Papua New Guinea

Gold's Costly Dividend

Human Rights Impacts of Papua New Guinea's Porgera Gold Mine

HUMAN RIGHTS WATCH

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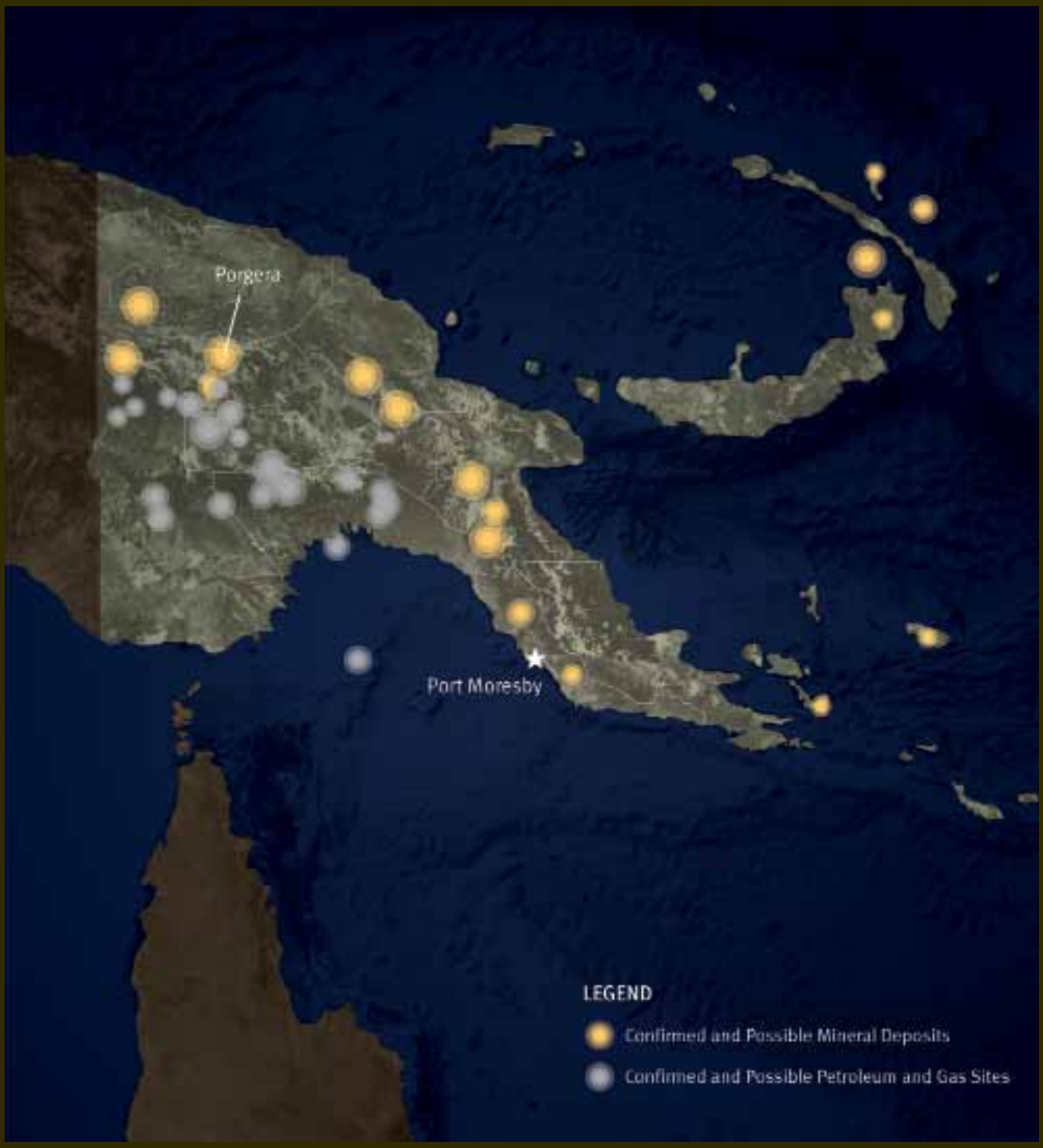
SUMMARY AND RECOMMENDATIONS

Since the Porgera mine opened in 1990, it has produced over 16 million ounces of gold. At today's prices, that would be worth more than $20 billion. Barrick took over the mine in 2006 and production is expected to continue until at least 2023.



MAP OF MINERAL , PETROLEUM AND GAS PROJECTS AND EXPLORATIONS

Natural resources form the backbone of Papua New Guinea's economy, especially mining and timber and palm oil, and now, an enormous liquid natural gas project that's being headed up by Exxon Mobil. 12% of the country's export earnings come from the Porgera gold mine.

SUMMARY

Many of Papua New Guinea's most intractable problems are inextricably bound up with the country's most promising sources of wealth. Mining, gas, timber and other extractive industries are the most productive sectors of Papua New Guinea's otherwise ailing economy. But exploitation of these resources has also led to violence, human rights abuse, corruption and environmental damage.

The Porgera gold mine—the subject of this report—is a potent symbol of both the perils and the financial rewards that extractive industries hold for Papua New Guinea. The mine is 95 percent owned and solely operated by Barrick Gold, a Canadian corporation that is the world's largest gold mining company. It has been a central part of Papua New Guinea's economy since it opened in 1990, but its operations have consistently been mired in controversy and tarnished by allegations of abuse.

This report is, first and foremost, an attempt to set the record straight on one of the world's most controversial—and most misunderstood—mining ventures. The following pages describe a pattern of violent abuses, including horrifying acts of gang rape, carried out by members of the mine's private security force in 2009 and 2010. They also recount Barrick's history of angrily dismissing human rights and environmental concerns that the company should have treated more seriously and dealt with more transparently. On the other hand the report also describes how more recently, Barrick has taken some meaningful steps—and promised others—to address some of the mine's most serious human rights problems.

Porgera sits in a remote part of Papua New Guinea's restive highlands that the government had largely ignored until the mine's development. Because of the mine, Porgera has gone from being a forgotten backwater to one of the primary engines of the national economy. Since 1990 the Porgera Joint Venture (PJV) has produced more than 16 million ounces of gold and accounted for roughly 12 percent of Papua New Guinea's total exports. Barrick acquired the mine in 2006 when it took over Placer Dome, the Canadian company that had developed the mine and operated it from the time it opened.

The Porgera mine has always been controversial. For years, local activists have alleged that mine security personnel carry out extrajudicial killings and other violent abuses against illegal miners and other local residents. The mine has also been widely condemned for discharging six million tons of liquid tailings (mine waste) into the nearby Porgera River each year—a dangerous policy that is not consistent with industry good practice. The relationship between the mine's management and its most prominent local critics is deeply dysfunctional, with both sides often more focused on attacking one another than addressing issues of mutual concern.

In spite of all the wealth it generates, Porgera still suffers from poverty and a dearth of basic government services. Government authorities have

ILLEGAL MINING ON THE WASTE DUMPS

Every day, hundreds of men, women, and children of all ages trespass onto the mine's sprawling Anjolek, Anawe, and Kogai waste dumps, searching for scraps of rock that contain salvageable quantities of gold. For most people this amounts to a dreary and non-violent routine—chipping away at discarded bits of rock on the mine's vast waste dumps for a paltry income.

A group of miners makes their way home after a day of illegal mining for gold in the waste dumps.

In sharp contrast to the monotonous routine that characterizes illegal mining on the waste dumps, a much smaller number of illegal miners organize violent raids on the mine's open pit operation, stockpile, or underground areas. These violent raids are an enormous threat to the security of the mine and its employees.

An man scales a fence protecting the mine's perimeter.

also failed to address new local problems that are directly related to the mine's development, including the health impacts of mercury use by small scale and illegal miners in the area.

Violent insecurity is a chronic problem around Porgera, in part because the mine has attracted economic migrants—a diverse group including men, women, and children. Many engage in illegal mining and some participate in violent crime and other activities that destabilize the area. For most people this amounts to a dreary and non-violent routine—chipping away at discarded bits of rock on the mine's vast waste dumps for a paltry income. But some illegal miners organize daring, violent raids on the mine's open pit, underground tunnels, or stockpile areas, often clashing with mine security personnel. These raids occur almost every night.

The government has consistently failed to maintain law and order in the face of these security challenges. There is widespread public distrust of police in Papua New Guinea due to the force's reputation for violent abuses and incompetence. Only a handful of poorly equipped regular police officers are deployed to Porgera, where they are not just responsible for the mine, but also for policing a region plagued by violent crime and frequent tribal fights. Largely for this reason, Barrick employs nearly 450 private security personnel under PJV's Asset Protection Department. It is also an important reason why, in 2009, Barrick agreed to bear most of the cost of a government deployment of mobile police squads to Porgera. Both courses of action have led to serious accusations of abuse against the company.

After acquiring the mine in 2006 Barrick took a number of steps intended to make the security force it inherited from Placer Dome more disciplined and in line with international norms like the Voluntary Principles on Security and Human Rights, which Barrick joined in October 2010. But as this report shows, those steps were inadequate and failed to prevent serious abuses including abuse of people in custody, excessive use of force, and several alleged incidents of gang rape.

