of Law, [*Legal Brief Regarding Bill C-300*](#), submitted before the Standing Committee on the Foreign Affairs and International Development (FAAE), House of Commons, Ottawa, Canada

Concerns regarding the Non-Judicial Grievance Mechanism for Women Victims of Sexual Violence by Barrick Porgera Joint Venture Security Personnel

Introduction

The following comments on Barrick's remedial framework [The Framework] for victims of human rights abuses committed by Barrick personnel at the Porgera Joint Venture (PJV) mine in Papua New Guinea (PNG) raised concern that the framework and its implementation did not reflect best practice and was not sufficiently protective of the rights of the women who have been harmed by sexual violence at the hands of Barrick security personnel. The comments that follow are based on the framework text "*Olgeta Meri Igat Raits: A Framework of Remediation Initiatives in Response to Violence Against Women in the Porgera Valley*" [The Framework] and Barrick's Porgera Remedial Framework Association's (PRFA) performance.

Two specific comments merit expansion here:

a. On Consultation and Trust Building

Barrick's public release regarding the remediation framework, dated 23 October 2012, maintains that Barrick has adopted an approach that was consistent with the UN Guiding Principles on Business and Human Rights. The UN Guiding Principles require that non-judicial grievance mechanisms involve consultation with the stakeholder groups for whose use they are intended on their design and performance (Principle 31(h)). Barrick has neither consulted with women who have been victims of violence by Barrick's security guards nor did Barrick consult the Akali Tange Association, the grassroots and local human rights organization that has documented the claims of victims of violence by PJV security guards and has been publicly raising the issues of violence and sexual assault by Barrick security for many years.

The lack of consultation and inclusion of this local organization in the development of the Framework and its implementation has consequences in terms of lack of trust, resulted in failing the UN criteria. Thus ATA has resubmitted the Claimants name list to Barrick via Barrick's existing Operational Grievance Mechanism for Barrick to do a fair, just and proper additional remedy for the 120 women victims of rape and sexual violence.

Recommendations:

- ✓ The Framework and its execution should, minimally, provide a more comprehensive historical account of the efforts to alert Barrick to these abuses allegations made by ATA, as well as the International Human Rights Clinic at Harvard and the Center

for Human Rights, Mining Watch Canada and Global Justice at New York University School of Law.

- ✓ In light of the lack of consultation with key stakeholders, such as Akali Tange Association and possibly victims of violence themselves, Barrick should have committed to an immediate review of the remediation process by an independent panel, which should include local stakeholder groups.

b. Women should not have been asked to sign away their rights

The Framework is promoted by Barrick to female victims of violence as “upholding your rights and protecting your dignity”. However, the Framework’s implementation has been more protective of Barrick’s interests than of the rights of the women the process should have been serving. It did not conform to best practice. Nor did it conform to the United Nations Guiding Principles on Business and Human Rights (GPs) which Barrick references. Women should not have been required and told to sign away their rights to future legal action. This is in line with the GPs which, in the Commentary to Article 29 (dealing with the need for adverse impacts to be remediated promptly and directly), states ‘Operational-level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes, but cannot substitute for either. They should not be used to undermine the role of legitimate trade unions in addressing labour-related disputes, nor to preclude access to judicial or other non-judicial grievance mechanisms.

(Emphasis added).

No release of potential future claims by the victims should be required under the remediation process. It is not best practice for a remediation scheme to require a release of potential claims. At most, a remediation scheme might contain a mechanism to prevent a victim from “doubling up.” For example, if there was a subsequent claim by the victim it might be a condition of the remediation scheme that any compensation for damages provided by the non-judicial remediation scheme would be deducted from any subsequent award of damages through a legal process. Examples of reparation schemes that do not require a release are provided in **Appendix I** below.