Human Rights Watch's research found that mine security personnel were generally well disciplined when faced with the most challenging situations they have to deal with—violent nighttime raids by illegal miners on the central areas of the mine. But when operating further afield—and under less rigorous supervision by superiors—some security personnel have committed violent abuses against men and women, many of them illegal miners engaged in nonviolent scavenging for scraps of rock. The abuses investigated by Human Rights Watch all occurred on or near the sprawling waste dumps around the mine.

Human Rights Watch documented five alleged incidents of gang rape by mine security personnel in 2009 and 2010, and a sixth in 2008. We believe these incidents represent a broader pattern of abuse by some PJV security personnel. Subsequent investigations carried out by Barrick and by the Papua New Guinea police in response to Human Rights Watch's allegations have discovered other alleged incidents of rape by PJV security personnel, separate from those documented by Human Rights Watch. In January 2011 PJV announced that it was firing several employees for alleged involvement in, or failure to report, assaults against women and other serious crimes. Some of those individuals were subsequently arrested and charged by the police.

Some of the women interviewed by Human Rights Watch described scenes of true brutality. One

woman told how she was gang raped by six guards after one of them kicked her in the face and shattered her teeth. Another said she and three other women were raped by ten security personnel, one of whom forced her to swallow a used condom that he had used while raping two other victims.

Several women said that after arresting them for illegal mining on the waste dumps, guards gave them a "choice" of submitting to gang rape or going to prison to face fines and possible jail time. But in some of those cases the women said that guards raped them even after they pleaded with their assailants to take them to jail.

In Porgera, rape survivors have few options for assistance or redress. The women that Human Rights Watch spoke to said they feared reporting abuses to the authorities given the fear of retribution, the threat of punishment for illegal mining, and the social stigma that affects rape victims around Porgera. These fears are heightened in a country where abuses by the police are endemic and complaints of sexual harassment and violence by police officers are common. Furthermore, Barrick did not establish safe or accessible channels for community members to report abuses by Barrick employees directly to company authorities.

Human Rights Watch also interviewed people who said that mine security guards beat them up or threatened them after they were already in custody, or that guards used excessive force to apprehend them. Some people alleged that they were kicked or punched while lying handcuffed on the ground or on the floor of security personnel's cars. Others said that they were tear-gassed or shot with less lethal projectile weapons without any warning or chance to surrender. One 15-year-old boy told us that security guards threatened to unleash an attack dog on him after he had already been detained and handcuffed.

In addition to all of this, Barrick has come under considerable fire for abuses carried out by mobile police squads that have been deployed to Porgera since 2009 to improve the overall law and order situation in the area. The company houses and feeds the mobile squads and provides other material support to them. Some critics argue Barrick should withdraw this support, but company officials say the government would not sustain the deployment if it did so. Overall, the mobile deployment has contributed to a sharp reduction in violent crime and insecurity around Porgera that is welcomed by most local residents. But its members have also been implicated in serious abuses—most notably the 2009 destruction of a community called Wuangima and the forced eviction of its residents.

Too often, Barrick has responded with dismissive hostility to concerns about its human rights record at Porgera. But more recently the company appears to be making substantial efforts to engage more constructively and transparently with these issues. Human Rights Watch carried on a sustained dialogue with company officials regarding the allegations in this report. Barrick commissioned former commissioner of police and ombudsman Ila Geno to investigate the allegations of abuse by PJV security personnel and then conducted an in-depth internal investigation of the entire force. Company officials ultimately acknowledged that there are abusive members of the PJV security force and vowed to remedy the situation. Barrick also committed itself to specific measures that could improve accountability and reduce opportunities for abuse. The company has also

GANG RAPE

Horrifying acts of gang rape were allegedly carried out by members of the mine's private security force.

"I was trying to run away and they came and cut us off. Another girl and me, we were two. We were screaming and one of the security guards came and just punched me. They dragged me into the bush, they wanted to have sex where there used to be a small creek. Then they tied my hands and my legs…and raped me."

“The security guards came out of the car. They caught me. They held me and raped me and they kicked my mouth and my teeth broke. My teeth...eleven of them were broken.”

"I fell down and the security came and caught me. They asked me, 'Do you want to go to jail or go home?' I said I wanted to go home. They said, 'Then you will pay a big fine,' and then the security guards raped me."

A local man in a community adjacent to the mine.

provided material support to a police investigation into the allegations of sexual violence by members of the PJV security force.

One of Barrick's most glaring failures at Porgera has been its inadequate effort to monitor the conduct of mine security personnel working in the field, especially on relatively isolated parts of the waste dump. Another has been the company's failure to establish a safe and accessible channel that people can use to complain about alleged abuses by security guards or other company employees. Barrick has committed itself to taking steps designed to address both failings—described in detail in the pages that follow. Human Rights Watch welcomes these moves, but their

ultimate value will depend entirely on whether they succeed in preventing abuse and ensuring accountability for abuses that do occur.

Barrick has also committed to providing Human Rights Watch with copies of its most current environmental reports when they are finalized, along with other documents. In Human Rights Watch's view, the company should have made these public long ago. Doing so now will allow informed independent scrutiny of the likely downstream impacts of the mine's practice of riverine tailings disposal, which local communities and international campaigners alike have criticized.

There is one essential component of adequate management of the situation at Porgera that is still completely lacking: responsible government regulation. The Papua New Guinea government exercises no meaningful day-to-day oversight over the Porgera mine's private security force, and it is not clear that it has the capacity to do so. In fact, the government has often appeared more interested in quashing community objections to lucrative extractive projects than regulating those projects effectively.

Since most of the world's international mining and exploration companies—including Barrick—are Canadian, one might expect the Canadian government to exercise some oversight over its corporate citizens abroad. This could have particular impact in poorly regulated environments like Papua New Guinea. But this is not the case; Canada has thus far chosen to exercise little oversight of Canadian companies operating overseas, including those in the extractive industry. Legislation that would have empowered government ministries to exercise a modest degree of scrutiny over the human rights records of extractive industry companies was defeated in Canada's House of Commons in October 2010. The bill was fiercely opposed by the mining industry—including Barrick, which vocally opposed the bill's passage. This missed opportunity challenges Canada's government, and the industry itself, to champion new legislation capable of redressing very serious abuses that can and have happened under the watch of Canadian companies operating abroad.

GOLD EXTRACTION

The method small-scale miners around Porgera usually employ to process ore-bearing rock is to crush it into a dust, wash as many undesirable rock particles out of the dust as possible, and then pour mercury into the remaining material. The mercury binds to any gold present in that material, creating a gold-mercury amalgam that excludes everything else. Miners then cook this amalgam over an open flame, causing the mercury to turn into vapor and escape into the air. The miners are left with pure gold, which they can sell on the open market.

A family eats breakfast before going to pan for gold in the mine's tailings. Around Porgera, the dangerous method of separating mercury from gold is often carried out inside people's homes—in some cases using the same utensils families use to prepare food. This exposes them, their families, and the communities around them to a very high risk of mercury poisoning.

RED WATER AND SPRAWLING WASTE DUMPS

A ton of ore-bearing rock yields only a tiny amount of gold. The remaining material is processed into tailings—a waste product made up mostly of rock, heavy metals, and trace elements of chemicals like cyanide that are used to extract the gold. PJV produces roughly six million tons of liquid tailings every year and discharges them into the nearby Porgera River, staining its upper reaches a rusty red color.

The mine has also spawned three vast dumps of waste rock—stone with such low quantities of gold ore that it is not economical to process—and these have buried huge tracts of bush, forest, and farmland as they grow. The expansion of the mine and its sprawling waste dumps has greatly reduced the amount of land available to adjacent communities for cultivation and living space.

Members of the local community, including children, illegally mine for ore-bearing rock near the tailings discharge point.

Trucks dump rocks onto one of the PJV waste dumps.

RECOMMENDATIONS

TO BARRICK GOLD:

- Reduce the possibility for violent abuses by security personnel at the Porgera mine by following through on stated commitments to:
  - Create safe and easily accessible channels that community members can use to complain about allegations of abuse by Porgera Joint Venture (PJV) employees, including through the means described in this report:
    - Improving existing complaints channels based at least in part on independent expert advice;
    - Improving public outreach to explain complaints mechanisms and acceptable conduct by PJV personnel.
    - Consulting and responding to independent expert advice on obstacles that prevent women from reporting incidents of sexual violence.
  - Implement more rigorous monitoring of PJV security personnel, including through the means described in this report:
    - Installing a new tracking mechanism and control center to allow for closer monitoring of all active APD personnel in the field;
    - Expanding a network of infrared security cameras to allow visual monitoring of APD personnel on remote parts of the mine's waste dumps;
    - Installing cameras on all APD vehicles to help prevent abuses from taking place in or near the cars.
  - Improve channels that whistleblowers can use to safely and anonymously report any abuses by their colleagues at the Porgera mine.
- Make public the results of Barrick's ongoing investigation into allegations of rape and other abuses by PJV security personnel including any disciplinary action that results.
- Ensure that trainings for APD personnel and mobile police squads on human rights principles and the Voluntary Principles include specific sections on prevention and response to sexual harassment and violence.
- Increase recruitment, training, and support of female security personnel, particularly in supervisory roles, among the security staff patrolling the waste dumps and among those staffing the mine's on-site detention facility.
- Monitor and make public the number and nature of complaints received through grievance mechanisms at Porgera, the time required to resolve each case, and their outcomes.
- Ensure that newly established "women's liaison" office is provided with adequate training, staff, financial resources, and institutional support.
- Make public the study commissioned by Barrick in 2007 to examine alternatives to riverine tailings disposal at Porgera.
- Follow through on stated commitments to release the company's 2009 and 2010 environmental reports, and make those reports publicly available moving forward as a matter of routine company practice.
- Press the government of Papua New Guinea to thoroughly investigate abuses by mobile police officers during their eviction of residents of Wuangima.