Through Barrick’s drafting of “*Olgeta Meri Igat Raits: A Framework of Remediation Initiatives in Response to Violence Against Women in the Porgera Valley*” [The Framework] and the Framework’s implementation process, Barrick maintains that remedies are independently determined by the Complaints Assessment Team (CAT) and an independent expert. This, of course, was necessary to the legitimacy of the process; it protected not only the victims, but Barrick. If fair remedies were provided, there can be little need or incentive for victims to pursue additional remedies. Additionally, women in the claims process who progress to the remedy stage are accepted by the process as being the victims of gross violations involving sexual assault, in some cases gang rapes, by

Barrick's employees. These women have been subjected to traumatic experiences at the hands of Barrick's employees. Given that premise, it is problematic to say the least that the individual reparations process (which Barrick stated was to ensure the welfare and safety of the individuals who have been the victim of sexual assault by the PJV) provides: trauma response services; psychological counselling; or Health care; only if the victim first signed a release of potential claims against Barrick. Too, trauma response services; psychological counselling; or Health care were never implemented as yet, thus leaving the victims in chaos and total darkness.

Recommendations:

- ✓ Barrick should have removed the requirement for women to sign away rights to future legal action against Barrick or PJV in which Barrick, thus; the victims have signed the legal waiver.
- ✓ Barrick should have allowed women to keep the remedial offers made to them in the remedy process open for a period of time that is long enough for them to seek legal counsel and evaluate their options.
- ✓ Barrick should have offered female victims the opportunity to meet with advisors from the Mining Watch Canada, Harvard and NYU human rights clinics as well as Earth Rights International who have a long-standing involvement with the women victims of Porgera.

Summary of Concerns

- ✓ The Framework should have been consistently referred to as "sexual violence," (as opposed to the narrower term "sexual assault") so that it is clear which offences was included in the remedy mechanism.
- ✓ The Framework and its realization maintained too narrow a definition of "employee." The Framework and its implementation should have covered sexual violence by all employees of PJV including contractors.
- ✓ The Framework and remediation mechanism and its execution should have covered sexual violence by members of the Mobile Units in cases where these Mobile Units are housed, fed and financially supported by Barrick/PJV however; to date this has never been done.
- ✓ The Framework should not be limited to the locality of offenses to the "Porgera mine site" a term that was not well defined and did not capture all offences that should have been eligible for remedy.

- ✓ Given the significant hurdles that limited access to justice for women who have been subjected to sexual violence the remedial mechanism should not set an arbitrary deadline for the occurrence of incidents of December 31, 2010, after which cases was or was not considered eligible on a `case by case` basis, but should have been remained in place to handle any meritorious claims that may arise.
- ✓ Having failed to consult the local organizations Akali Tange Association (ATA) who had intimate knowledge of and long-standing public concern for the issues addressed in The Framework and remedy program spearheaded by PRFA, with regard to the appointment of key individuals such as the Independent Expert (Dame Carol Kidu & Ume Waineti) and the Review Panel who neither have an idea of the complex Ipili Culture nor had past experience in addressing such issues, Barrick should have consulted ATA about and have a meaningful role to play in the remediation mechanism, for example by representation in the governance structure.
- ✓ Barrick should have put a system in place to improve consultation with Akali Tange Association about all aspects of violence related to Barrick`s personnel at the PJV mine.
- ✓ Women who participated in the remediation mechanism were never guaranteed of confidentiality or be informed that the process does not provide confidentiality. Given the very real dangers women faced that came forward on such claims, more detail needs should have been provided on measures that would have taken to ensure confidentiality.
- ✓ With regard to the independence of the PRFA management and assessors of the women`s claims we do not think the language used excluding employees and officers of Barrick/PJV was sufficient to ensure avoidance of conflict of interest. A more extensive conflict of interest policy would have been adopted for all persons involved in the assessment process.
- ✓ The remediation process was overly complex and had involved an unnecessary number of newly established bodies and unqualified civil and public servants who had neither a clue nor an idea of Ipili`s Rich and Complex Culture as well as of the Guiding Principles on Business and Human Rights. Thus; they have administered the process and failed this non-judicial level grievance mechanism and the UN Guiding Principles miserably.
- ✓ There were inconsistencies on the eligibility criteria as to whether the assault has to have occurred at the mine site or not. The wording in section 3.1 on page 11 of the “*Olgeta Meri Igat Raits: A Framework of Remediation Initiatives in Response to Violence Against Women in the Porgera Valley*” [The Framework] stated that the assault must have taken place “at the Porgera mine site”. However, page 22

(under the heading “Eligibility”) stated that the assault was eligible “regardless of where the assault had occurred” thus; most of the women victims have missed out on the remedy.