TO THE GOVERNMENT OF PAPUA NEW GUINEA:

- Establish a viable institutional mechanism to oversee the conduct of all private security actors in Papua New Guinea, including the security force at the Porgera mine.

- Make public the results of the police investigation into allegations of rape by PJV security personnel. Ensure that any perpetrators are fully prosecuted for their crimes.
- Permanently increase the regular police presence at Paiam town to a number and capacity adequate to deal with the area's many security challenges. Until this is done, commit resources adequate to sustain the mobile police deployment at Porgera without material support from Barrick.
- Improve access for victims of violence to medical, legal, counseling, and other support services. Health services should include access to post-exposure prophylaxis for HIV and emergency contraception.
- Launch an independent inquiry into allegations of abuse by mobile police squads deployed around Porgera, focusing especially on the forced evictions at Wuangima in 2009. Make public the results of that inquiry.
- Make public the final report of the government-sponsored 2005 inquiry into killings at the Porgera mine.
- Identify an independent group qualified to carry out a rigorous epidemiological study to assess the likely current and long-term health effects of mercury use by small scale and illegal miners around Porgera. Seek assistance from international donors to move this process forward.
    - Release all past environmental reports submitted to the government by PJV since 1990.
    - Carry out a sustained effort to educate the population around Porgera on the health effects of mercury, as well as safer methods of mercury use than those currently employed by most small-scale and illegal miners in the area.
    - Provide the hospital in Paiam town with the equipment it needs to screen patients for possible mercury poisoning.
    - Withdraw government support from efforts to amend the Environment Act and to restrict the powers of the Ombudsman Commission, and explicitly oppose those efforts moving forward.

TO THE GOVERNMENT OF CANADA:

- Introduce legislation to implement the full range of recommendations from the 2007 National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing countries, including the creation of an independent ombudsman's office to investigate allegations of abuse. As part of this, introduce a regulatory framework sufficient to give the government power to sanction and publicly report on Canadian companies that fail to meet minimum human rights standards in their overseas operations.

TO THE GOVERNMENTS OF CANADA, AUSTRALIA, AND OTHER DONOR STATES:

- Offer to fund an independent group to carry out a rigorous epidemiological study to assess the likely current and long-term health effects of mercury use by small scale and illegal miners around Porgera.
- Provide financial support for the long-term development of local groups in Papua New Guinea with the capacity for independent monitoring of violence by the police or private security squads, for women's rights and health organizations providing support services such as emergency care and legal aid, and for helping victims to navigate the public complaint process.

After a day of illegally panning for gold in the mine's tailings, a young boy is covered with residue from the liquid mine waste.

Methodology

This report is based primarily on a three-week research mission by a Human Rights Watch researcher to Porgera and Port Moresby, Papua New Guinea. Human Rights Watch carried out 92 interviews with Porgeran landowners, victims, and eyewitnesses of abuse at Porgera, people who had been detained by PJV security personnel, local activists, company officials, medical personnel, illegal miners, current and former PJV security personnel, Porgera Environmental Advisory Komiti (PEAK) officials, independent analysts, and police and judicial officials.

We also carried out interviews with experts on extractive industries and policing in Papua New Guinea at The Australian National University in Canberra, Australia. Human Rights Watch consulted with former PJV employees and with independent experts on mine tailings disposal and related environmental and health issues.

The names and other identifying details of some interviewees—including all victims of or witnesses to human rights abuses at the Porgera mine—have been withheld at their request or to prevent possible reprisal against them. Interviews referenced in footnotes as having taken place in "Porgera" took place either in Porgera Station, Paiam Town, Laigam, on or near one of the waste dumps surrounding the mine, or in one of the communities scattered around the mine's Special Mining Lease or Lease for Mining Purposes area.

After the research in Papua New Guinea was complete, Human Rights Watch engaged in an extended dialogue with Barrick officials. Barrick provided a 20-page letter in response to a series of questions about the company's human rights and environmental practices and the allegations in this report. Company officials also hosted a day-long meeting at Barrick's Toronto office on September 9, 2010, to discuss the report's allegations and measures the company is taking to address them. In December 2010 Barrick sent Human Rights Watch another letter explaining actions the company has taken in response to Human Rights Watch's allegations of violence by PJV security guards. All of Barrick's input was fully incorporated into this report, and the December 2010 letter is attached as an annex.

Human Rights Watch also participated in a second day-long meeting between Barrick officials and NGO representatives in connection with Barrick's application to join the Voluntary Principles on Security and Human Rights. That meeting, which was off-the-record, dealt with human rights concerns that largely overlapped with many of the issues discussed in this report. In November 2010 Human Rights Watch carried out a one-week follow-up visit

to Porgera, meeting with company officials to discuss Barrick's efforts to address Human Rights Watch's concerns and with local community members to discuss important human rights issues.

I. Background and Context

Papua New Guinea is a poor country that possesses a wild abundance of natural resources.[1] Mining in particular has long been one of the country's most important economic engines, as of 2002 the industry accounted for 75 percent of exports and 21 percent of gross domestic product (GDP).[2] And the country's extractive industries sector continues to grow: an ambitious liquefied natural gas project led by ExxonMobil, now in its early stages of development, could double Papua New Guinea's GDP over the next three decades.[3]

Many Papua New Guineans believe that these industries are their country's best—and perhaps only—realistic avenue to economic development. But as is true in many developing countries, Papua New Guinea's extractive resources have proved to be as much a curse as they have a blessing. Extractive projects and the economic resources they represent have fueled violent conflict, abuse, and environmental devastation in Papua New Guinea.[4] Government revenues from extractive industries are often dissipated through official corruption and mismanagement, without having any positive impact on ordinary citizens' lives.[5]

The Porgera Joint Venture

The Porgera gold mine is in many ways emblematic of both the promise and the pitfalls of Papua New Guinea's extractives sector. Located in a remote corner of Papua New Guinea's highland Enga province, the mine is owned by a company called the Porgera Joint Venture (PJV). PJV in turn is 95 percent owned by Barrick Gold, a Canadian company that is the world's largest gold producer.[6] The remaining five percent stake in PJV is held by Mineral

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[1] In 2009 Papua New Guinea was ranked 148 out of 182 countries on the United Nations Development Program's Human Development Index, one rank above Haiti. United Nations Development Programme (UNDP), "Human Development Report 2009," 2009, http://hdrstats.undp.org/en/countries/country_fact_sheets/cty_fs_PNG.html (accessed August 19, 2010).

[2] Satish Chand, "PNG economic survey: some weak signs of recovery," December 13, 2003, http://dspace.anu.edu.au/bitstream/1885/40141/3/chand2003.pdf (accessed September 7, 2010), p. 7.

[3] See PNG LNG, "Economic Impacts," http://www.pnglng.com/media/pdfs/publications/PNG_LNG_Economic_Impacts_8.pdf (accessed August 18, 2010). Concerns that disputes over landowner compensation could submerge the project in violence have already come to fruition, however. See, for example, "ExxonMobil's LNG project in PNG attacked," Reuters, September 28, 2010, http://www.reuters.com/article/idUSN2818464920100928 (accessed October 5, 2010).

[4] See, for example, Glenn Banks, "Understanding 'resource' conflicts in Papua New Guinea," *Asia Pacific Viewpoint,* Vol. 49, No. 1, April 2008, pp. 23-34. Most notably, unrest rooted around the massive Panguna gold and copper mine on Bougainville Island led Papua New Guinea into a secessionist civil war. See Anthony Regan, *Light Intervention: Lessons from Bougainville* (Washington: USIP Press, 2010). See below, text box 6: The Ok Tedi Disaster; The Need for Canadian Government Regulation.

[5] See below, The Ok Tedi Disaster.

[6] In 2009 Barrick held interests in 26 operating mines, produced 7.4 million ounces of gold and ended the year with reserves of 139.8 million ounces. See http://www.barrick.com/Company/Profile/default.aspx.

Resources Enga, a company that is jointly owned by the Enga Provincial Government and the landowners of Porgera.

Barrick acquired the Porgera mine in 2006 when it purchased Placer Dome, the company that had developed the mine and operated it since it began production 1990.[7] Barrick was already a large international company when it purchased Placer Dome, but it came of age as a company with that acquisition, increasing dramatically in size and taking on board several complex and troubled operations, including the Porgera mine.[8] Since 2006 Barrick has been the mine's sole operator.

Gold mining was not entirely new to Porgera when PJV arrived on the scene; small-scale alluvial mining downstream from the modern mine had long been an important part of the local economy. Still, prior to the mine's development, Porgera was one of the most remote, impoverished, and marginalized areas in the whole of Papua New Guinea. Geographically isolated by a dramatic landscape of steep valleys and rain-soaked mountains, the area lacked good road or air connections to the rest of the country. For years the government had essentially left Porgera and its Ipili-speaking people to fend for themselves.[9]

The sprawling mine has brought dramatic change to surrounding communities, especially for landowners on the Special Mining Lease (SML) and Lease for Mining Purposes (LMP) where the mine's operations take place. PJV employs some 2,400 people and has paid out more than 280 million kina (K), or US$106 million, in royalty payments to local landowners and the Enga Provincial Government.[10] These benefits are tremendously important; as one expert noted, many Porgerans have always seen the mine as "their only possible chance to catch up to the rest of Papua New Guinea after years of neglect."[11] But the mine's development has also led to many destructive changes, including increased levels of violence, prostitution, alcoholism,

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[7] Placer Dome owned a 75 percent share in PJV when Barrick bought the company. In 2007 Barrick bought the 20 percent share that was held by Emperor Gold, leaving it with the 95 percent stake it owns today.

[8] See below, A Legacy of Abuse.

[9] Richard Thomas Jackson and Glenn Banks, *In Search of the Serpent's Skin: The Story of the Porgera Gold Project* (Port Moresby: Placer Niugini, 2002), pp. 8-52; Susanne Bonnell, "Social Change in the Porgera Valley," in Colin Filer, ed., *Dilemmas of Development: the social and economic impact of the Porgera gold mine, 1989-1994* (Canberra: Asia Pacific Press, 1999), pp. 19-87.

[10] PJV pays two percent of its total sales as royalties, divided as follows: 50 percent to the Enga Provincial Government, five percent to the autonomous Porgera Development Association, 15 percent in direct distributions to Special Mining Lease area landowners, 10 percent to a Children's Trust, 12 percent to the Porgera Landowners Association and eight percent in distributions to young adults in landowning families. Human Rights Watch interviews with Ila Temu and Anthony Smare, senior Barrik officials, Barrick Papua New Guinea, Port Moresby, April 30, 2010 and with Morop Tero, Mining Coordinator, Mineral Resources Authority, Porgera Station, May 12, 2010.

[11] Susanne Bonnell, "The Landowner Relocation Programme," in Filer, ed., *Dilemmas of Development,* p. 130.

sexually transmitted diseases (STDs), economic inequality, and other social ills.[12]

Since becoming operational in 1990, the Porgera gold mine has produced well over 16 million ounces of gold, an amount that would be worth more than $19 billion at 2010 prices.[13] In 1992 the mine was the third largest gold producer in the world.[14] Productivity has declined since then with the exhaustion of the mine's highest-grade deposits, but the PJV mine remains a tremendously important part of Papua New Guinea's national economy. In 2009 the 572,595 ounces of gold it produced was valued at K1.5 billion ($570 million)—12.6 percent of the country's total exports that year.[15] The mine is currently projected to operate through 2023.[16]

Box 1: An Altered Landscape

The Porgera mine has had a dramatic impact on its environment. The operation has largely obliterated a peak called Waruwari hill by creating a massive open pit whose stepped rock walls fall hundreds of feet from the pit's upper reaches to its floor.[17] The pit bustles around the clock with workers and heavy equipment. Human Rights Watch's researcher observed rocks the size of cars crashing down unstable portions of the pit wall.

The upper reaches of the nearby Porgera river run red, stained by 16,000 tons of tailings (liquid mine waste) that PJV discharges into the river every day.[18] The mine has also spawned three vast dumps of waste rock—stone with such low quantities of gold ore that it is not economical to process— and these have buried huge tracts of bush, forest, and farmland as they grow. Two of the dumps are designed to be erodible and have advanced down the mountainside like glaciers of mud and rock, consuming everything in their path.[19]

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[12] See Glenn Banks, "Globalization, poverty and hyperdevelopment in Papua New Guinea's mining sector," *Focaal—European Journal of Anthropology,* No. 46 (2005), pp. 128-43; See also Bonnell, "Social Change in the Porgera Valley," and Glenn Banks, "The Economic Impact of the Mine," in Filer, ed., *Dilemmas of Development,* pp. 19-128.

[13] According to PJV, the mine produced 16,348,642 ounces of gold between 1990 and 2009, with an actual shipment value of 14.6 billion kina (US$5.5 billion). Porgera Joint Venture, "Information Booklet," 2009, p. 3. As of September 2010 the price of gold stood at just over $1,250 per ounce.

[14] In 1992 the mine produced almost 1.5 million ounces of gold. Porgera Joint Venture, "Information Booklet," 2009, p. 3.

[15] PJV estimates that the mine accounted for 11.7 percent of Papua New Guinea's total exports between 1990 and 2009. Porgera Joint Venture, "Information Booklet," 2009, p. 3.

[16] The mine's actual closing date will depend on market and other factors. Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[17] Development of the open pit was accounted for in the mine's 1988 Environmental Plan. See Porgera Joint Venture, "Porgera Gold Project Environmental Plan," Volume B, January 1988, p. 11.

[18] See below, Riverine Tailings Disposal at Porgera.

[19] See International Institute for Environment and Development (IIED), "Mining for the Future, Appendix I: Porgera Riverine Disposal Case Study," April 2002, http://www.mining.ubc.ca/mlc/presentations_pub/Pub_LVW/68b_mftf-i.pdf (accessed August 18, 2010), p. 8.

Poor Living Conditions and Demands for Relocation

Mining operations at Porgera have lasted longer and grown larger than originally expected.[20] The expansion of the mine and its sprawling waste dumps has greatly reduced the amount of land available to adjacent communities for cultivation and living space. At the same time the population has soared from roughly 6,000 to somewhere between 30,000 and 50,000, largely due to economic migration from other parts of Enga province and beyond. Young people in particular often complain that they have seen no benefit from compensation agreements negotiated with their elders, and that the scarcity of land means that they can neither build houses of their own nor turn to the soil to earn a living.

Largely because of these issues, the vast majority of landowners believe Barrick should relocate all of them to new land away from the mine.[21] "We want to move out where there is a bigger place and where we can move around," one landowner told Human Rights Watch, "instead of living like rats."[22]

In 2007 Barrick hired a firm to develop a plan to relocate most or all of the Special Mining Lease population, but the idea was ultimately abandoned, angering many local community leaders. Barrick maintains the plan was conceived as a prerequisite to a planned expansion of the mine that never took place, robbing the hypothetical exercise of its intended purpose.[23] But a draft copy of the relocation plan's social impact assessment stated that "resettlement is driven by the need both to secure the land required for expansion of PJV's operations and to improve living conditions in PJV's host communities." In addition the draft impact assessment found that:

> As a result of the development of mining operations and significant population growth since 1987, SML communities are currently living in over-crowded, unsanitary and potentially dangerous conditions, and have limited available land for family subsistence … Resettlement would have a generally

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[20] The Porgera mine was originally conceived as a much smaller and shorter-lived project than it ultimately turned out to be. See Jackson and Banks, *In Search of the Serpent's Skin,* pp. 1-7, 169-228. In 1988 an Environmental Plan for the mine was drawn up based on contemporary estimates that the operation would produce some 8.57 million ounces of gold (roughly half of what the mine has actually produced to date) and cease operations in 2010 (the mine is currently projected to close around 2023). See Porgera Joint Venture, "Porgera Gold Project Environmental Plan," Volume B, January 1988.

[21] One 2007 survey found noted that 95.7 percent of all interviewed landowners favored resettlement. URS Australia, "Porgera Joint Venture SML Resettlement: Strategic Resettlement Action Plan," March 2007, unpublished draft, p. 3.

[22] Human Rights Watch interview #23, Porgera Station, May 7, 2010.

[23] Human Rights Watch interviews with senior Barrick officials, Porgera mine site, May 10, 2010; Human Rights Watch interview with Anthony Smare, Sybil Veenman, Mark Wall, Peter Sinclair, Tim Omundsen and Bill Williams, senior Barrick officials, Toronto, September 9, 2010.

> positive impact by removing SML communities from existing difficult and potentially dangerous living conditions; by improving their quality of life; [and] providing access to essential services and opportunities to develop sustainable livelihoods in relocation areas.

The report also noted that 84 percent of surveyed SML landowners believed that life was much worse than it had been five years before.[24]

Barrick acknowledges that in the next few years it will have to relocate several hundred households that are "impacted by mining activities to an unacceptable degree, specifically, where there is a risk of geotechnical, health or other safety impacts." Indeed the company has ongoing plans to relocate several hundred households, and has budgeted $40 million for "relocation activities" between 2010 and 2014.[25] But Barrick maintains that wholesale relocation of the population immediately surrounding the mine is unnecessary. It also argues that past efforts to explore its feasibility revealed that the exercise would be so complex as to be impossible in practical terms.[26]

Some former PJV employees and consultants disagree, arguing that it could be possible to gradually relocate all mining lease area landowners before the projected closure of the mine sometime after 2023.[27] One former PJV employee told Human Rights Watch, "The test should be, 'Would this be acceptable if it were in my own back yard?' ... That's clearly not the case for many people [around Porgera]."[28] On the other side of the issue, one optimistic Barrick official speculated that if the mine closes in 2023, most of Porgera's problems will automatically resolve because at that time "the [economic migrants] will all leave. The locals will have their education and the other dividends of PJV having been there."[29]

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[24] URS Australia, "Porgera Joint Venture SML Resettlement: Strategic Resettlement Action Plan," March 2007, unpublished draft, p. 2.