- ✓ There should have been a method to shortcut the process for victims where Barrick had already taken disciplinary action against security personnel for assaults. As Barrick already accepted that there was credible evidence of an assault (in order to have taken disciplinary measures), it should not have been required for those victims to tell their story to a new interviewer, with the associated trauma that had involved.
- ✓ Due to insufficient information regarding “claimant representation” as discussed on page 20 of The Framework, the women had no legal representatives present to claim for victims. Earth Rights International, a US based Not for Profit Law Firm was not allowed to provide legal advice to the women at the preliminary stages.
- ✓ There was a lack of information on the selection process for persons involved in the assessment of claims process. In particular there was no information on the role of community involvement.
- ✓ There was lack of information on the structure and composition of the PRFA management committee as neither a role of community was involved nor were the stakeholders. The stakeholder groups should have been allowed to choose their own representatives as indication of best practice in the importance of having persons selected by all stakeholder groups involved in such processes.
- ✓ There is a lack of information about how the management committee has operated.
- ✓ .There is a lack of information on the nature of the contract with the Independent Expert and of the Review Panel members and under what circumstances their tenure may have been ended.
- ✓ The Expert Advisory Group should have included a spectrum of organizations that have shown a concern for the issues of violence against women in Porgera, including those with which Barrick has failed to engage in the past.
- ✓ There is still a lack of information regarding the funding made available for this process and guarantees (irrevocable funds etc.) that has ensured that the funding is still available to victims even in the case of non-compliance of PRFA.
- ✓ There is still lack of information on how the process has ensured that the remedy victims received is fair, proportionate to harm, and based on fully informed participation of the victims. How the CATs and key decision-makers were guided in awarding remedies (both the nature and quantum of compensation)? How

consistency has been ensured for like claims? What sorts of methodologies used to payout claimants expectations (eg is there a minimum or maximum cap)?

- ✓ The referencing (in terms of legitimacy criteria) of claims based on prior reporting to civil society group or investigation by Ila Geno disadvantaged women who may have felt a legitimate need to keep silent but whose claim has merit.
- ✓ ACT officers had conflicting responsibilities of assisting women in preparing and lodging a claim (page 20) and then made an assessment of the merit of the claim.

Continuity of human rights abuse by Barrick employees and its hired PNG Police Mobil Squads

a. Shootings, beatings, rapes/gang rapes, tortures and illegal detentions

Despite several attempts being made by the Akali Tange Association to hold Barrick accountable for its previous gross human rights violations its security officers and hired PNG Police Mobil Squads have committed, the shooting, beating, rapes/gang rapes, illegal detentions of local indigenous Ipili Speaking people of Porgera Valley is continuing. To be specific, ATA has received first hand information of a young man aged between 23 and 25 was shot death at the PJV's Open Pit on the April 16th 2017 PJV Security Guards. His companion, also a young man sustained bullet wounds and is fighting for his life at a hospital. These two young men were shot using high powered riffles.

Similarly, during another incident of force eviction and burning down of houses at a village near the PJV's Open Pit (see below), six men were beaten and 8 women were raped/gang raped on March 25th, 2017. One these eight women, ATA is aware that three school aged girls were raped.

Also, three women were gang-raped by Barrick hired PNG Police Mobil Squads at the Anawe Waste Dumpsite when they were taking short cuts to go to their home village at Panadaka from Porgera Station using traditional footpath. An eyewitness at the scene told ATA that the hired Police Officers held them up at gun point in the middle of a haul road and forced them to the ground and had took turns in raping them. He further added that two of the women being raped were his relatives and that he fled from the scene not to see them being raped in the broad daylight. He also said that he did not belief his own eyes as these rogue police officers were acting as if they were actors on a blue movie.