[25] Letter from Anthony Smare, general manager—Corporate and Legal, Barrick Papua New Guinea, to Human Rights Watch, September 7, 2010.

[26] Human Rights Watch interviews with Barrick officials, Porgera, May 10, 2010; Human Rights Watch interview with senior Barrick officials, Toronto, October 9, 2010.

[27] Human Rights Watch interview with former PJV employee, mid-2010 (name and location withheld by Human Rights Watch); Human Rights Watch interview with former PJV consultant, mid-2010 (name and location withheld by Human Rights Watch).

[28] Human Rights Watch interview with former Porgera Joint Venture employee, mid-2010 (name and location withheld by Human Rights Watch).

[29] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

Poisonous Local Politics: Barrick and the Porgera Landowners Association

One serious barrier to addressing contentious issues related to the mine is Barrick's mutually antagonistic relationship with the Porgera Landowners Association (PLOA). The PLOA was conceived as a representative body with a mandate to speak for landowning communities and advocate for their collective interests. It was established to represent landowners in negotiating important issues with the company or liaising with relevant government institutions.

The PLOA leadership and Barrick generally behave less like negotiating partners than mortal enemies. PLOA leaders have been consistently and vocally critical of PJV—often in vitriolic terms—and long-serving PLOA Chairman Mark Tony Ekepa regularly travels to Canada to protest at Barrick's annual shareholder meeting.[30] Barrick officials, for their part, try to cut the PLOA out of their dealings with local communities as much as possible. In interviews with Human Rights Watch, Barrick officials described the PLOA's leadership as focused on exploiting local grievances for their own financial gain rather than acting in good faith as intermediaries between the company and local communities.[31]

The essence of the allegations leveled against the PLOA by Barrick officials and aggrieved community members is that the organization's leaders are lining their pockets with royalty payments that might otherwise flow to ordinary landowners. The PLOA is a well-resourced institution: in 2009 it received K3.6 million ($1.4 million) in royalty payments, a figure comparable in scale to the K4.5 million ($1.7 million) in royalties paid out in direct distributions to all of the SML's landowners that year.[32] But there is no transparency as to how the organization spends its money. None of the landowners interviewed by Human Rights Watch—including several people on PLOA's board—had ever seen a detailed accounting of how the organization uses its financial resources. Some said that they had spent considerable energy trying to get this information, without success.[33]

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[30] Human Rights Watch interview with Mark Tony Ekepa, Anga Atalu and Jethro Tulin, Port Moresby, May 18, 2010. See also Les Whittington, "Indigenous leaders call for crackdown on Canadian mining abroad," *Toronto Star,* May 5, 2010, http://www.thestar.com/news/canada/article/804964--indigenous-leaders-call-for-crackdown-on-canadian-mining-companies-abroad (accessed September 7, 2010).

[31] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010; Human Rights Watch interview with Barrick officials, Porgera, November 23, 2010.

[32] As discussed above, the PLOA receives 12 percent of the royalties PJV sets aside for the Enga Provincial Government and Porgeran landowners. See above, footnote 10.

[33] Human Rights Watch interviews with Porgeran landowners, Porgera, May 2010.

When Human Rights Watch asked for a copy of the PLOA's budget, the deputy chairman of the PLOA maintained that only the organization's chairman had access to it (the chairman was out of the country when Human Rights Watch carried out our research in Porgera). Asked to describe generally how the PLOA spends its money, the deputy chairman mentioned "staff such as computer operators and so on" for each of the landowner representatives on the PLOA's board. In fact, none of those representatives have any staff at all, let alone "computer operators."[34] If the PLOA does produce an end-of-year expenditure report, none of the PLOA officials or landowner representatives interviewed by Human Rights Watch knew about it.

Many Porgeran landowners—including some of the very people who serve on the PLOA's board—express deep concern and even outrage at the opacity surrounding the PLOA's finances. One landowner on the PLOA's board told Human Rights Watch that he and other board members had repeatedly asked for expenditure reports, only to be rebuffed.[35] Landowners have become divided into factions who support and oppose the PLOA leadership, and political infighting between the two sides has consumed considerable energy and resources, to no productive end.

One does not have to look far to see how things could be handled better. For example, the Lihir Mining Area Landowners Association—the equivalent of the PLOA around the Lihir gold mine on Papua New Guinea's Niolam Island—published an audited report of its 2008 expenditures in a local newspaper.[36]

The PLOA's executive leadership did not respond well to questions about the organization's finances. Instead of responding to substantive concerns about financial mismanagement, PLOA Chairman Mark Tony Ekepa merely asserted to Human Rights Watch that all the people complaining about the PLOA's lack of financial transparency were "paid by the company" to discredit him. PLOA official Anga Atalu echoed this absurd allegation, saying of the PLOA's many critics that "their words have been fed to them by Barrick." Then, becoming visibly angry, he demanded that Human Rights Watch stop pursuing the issue: "This is not among the issues you are investigating! It is not your interest to know what we are doing on this! It is not relevant and we do not wish to respond to these allegations."[37]

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[34] Human Rights Watch interview with Pala Teya, Porgera Station, May 13, 2010.

[35] Human Rights Watch interview #79, Porgera, May 13, 2010; Human Rights Watch interview #81, Porgera, May 13, 2010.

[36] Lihir Mining Area Landowners Association, "Chairman's Report," *Lihir i Lamel,* March 2010.

[37] Human Rights Watch interview with Mark Tony Ekepa, Anga Atalu and Jethro Tulin, Port Moresby, May 18, 2010.

In recent years PLOA leaders have exerted considerable energy trying to force PJV to negotiate relocation packages through them instead of directly with individuals and communities who need to be moved from their homes. Ekepa and his supporters maintain that this is a principled position designed to force the company to deal with the broader issue of relocation, and prevent it from isolating small groups of landowners and pressuring them to accept bad deals.[38] On the other hand, Barrick officials and some landowners allege the PLOA leadership is mainly concerned with steering cash payments through their own hands.[39] "We are never going to negotiate with the PLOA on benefit packages or give them to them to channel," one company official said. "If we do, the benefits will never get to where they are supposed to go."[40]

[38] Ibid.

[39] Human Rights Watch interview with senior Barrick officials, Toronto, September 2010; Human Rights Watch interviews with landowners, Porgera, May 2010.

[40] Human Rights Watch interview with senior Barrick officials, Toronto, September 2010.

II. Violence and Illegal Mining: PJV's Security Challenges

Porgera, like many other parts of Papua New Guinea's notoriously restive Enga province, is plagued by diverse forms of violence ranging from tribal warfare and armed robbery to widespread domestic violence.[41] The presence of the PJV mine has exacerbated this long-standing problem.[42] The mine has attracted thousands of migrants from other parts of the highlands, which has helped the local population surge from roughly 6,000 people in 1989 to somewhere between 30,000 and 50,000 today.[43] This runaway growth has exacerbated social problems, including widespread violence, alcoholism, and grinding poverty.[44]

Porgera has at times approached true lawlessness. A joint PJV/government report noted that "[v]iolent crimes against the person, in particular, have increased in recent years, with reported rates of murder, assault, sexual assault against women and violence against children all rising over recent years", and that tribal fighting "increased dramatically in Porgera district" in the years leading up to 2007, with an estimated 70 people killed in such conflicts that year.[45] One scholar, working with local magistrates, documented 59 separate incidents of clan warfare around Porgera between 2006 and 2009.[46]

The Papua New Guinea government has failed to install an adequate regular police presence around Porgera. As of May 2010 there were only 17 regular police officers posted to the police station in Paiam town and they did not possess a functioning automobile.[47] More than 12 years ago the government agreed to increase the number of regular police officers

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[41] See Polly Weissner, "Warfare in Enga Province: from prehistory to modern times," unpublished document, November 2007, p. 15, noting that "The frequency of tribal warfare has increased rapidly in Enga over the past three decades with the number of wars in the province more than doubling between 2001-2006;" Independent State of Papua New Guinea, "Report of the Status of Women in Papua New Guinea and the Autonomous Region of Bougainville: combined initial, first, second, third and fourth periodic reports on the Convention of the Elimination of all Forms of Discrimination Against Women," July 2008.

[42] Jackson and Banks, *In Search of the Serpent's Skin,* p. 46.

[43] Estimates of the current population vary widely and are hotly contested. Some SML landowners accuse Barrick of inflating its estimates of the local population to make landowners' demands for relocation to new land seem impossible to satisfy. Human Rights Watch interview with Mark Tony Ekepa, Anga Atalu, and Jethro Tulin, Port Moresby, May 18, 2010.

[44] See Bonnell, "Social Change in the Porgera Valley," in Filer, ed., *Dilemmas of Development,* pp. 19-57; Human Rights Watch interviews with community leaders, government officials, and Barrick officials, Porgera, May 2010.

[45] Porgera Joint Venture, "Restoring Justice: Law and Justice Sector Partnerships in the Papua New Guinea Highlands," p. 5.

[46] Data on file with Human Rights Watch. Anthropologist Polly Weissner's data indicates that the most frequent causes of inter-clan warfare around Porgera were land disputes, allegations of theft or property disputes, and attempts at seeking revenge for earlier wrongs.

[47] Human Rights Watch interview with Senior Seargent Itapu Poko, Paiam town, May 10, 2010.

stationed at Porgera to "a minimum of 30," but this never happened.[48] The police have generally failed to maintain any semblance of law and order in local communities, let alone deal with the complex security issues facing the mine.

This state of affairs poses immense challenges to PJV's operations. In the absence of any meaningful regular police presence, the mine is forced to maintain a large private security force.

The most serious security problem this force confronts on a routine basis is widespread illegal mining on PJV property. Almost all of the abuses described in this report occurred in the course of PJV security personnel's efforts to confront illegal miners and other trespassers on mine property. But while all illegal mining entails trespassing onto mine property to illegally obtain ore, there are two very different kinds of illegal mining taking place at Porgera every day. Paradoxically, the victims of almost all the abuses described in this report were the illegal miners who pose the least threat of violence or danger to the mine.

Illegal Mining on the Waste Dumps

Every day hundreds of illegal miners trespass onto the mine's sprawling Anjolek, Anawe, and Kogai waste dumps, searching for scraps of rock that contain salvageable quantities of gold. They are a diverse group that includes men, women, and children of all ages. Almost every day—and often well into the night—it is possible to see people working alone or in groups scattered across different parts of the dumps, squatting on the ground, and chipping away at bits of rock with chisels and hammers. Their efforts to grind a living out of the mine's fields of discarded rock generally yield a paltry but fairly steady income. Most miners interviewed by Human Rights Watch said that they took between K50 and K70 ($25-35) worth of gold from the waste dumps in an average week.[49]

Most of the illegal miners also said that they viewed the mine, including its waste dumps, as their de facto "garden," a place they had no choice but to harvest as best they could.[50] One man living near the site told Human Rights Watch, "I get up there early at six o'clock, just like the people who work at the mine. If I'm lucky I can come back with enough to buy a packet of

[48] Paiam Town Development, "Fly In/Fly Out Agreement," Part C(9).

[49] Human Rights Watch interviews with illegal miners, communities around Porgera, May 2010.

[50] There is also a long tradition around Porgera—predating the PJV mine—of referring to alluvial gold mining as a "second garden," that is, a second source of income in addition to farming the land.

rice or some other food. Otherwise, I stay down there until I find something."[51]

The waste rock is of no value to PJV, and the illegal miners on the waste dumps are for the most part engaged in a dreary but entirely nonviolent routine. But company officials told Human Rights Watch that if left unchecked, illegal mining activity would draw vast numbers of people, posing serious security threats to the mine and to PJV personnel dumping rock on the dumps.[52] For those reasons, PJV security patrols regularly try to chase away or arrest illegal miners they find on the waste dumps, and violent clashes sometimes follow.

Organized Raids on the Mine

In sharp contrast to the monotonous routine that characterizes illegal mining on the waste dumps, a much smaller number of illegal miners organize violent raids on the mine's open pit operation, stockpile, or underground areas. The raids typically occur late at night and happen almost every day. Dozens of illegal miners—and in some cases well over 100—rush into the pit or rappel down its steep rock walls and then try to fight off or elude any PJV security personnel sent out to repel them. Many are armed with bush knives (machetes). The goal of these raids is often to push into areas where rock newly blasted from the pit walls bearing high concentrations of valuable ore is heaped on the floor of the open pit.

Human Rights Watch interviewed several illegal miners who frequently participate in these raids. None attempted to conceal the violent nature of their tactics. One young man described the raids this way:

> We go in teams and meet at the pit. We fight with the security every time. We throw stones at them and they will shoot us with tear gas or rubber bullets. We just scare them and throw stones at them. But we could kill all of them, it's no problem for us. If we are lucky we get thousands [of kina]. If we are unlucky we are caught.[53]

These violent raids are an enormous threat to the security of the mine and its employees. From the perspective of many PJV security guards, they are a terrifying spectacle. One PJV security officer described the encounters this way:

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[51] Human Rights Watch interview #13, Porgera, May 6, 2010.

[52] Human Rights Watch interviews with Barrick officials, Porgera mine site, May 10, 2010.

[53] Human Rights Watch interview, #29, Porgera, May 7, 2010.

> You will be sweating all over your body. You will find it hard to talk. Your throat will dry up. I feel that. I think, why did I come and work here?... When we are at the bottom of the pit, illegal miners can throw stones down at us, one of these can break your skull.[54]

Criminalization of Illegal Mining and its Limitations

Under Papua New Guinean law, illegal mining is punishable by up to four years in prison or a K10,000 ($3,800) fine.[55] The magistrate judge in Paiam town who tries and sentences illegal miners told Human Rights Watch that many people view these penalties as draconian when applied to people working peacefully on the waste dumps:

> Illegal mining is not a big crime compared to rape, murder, manslaughter, or robbery. But because of the money involved the government passes this law, maybe without considering the impact on the people who are committing the offense.... Most of these illegal miners only go in there for survival purposes, to get food.[56]

Despite the harsh penalties, criminalization has proved ineffective as a means of dealing with the problem. According to local judicial officials, 476 people were convicted of illegal mining under the Mining Act in 2009 and another 143 between January and April 2010.[57] But Paiam's magistrate told Human Rights Watch that this had little meaningful effect as a deterrent and that many convicted illegal miners were openly defiant. "In court they will tell you, "I will come back! That is my garden!" he said.[58] According to Barrick, illegal miners staged more than 25,000 recorded incursions onto mine property (including the waste dumps) in 2009, and 9,600 during the first eight months of 2010.[59]

Human Rights Watch interviewed many people who had been arrested and fined or imprisoned for illegal mining: almost all said they intended to continue with the activity, often because they felt they had no choice.[60] In some cases the primary impact of harsh

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[54] Human Rights Watch interview #88, (location withheld), May 2010.

[55] Mining Act, no. 20 of 1992, art. 167(4)(a).

[56] Human Rights Watch interview with Edward Kupo, Magistrate Judge, Paiam town, May 12, 2010.

[57] Information given by James Guand, Clerk of Court, Paiam, May 11, 2010. According to Barrick, 315 illegal miners were detained in 2009 and 148 in the first six months of 2010. Letter from Smare, September 7, 2010.

[58] Human Rights Watch interview with Edward Kupo, May 12, 2010.

[59] Letter from Smare, September 7, 2010.

[60] Human Rights Watch interviews with illegal miners, Porgera, May 2010.

criminal penalties for illegal mining around Porgera has been as a different kind of deterrent. Some PJV security personnel have used the threat of fines or jail time to dissuade illegal miners from complaining about violent human rights abuses.

III. Gang Rape and Other Abuses by PJV Security Personnel

The PJV Security Force

PJV employs a private security force to protect the mine and its employees, which is run by the company's Asset Protection Department (APD). As of September 2010 the APD force consisted of 443 personnel divided into three broad categories—279 "local hires" who are recruited from around Porgera, 153 "national hires" recruited from across Papua New Guinea, and 11 expatriates in training and supervisory roles.[61] APD maintains an investigations unit that is responsible for investigating allegations of abuse and breaches of company policy by APD personnel. PJV's budget for security was $10.2 million in 2010.[62]

APD personnel patrol and guard the mine site, including the waste dumps around the mine. They also apprehend and detain illegal miners, but in theory PJV rules do not permit them to detain people on the waste dumps unless they are engaging in illegal mining or other criminal activity. For example, many people use the waste dumps as a shortcut to walk between their communities and Porgera Station or other communities, and APD personnel are instructed not to arrest them.[63]

PJV maintains a detention facility on the mine site, and illegal miners caught by APD personnel often spend a night there before being transferred into police custody in neighboring Paiam town.[64] Barrick states that APD personnel also assist with filing a complaint against the accused and testify against them in court if needed.[65]

APD's local hires generally have no background in security work and do not carry firearms; PJV uses them primarily to carry out relatively straightforward tasks like guarding fixed positions and acting as points of contact with illegal miners and other community members. According to Barrick, the local hires "do low risk activities—manning gates and other fixed positions, or [taking on] negotiation roles where they are the second point of contact behind

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[61] Letter from Smare, September 7, 2010.

[62] Ibid. This figure does not include the cost of constructing a modern security fence around the entire perimeter of the mine, a massive undertaking that was nearly complete in late 2010.

[63] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[64] Barrick's policy is for all APD detainees to be transferred into police custody at Paiam "as soon as it is practical to do so following arrest." Letter from Smare, September 7, 2010.

[65] Letter from Smare, September 7, 2010.