In addition to the killings, beatings and rapes/gang rapes, illegal detention and torture is sky-rocketing. The local men and boys are picked up by Barrick's security and its

hired police officers while found within or outside the company's perimeter and are brought to the Mine site lock ups where they are physically assaulted and tortured.

After physically beating them up, they are then taken to the Porgera Police Station where they are charged for trespassing and doing illegal mining. Approximately 98% of the detainees in the police lock-up cells are local alluvial miners arrested by PJV Security and its hired police officers.

b. Force evictions and burning down of houses

In addition to the killings, beatings, torturing, illegal detentions and rapes or gang rapes, the force evictions and burning down of villages near the mine has been a systematic problem for Barrick and its hired security and police officers.

From June 9, 2014: "Porgera Burns" read headlines in Papua New Guinea's daily newspaper. More than 200 houses were burnt to the ground, it reports, and angry villagers retaliated by attacking an Australian mine worker.

This isn't the first time that security forces have burnt down hundreds of houses next to Barrick's mine, and this recent violent episode underscores the need to meet the community's demand to be resettled away from the dangerous mine site.

This is the second time this village (Wingima) was burnt down. The first one was done during the first state of emergency call out operation some six years ago which never solved the problem," MP Nixon Mangape said of this most recent police campaign.

"Why is Barrick not looking at long term solutions like relocating the people out of the special mining lease area? Burning houses in a particular village in the special mining lease area will not solve the illegal mining problem. It's adding more fuel to a burning fire."

In May 2009, an ATA's Executive was interviewed on the CBC's *As it Happens*, [reporting](#) about the fact that over 300 houses were burnt down by police next to Barrick's Porgera Mine in Papua New Guinea (PNG). The news hit the front page of newspapers in PNG, citing ATA's Executive interviews from North America. Even the *Sydney Morning Herald* – the largest newspaper in Australia – ran an [entire series](#) of feature articles on the Porgera situation, while [Amnesty International](#) and the [Coalition on Housing Rights and Evictions](#) both made public statements condemning the house burnings.

Surprisingly, Barrick [admitted](#) that "It [was their] understanding that the police tore down approximately 50 temporary shacks," never apologizing for this gross human rights abuse or their role in provoking it. According to a [follow-up report](#) by Amnesty International, during the evictions three women were reportedly raped, people were beaten, and there was no prior warning or resettlement plan in place.

However, the most shocking story that never made the headlines was the fact that the PNG police force burnt down the village two times following the April burnings – [once on June 23](#) and [again](#) in July 2 – after the villagers rebuilt houses in the same area.

This is the true tragedy with Porgera. Here, abuses can't be confined to a few isolated incidents, but a structure of impunity that terrorizes residents who resist it. Here, the crisis does not exist only in moments, but is tied to an environment that is overrun with waste, toxic dust, landslides and tailings, creating hazards that take lives on a regular basis.

The landowner's main plight asks for resettlements out-side of the Special Mining Lease area, to a location where they can live a subsistence lifestyle while having basic infrastructure (roads, schools, and a hospital) provided for them. It seems a small price to pay in exchange for a land rich with gold

Akali Tange Association (ATA) is a duly incorporated organization under the laws of Papua New Guinea (PNG) the major indigenous land owning clans from where the Porgera Joint Venture (PJV) Barrick gold mine is located in the central highlands of PNG.

ATA took the first opportunity to welcome the Amnesty International (AI) report that tells the truth about police violence and forced evictions occurred during a Papua New Guinea police deployment in what has been purported to restore law and order in Porgera Enga Province Papua New Guinea between April and June 2009.

The ATA at every stage of the mines operation demanded through PJV Barrick and the PNG government for resettlements of over 10,000 plus indigenous landowners out of the SML area. However, the calls for resettlement have fallen into deaf ears over times and the landowners have been forced to live inside the SML like squatters on our own land on manmade islands in the highlands of PNG.