Community Relations guys with illegal miners and so on."[66] In contrast, many of APD's "national hires" have a police or military background. Some are police reservists, and at least a few are regular police officers who have taken extended leave from their jobs to accept better-paid positions with PJV.[67] The national hires do the heavy lifting; they are assigned the most dangerous duties, including confronting illegal miners in the open pit, and they constitute the bulk of APD personnel who carry firearms.

A Legacy of Abuse?

When Barrick acquired the Porgera mine in 2006, it inherited a security force that local activists had long accused of carrying out extrajudicial killings and other violent abuses. The alleged victims were people caught trespassing on mine property, most of them illegal miners.

A 2005 report by a local organization called the Akali Tange Association (ATA) alleged PJV guards had shot and killed at least nine people between 1996 and 2005 under circumstances that were impossible to justify, and injured several others.[68] In November 2005, Placer Dome—then the mine's operator and majority owner—publicly acknowledged that police and PJV guards had shot and killed eight people between 1996 and 2005 (including seven since 2000), but maintained the killings were all carried out in self-defense.[69]

The ATA report also accused PJV personnel of killing several other people by pushing them into the mine's open pit or crushing them with heavy rocks, but provided little evidence to support the latter allegations.[70] PJV allegedly paid cash compensation in some cases to relatives of people killed or injured by PJV security guards in return for agreements barring the recipients from pursuing legal action against the company.[71] In April 2010 a former PJV guard was convicted of murder for a shooting death that took place on the mine site in 2002.[72]

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[66] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[67] Human Rights Watch interviews with current APD employee (#84), May 2010; Human Rights Watch interview with former APD employee (#66), May 11, 2010.

[68] Akali Tange Association, "The Shooting Fields of Porgera Joint Venture: Now a Case to Compensate and Justice to Prevail," April 2005, pp. 65-76.

[69] Bob Burton, "Canadian Firm Admits to Killings and PNG Gold Mine," *Inter Press Service*, November 18, 2005, http://ipsnews.net/news.asp?idnews=31074 (accessed August 25, 2010).

[70] Akali Tange Association, "The Shooting Fields of Porgera Joint Venture," pp. 65-76. Over the years many illegal miners have been injured or killed by falling rocks in relatively unstable areas of the open pit. See, for example, Jeffrey Elapa, "Falling rocks kill 'miners,'" *The National*, September 14, 2010, http://www.thenational.com.pg/?q=node/12564 (accessed September 15, 2010).

[71] The 2005 ATA report appended a copy of one such agreement. Akali Tange Association, "The Shooting Fields of Porgera Joint Venture," Appendix 9.

[72] *State vs. Fred Bukoya,* National Court of Justice, Case No. CR1609 of 2002, Judgment, April 2010.

The ATA report was controversial in part because its authors negotiated agreements with the families of deceased individuals that empowered the organization to seek monetary compensation for the alleged killings, and then gave ATA officials the right to divide any eventual payments between the families and the organization however they saw fit.[73] By 2010, some families whose agreements had also required them to provide a "non-refundable sum" of K2000 (US$ 780) to the ATA so the organization could pursue their claims were highly disgruntled because, years later, they had received nothing in return.[74]

The Papua New Guinea government commissioned an inquiry into killings around the PJV mine in 2005, but its results were never made public. The government has never given a reason for its decision not to publish the results.[75] Barrick officials said they could not confirm that abuses took place prior to the company's purchase of Placer Dome.[76]

Box 2: Replicating Broader Patterns of Abuse

Many APD personnel are former police officers, police reservists, or police on extended leave from their jobs. These personnel come to PJV with links to an institution well on its way towards what one expert described to Human Rights Watch as "advanced institutional collapse."[77] Violent abuses have become a routine part of the police's interactions with the public, and police personnel regularly engage in widespread abuses, including torture and rape.[78]

In May 2010 the UN special rapporteur on torture traveled to PNG and documented police abuses, including routine beatings of criminal suspects that often rise to the level of torture, as well as extortion of sex from female detainees in exchange for their release. The

[73] ATA, "The Shooting Fields of Porgera Joint Venture," Appendix 15: Delegation of Authority— Sample. The agreement states that "… 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, [the family members] do hereby forever completely authorize 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 [deceased]." Ibid.

[74] Ibid.; Human Rights Watch interviews with Porgeran landowners, Porgera, May 2010.

[75] See Harvard Law School International Human Rights Clinic and New York University School of Law Center for Human Rights and Global Justice, "Legal Brief before the Standing Committee on Foreign Affairs and International Development, House of Commons, Regarding Bill C-300," November 16, 2009, http://www.reports-and-materials.org/Harvard-testimony-re-Porgera-Main.pdf (accessed September 15, 2010).

[76] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[77] Human Rights Watch interview with Sinclair Dinnen, The Australian National University, Canberra, April 27, 2010.

[78] Human Rights Watch, *Making Their Own Rules: Police Beatings, Rape, and Torture of Children in Papua New Guinea,* (New York: Human Rights Watch, 2005), http://www.hrw.org/en/reports/2005/08/30/making-their-own-rules-0; Human Rights Watch, *Still Making Their Own Rules: Ongoing Impunity for Police Beatings, Rape, and Torture in Papua New Guinea*, vol. 18, no. 13(C), October 2006, http://www.hrw.org/en/reports/2006/10/29/still-making-their-own-rules.

special rapporteur noted that, "Some officers also appear to frequently arrest women for minor offences with the intention of sexually abusing them."[79] Fear of sexual harassment and violence by police inhibits effective functioning of the justice system since victims are often afraid to report crimes to the police.

In addition to these patterns of police abuse, rape—and in particular gang rape or "pack rape" as it is called in Papua New Guinea—is a disturbingly common crime throughout the country.

All of this means that Barrick should have been well aware of the serious potential for violent abuses to occur and could have prioritized setting up effective systems to prevent and respond to such abuse when it took over the Porgera mine in 2006. In fact, the patterns of abuse by APD personnel described in this report largely mirror broader patterns of abuse by PNG police.

Ongoing Patterns of Abuse by PJV Security Guards

Human Rights Watch's research revealed that some APD personnel at Porgera engaged in violent abuses with impunity in 2009 and 2010. Human Rights Watch investigated several alleged cases of gang rape by APD personnel, as well as instances where APD personnel have allegedly beaten people in their custody or used excessive force apprehending them. None of these abuses took place during violent raids by illegal miners on the mine's central open pit, where APD personnel are under the direct scrutiny of their superiors. Rather, they all involved APD personnel patrolling relatively isolated expanses of the mine's waste dumps.

Gang Rape by APD Personnel

Human Rights Watch investigated five incidents of alleged rape by PJV security personnel in 2009 and 2010, and one in 2008. Human Rights Watch interviewed women who were among the victims of five of these incidents and one woman who provided a detailed eyewitness account of another gang rape. Five other women interviewed by Human Rights Watch alleged they were threatened or taunted with the prospect of rape after APD personnel arrested them.

Human Rights Watch believes that the incidents of sexual violence we investigated are part of a broader pattern of abuse. We heard of other alleged victims we could not locate or who declined to speak with us. In addition, the powerful stigma attached to rape survivors in PNG (discussed below) means that many rape victims keep their ordeals to themselves. Barrick

[79] United Nations Office of the High Commissioner for Human Rights, "UN Special Rapporteur on Torture presents preliminary findings on his Mission to Papua New Guinea," May 25, 2010, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10058&LangID=E (accessed September 15, 2010).

and the Papua New Guinea police both launched investigations into alleged acts of sexual violence by APD personnel in response to the allegations put forward by Human Rights Watch.[80] Those investigations, both ongoing as of November 2010, uncovered alleged incidents of sexual violence separate from those investigated by Human Rights Watch.[81] In January 2011 Barrick announced that it had fired 6 employees for involvement in, or failure to report, alleged incidents of sexual violence. Some of those individuals were subsequently arrested by the PNG police.[82]

The allegations of rape documented by Human Rights Watch shared several key elements:

- **All of the incidents were gang rapes** by APD personnel.
- **All of the incidents took place on or near the waste dumps surrounding the mine**. Most victims were women who were illegally mining on the waste dumps.
- **Many of the victims said their attackers told them they would face large fines or prison time if they tried to complain after the fact,** because they had been carrying out illegal mining on PJV property. Some women said that APD personnel presented them with a "choice" of going to prison or submitting to gang rape and then being set free—but then still gang raped some of the women who insisted on being taken to prison.
- **Most of the victims said that they were brutally beaten** in addition to being raped. Most were kicked or punched by their assailants; one woman was kicked in the face just before being raped and lost several teeth.
- **None of the victims reported the incidents to either police or company officials.** All said either that they did not know where they could safely complain to, were afraid that they would suffer reprisals if they did report the crimes, or both. Some women said that their attackers said they would be imprisoned or fined for illegal mining if they tried to complain about what had happened.

One woman in her early 30s told Human Rights Watch that around the end of September 2009, she was gang raped by five APD personnel who caught her on the Kogai waste dump. She was not an illegal miner herself but had gone to the dump in hopes of selling betel nut to the illegal miners working there:

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[80] See below, Barrick's Response to Human Rights Abuses at the Porgera Mine.