PJV Barrick purports to claim that the company is “committed to protecting human rights and operating in alignment with the voluntary Principles on Security and Human Rights.” The ATA unequivocally dismisses the proclamation. Previous case records of PJV Barrick tells a totally different story that in 2008, the Norway Government Global Pension Fund, one of the largest global pension funds in Europe divested 230 million Canadian Dollars from Barrick Gold International and delisted from its investment portfolio as a result of de-charging life tailings into Porgera-Lagaip Strickland river system harming the environment. In 2007 PJV Barrick admitted through the Ottawa Citizen News paper in Canada that 8 people were killed at the Porgera mine site for somewhat unfound reasons. The PNG government is fully aware about the human rights abuses and the matter has been reported with the United Nations Special Rapporator on Human Rights and the Canadian government which is still an ongoing matter for justice.

ATA dismisses the simple reasoning of deterioration law and order as the justified excuse to deploy police. It's quite easy to make shallow assertion that the complexity of social

and law and other challenges in Porgera. These complexities are makings of cash for land deals under pretext of development to extract gold that has turned upside down life of thousand indigenous people that where once in peace.

PJV Barrick in various statements released dated February 2, 2010 had aggressively defended the deployment of police acting like the government of the independent state of Papua New Guinea which undermines and contradicts the proclamation that committed to protecting human rights and operating in alignment with Voluntary Principles on Security and Human Rights. In contrast, a multi international company acting like a state desires a lot more than just for the interest of public safety. To put it into context, the whole hidden motive behind the police deployment was to systematically force evict all the villages within the SML area to make way to extend the mines operation. In fact PJV Barrick has announced late 2009 that the mine life has been extended by another 20 years. Therein that the pretext of deteriorating law and order is just a smoked screen.

Re-calling back, the news about force eviction at the Porgera mine site was first broke at the Barrick Shareholders meeting in Toronto on 29th April, 2009 and AI took the news and made a bold move to conduct an independent investigation.

Whereas, the report just tells what went wrong and it's not motivated by political and financial reasons for local benefits. It's about force destruction of humanity in one of the least developed corners of PNG under PJV Barrick and police state, and globally it's an international concern and issue.

Therefore, ATA at that time did called on the Government of Papua New Guinea, Government of Canada and PJV Barrick to urgently take ownership and responsibility to adequately address the recommendations outlined in the AI report but to no avail.

Similarly, this Wingima Village was once again burnt down the third time in the early mornings of March 25th, 2017. During the forced eviction there were 52 houses being burning down by the Barrick hired PNG Police Mobil Squads and these rogue police officers have raped/gang raped 8 women and physically assaulted six men.

Upon receiving the news of the incident, ATA's Public and Executive Officer (the Author of this report) physically went to the scene and took photos and interviewed the victims. After returning from the scene, he wrote to the Barrick's President Kelvin Dushnisky and Senior Vice President Peter Sinclair to take immediate actions to stop the abuses and investigate them and report what had happened.

In their respond letter dated March 27th and April 17th, the Barrick claimed that its management at the PJV Mine site neither had a knowledge about the incident nor were they involved in the planning and implementation of the eviction. They had only seen the houses' burning after the execution by Barrick hired PNG Police Officers.

Also the Barrick responded and said that, the eviction carried out was legal as the hired police officers had acted upon a warrant issued by the Porgera District Court.

After noting their respond, ATA then wrote to the Porgera District Court to verify whether the said warrant was issued by this honourable court or not. However, ATA found that the claimed warrant was never issued by the said court via its respond letter dated April 21st, 2017 addressed to ATA's Public & Executive Officer.

Upon receiving the letter from the Porgera District Court, the ATA wrote a letter to the Porgera Police Station Commander enquiring for Police Investigation into the matter. And also ATA published press statements and published reports accusing Barrick and its hired PNG Mobil Squads of forcefully evicting Wingima Villagers, burning down of houses, raping or gang raping of women and physically assaulting men.

The investigation is still commencing to date and so far no arrests have been made to the perpetrators.

c. Illegally arresting of the ATA's Public and Executive Officer by the Barrick hired PNG Police Mobil Squads

After noting that the Barrick and its hired rogue police officers were at fault and that ATA was doing intensive investigation under the leadership of M^cDiyan Robert Yapari, the Public and Executive Officer of ATA, the Barrick hired Police Officers arrested and charged Mr Yapari.

He was arrested and charged for publishing the news and the press statement of the force evictions, burning down of the houses, physically assaulting and raping or gang raping of the residents which the police officers claimed as spreading of bias and misleading information.

Mr Yapari was held behind bars and was denied bail for some 30 hours but was later released on Police Bail where he will appear for his first mention on April 25th at Porgera District Court.

During his arrest, all his properties including Save Card, Driving License and ID Cards, Wallets, shoes, coats and even socks as well as his mobile phone were taken by the arresting officer. Upon his release, all other properties were returned but not his mobile phone as the police officers claimed that they will be using his mobile phone as an exhibit at the court.

To ATA and Mr Yapari's understanding, the arrest was made purely to cover up for the abuses the Barrick and its police officers had committed.

Recommendations on Porgera human rights issues and its final lasting solutions at the overall perspective for the betterment of the people of Porgera, the Government of PNG and the PJV (Barrick Gold Corp)

The following recommendation encompasses the overall solutions to the Porgera mine related issues that has brought immeasurable negative impacts to the host community and its environment.

- 1.0 Relocation of the Special Mining Lease (SML) community while drawing reasonable buffer zones where this is seen as PJV is extracting gold from the silently suffering communities.
- 2.0 Both the national government and the PJV collaboratively carryout a critical sustainable development mechanism that captures the translated issues that are destabilising and fragmenting the vulnerable communities within the district.
- 3.0 Both the government of PNG and the extractive industry, Barrick Niugini Limited formulate better strategies that dilutes active chemical constituents as highly concentrated chemicals brought immense destruction to the entire ecosystem which gave rise to degradation of the rich biodiversity. Therefore, we strongly recommend the PJV to build a mini dam specifically for neutralization of highly concentrated chemicals as host communities living along the polluted river system have been chemically affected where this is seen to be systematic and becoming a genetic issue now.
- 4.0 ATA further recommends recognition for translating and addressing all aspects of issues within the valley which then qualifies participation in all remedial frame works forthcoming as local advocating agent participatory is mandated according to United Nations Guiding Principles on Business and Human Rights. According to Human Rights Watch report on “Gold Costly Dividend” on irregularities levelled against with the Porgera Land Owners Association (PLOA) is plainly null and void as ATA is a strong and pioneering human rights advocacy organization in Porgera that produced significant and progressive results which also caught the attention of all levels of government within and abroad.
- 5.0 ATA recommends all stakeholder participation especially the responsible public institutions as these institutions have failed in their governance and

administrative affairs as well as gross mismanagement of available financial resources.

- 6.0 ATA recommend the PJV to pay compensation to all the deaths, rape victims and injuries sustained since including environmentally affected victims with a predetermined sustainable remedial package programme having dual benefits as the recent remedy framework was preferably designed to trigger more problems.
- 7.0 Finally ATA strongly recommends Barrick PJV to pay the 120 women victims who were covered under PRFA another K150, 000.00 to stabilise with the ERI's 11 other women rape victims who were paid K200, 000.00; provide trauma and psychological counselling, health care and their children's school fees per Barrick's agreement to sign away legal rights forthwith.
- 8.0 Not the least but lastly, ATA recommends Barrick and its special hired PNG Police Mobil Squads to admit the facts that they had illegally burnt down houses at Wingima and forcefully evicted the residents without obtaining a warrant from the Porgera District Court.

Appendix I

1. Ahafo South Mining Project Grievance Mechanism, Ghana

Local residents who file complaints with Ahafo South's Grievance Mechanism retain the right to pursue other forms of legal action at any time during the course of the complaint process.

2. The Hokie Spirit Memorial Fund at Virginia Tech

Following the 2007 Virginia Tech shooting spree in which a mentally ill student killed thirty-two classmates and faculty members, Virginia Governor Tim Kaine set up the Hokie Spirit Memorial Fund to compensate physically wounded victims and family members of the deceased.⁵ Victims and relatives were given three options for redress: compensation programs, restitution, and litigation. Families received \$100,000 compensation packages for a deceased family member, and injured victims were eligible to receive up to \$100,000 (this is Virginia state law's cap on personal injury claims). Furthermore, families of the deceased were able to seek extra money from a \$1.9 million fund created for restitution purposes. These forms of redress did not preclude litigation, as claimants in this compensation scheme "retain[ed] the right to sue in court."⁶ As Kenneth Feinberg's book *Who Gets What* explains, "[A]ll two hundred claimants who received compensation had

every right to use the money to hire a lawyer and file a lawsuit against Virginia Tech, [though] only two chose to do so.”

3. Hewlett-Packard, Mexico

The complaint process has a number of steps, and both the employee and the company retain the right to pursue litigation at any point throughout the process.

4. Gap, Inc.

Gap's Lesotho branch has grievance mechanisms in place for complaints of varying levels of seriousness and substance. Some of the complaints processes may be accompanied by lawsuits, whereas other sorts of complaints filed may not be. During the appeals process, “All parties can at any time take the dispute to the DDPR or the Labor courts if unhappy with outcomes from factory level processes or Gap Inc's engagement. An agreement under DDPR conciliation is written and becomes binding....It has the same force and effect as an order of a court of law. It can be taken for review by the Labour Appeal Court.” The Labour Appeal Court is an institution of the government of Lesotho.

5. Harvard Kennedy School of Government Corporate Social Responsibility Initiative

See also a research paper written by Harvard Kennedy School of Government's Corporate Social Responsibility Initiative, titled “Piloting Principles for Effective Company–Stakeholder Grievance Mechanisms: A Report of Lessons Learned,” for the Special Representative of the UN Secretary–General for Business and Human Rights John Ruggie. The Kennedy School carried out five pilot tests with various companies that were interested in creating grievance mechanisms, and pulled lessons from the experiences. The report recommends that entry into grievance mechanisms not preclude litigation. It states, “It is also important to note that while operational level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes, they cannot, and should not, be used to substitute for either. Equally important, they should not be used to undermine the role of legitimate trade unions in addressing labor–related disputes, or to preclude access to judicial or non–judicial grievance mechanisms.”

Additional Australian examples:

6. Aboriginal Trust Fund Repayment Scheme

The Aboriginal Trust Fund Repayment Scheme in New South Wales, Australia provides for a payment to indigenous persons or their descendants concerning wages and other money that was held in trust for them by the Aborigines Protection Board or Aborigines Welfare Board but never repaid to them. The scheme does not require claimants who receive a payment to sign away any legal rights. All claimants who receive a payment are still entitled to pursue legal action. This applies to both the initial 2006 scheme (which

individually assessed the amount owed to an individual claimant) and the subsequent 2009 scheme which provided for a fixed exgratia payment to each accepted claimant.

7. Victim's Compensation Schemes

Victim's compensation's schemes in Australia generally provide for the payment of compensation to victims of serious crime, assessed by an independent tribunal and paid by the government. The payment of compensation does not affect the victim's right to bring legal proceedings (whether against the government or an individual): *Victims Support and Rehabilitation Act* 1996 (NSW) section 43(2). However, the compensation may be subject to a condition that the compensation be repaid from any subsequent award of damages in subsequent legal proceedings: 34(1) (c) and the government has a right to receive the compensation for any subsequent award of damages: *Victims Support and Rehabilitation Act* 1996 (NSW) section 43(3). Similar provisions apply in Victoria: *Victims of Crimes Assistance Act* 1996 (Vic) section 51 and South Australia: *Victims of Crime Act* 2001 (SA) sections 17 and 28.