[81] Human Rights Watch interview with Anthony Smare, Porgera, November 22, 2010.

[82] "Porgera Joint Venture terminates employees after thorough internal investigation: PJV Working in close cooperation with police," Porgera Joint Venture press release, January 17, 2011; "Police taskforce takes action against violence towards women in Porgera," Royal Papua New Guinea Constabulary Media Release, January 17, 2011.

> At that time there were a lot of people looking for gold. I wanted to sell my betel nut to them. At that time three security guards came. They chased the people away. I am a fat woman so I was trying to run away but because I am fat and had my *boi* [betel nut] bags the security came and held me. They said, "Don't talk, just stay quiet. If you talk we'll smash you."

The APD personnel forced her into the back of their land cruiser and took turns raping her. When they had finished they took her out of the car, threw her on the ground, and kicked her several times. Then they left, but not before warning her that she would be punished for trespassing if she tried to report the crime:

> They … said, "If you want to take us to court you will have to pay a fine of K1,500 ($570) so go ahead…. "Then I walked home. All these five men raped me so I found it really hard to walk. It took me [about five hours] because I had no strength. If I was strong it is only a one-hour walk.

She never reported the crime. "I was scared to go to the hospital or police station," she said. "I was afraid they would say, 'There is one of the people who go up there to steal,' and lock me up."[83]

Another woman told Human Rights Watch that five APD personnel gang raped her after catching her on the same waste dump around February 2010. She said that she and her husband were arrested together. The guards put her husband into a car and drove him away, while she was raped in some bushes near the edge of the dump:

> One security came and held my clothes and ripped it. Another held me very tight—and these are not women but men so I could not fight them. They made me fall on the ground and tore all of my clothes. One of them covered my eyes with his hand while he was raping me…. Each of them raped me two times.

After the guards finished raping her they let her go. "After they raped me I was lying on the ground for about two hours," she recalled. "Then I went into a stream [near] there and washed myself and I walked home." She did not report the crime. "I thought of doing that but since my husband was taken to jail I had no one to support me in going there so I just

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[83] Human Rights Watch interview #22, Porgera, May 6, 2010.

left it that way. I was scared they might just lock me up in the cell."[84]

Box 3: Another Investigation at Porgera

In 2009, a research team from Harvard and New York University (NYU) law schools submitted evidence to the Canadian parliament that APD personnel had been involved in numerous incidents of rape targeting women caught on mine property.[85]

The team reported on ten alleged incidents of sexual violence (all separate from the incidents described in this report), including eight rapes, and stated that "the accounts generally share[d]" several characteristics: the rapes occurred on mine property; the victims were gang-raped by groups of PJV security guards; they were beaten in addition to being raped; some were threatened with imprisonment if they did not submit to being raped; and women generally did not report or file complaints about the incidents."[86] These traits largely mirror those of the incidents of gang rape investigated by Human Rights Watch.

Barrick issued a formal response to the Harvard/NYU allegations, stating that "to our knowledge, there have been no cases of sexual assault reported to mine management involving PJV security personnel while on duty, since Barrick acquired its interest in the mine in 2006." It urged anyone who had information about such an incident to report it to the proper Papua New Guinea (PNG) government authorities but did not commit to action itself.[87]

The Harvard/NYU research team also reported on several alleged killings by APD personnel or police around the mine since 2006, and numerous instances of beatings and other forms of physical abuse, both before and after Barrick acquired the mine.[88]

A third woman told Human Rights Watch that APD personnel gang raped her on the Kogai waste dump in January 2009. "The people together with me saw the security and ran away," she said. "I was also trying to run away but I tripped on a stone and I fell down. Six security [personnel] held me." She said:

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[84] Human Rights Watch interview #26, Porgera, May 7, 2010.

[85] Harvard and New York University, "Legal Brief before the Standing Committee on Foreign Affairs and International Developement," pp. 11-16.

[86] Ibid., pp. 11-12.

[87] Barrick Gold Corporation, "Submission to the Standing Committee on Foreign Affairs and International Development," November 26, 2009, http://www.barrick.com/CorporateResponsibility/KeyTopics/Bill-C-300-Submission-to-the-Standing-Committee/default.aspx (accessed January 21, 2011).

[88] Harvard and New York University, "Legal Brief before the Standing Committee on Foreign Affairs and International Developement," pp. 16-24.

> Their reaction was not to take me to jail but they were trying to rape me and holding on to my skirt and pulling it like they wanted to take it off. I bent down holding my skirt and one security kicked me in the face. I lost my five bottom teeth and three top teeth. After that, these security raped me.

All six guards raped her on the ground in a relatively isolated area near their car. Afterwards they left her lying on the ground. Although in great pain, she walked up to a road where she could catch a public bus. "Someone just held my hand and helped me to walk up," she said. She did not report the crime to anyone; her attackers had said that if she did, she would be arrested for stealing gold from the waste dump. "When these security raped me they said I could go to prison for two to five years," she said, "and that's why I was afraid to tell anyone."[89]

Box 4: Retaliation at Home

Fear of imprisonment and mistrust of the authorities is not the only thing that prevents women from reporting incidents of rape. The social stigma that attaches to rape around Porgera is strong enough to ruin lives and lead to further violence in the home.

One woman told Human Rights Watch that she was gang raped by a group of PJV guards and did not tell anyone, including her husband. Nonetheless, he found out about the attack one week later and promptly divorced her. "We were only married one year when I was raped," she recalled. "He said, 'You should have informed me because I don't want you to be my wife after all these five security men had their chance with you. I don't want this kind of woman to be my wife.'" She added that she thought many rape victims keep their ordeals to themselves "because of things like what happened to me."[90]

Several women told Human Rights Watch that they had heard stories of APD personnel arresting women and then offering them a "choice" of submitting to gang rape or going to prison. Several women said that for this reason, when they were apprehended they immediately began insisting that the guards take them directly to jail.[91]

One woman was cutting grass for a wealthy landowner's pig near one of the waste dumps in June 2009 when she saw APD personnel apprehend several female illegal miners, drag them into nearby bushes, and begin raping them. Afraid that she too would be raped, she fled

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[89] Human Rights Watch interview #82, Porgera, May 14, 2010.

[90] Human Rights Watch interview #22, Porgera, May 6, 2010.

[91] Human Rights Watch interviews #64, 68, 69, 74, Porgera, May 2010.

across the dump, but ran into another APD officer. "I asked them to just arrest me," she said. "I lied to that man and told him, 'I have a small baby in the house so don't rape me, it would not be good.' … [But] he asked me, 'Do you want to go home or do you want to go to jail?… If you want to go home, I'll [have sex with] you.'" She responded emphatically she wanted to go to jail, and was ultimately taken there without being hurt. She spent six days in prison at Paiam, was released on K500 bail, and was ultimately not convicted of an offense.[92]

Other women relayed similar experiences. One woman said APD personnel apprehended her on one of the dumps in April 2010 and began walking her towards an isolated area:

> They said, "Oh, we'll let you go, but before we let you go we'll rape you." I said, "I don't want that! I want to go to the jail." They said, "If you want to go to jail you will have to pay a lot of money so it's better if we let you go. I said no, I very strongly said, "no!" and so they took me to the car [and from there to the detention facility on the mine site].[93]

Another woman, in her fifties, was caught working on one of the waste dumps around September 2009 and was put into an APD car with several APD personnel:

> They were saying, "We will rape you and let you go. They will charge you big money, or you can go home, but you have to let us [have sex with] you…. " After they said that, I said, "I am an old woman, you should have mothers like me! How could you want to have sex with me?" They said, "Well, you have to go to the jail then."

They did not say anything else, and took her to the PJV detention facility.[94]

Some women found that there was no "choice" between going to jail or submitting to rape. One woman described how she was raped after being caught looking for ore-bearing rock at the Kogai waste dump around March 2008:

> I was with a lot of people but the security chased us. Everyone ran away but I kicked a stone and fell down and they came and held me and raped me.

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[92] Human Rights Watch interview #25, Porgera, May 7, 2010.

[93] Human Rights Watch interview #64, Porgera, May 11, 2010.

[94] Human Rights Watch interview #60, Porgera, May 11, 2010.

> When they held me I said, "I want to go to jail…." I heard that they give you a choice of going to jail or being raped. That's why I said that. But they refused and they raped me.
>
> They [kicked] me and threw me on my back and even kicked me on my forehead when I was on the ground. I was beaten up and I kept saying, "I want to go to the jail," and they kept saying, "No, you are not going to jail." One of them covered my mouth with his hand.
>
> They all had their chance. Some of them were trying to come for a second round but others said, "No, let's leave her."

She did not report the crime. "I thought of going there to make a complaint," she said, "But I was afraid the police would say, 'You deserved it because you were going into that dump area.'"[95]

Box 5: A Gang Rape Survivor Tells Her Story

One young woman told Human Rights Watch that she was brutally gang raped by a group of PJV security guards who caught her and three other women on the mine's Kogai waste dump in February 2009:[96]

They dragged us all into the bush. One of them said, "No talking, don't talk! Just remove your trousers."

One security [guard] had a bush knife [machete] and he hit me on the back with the flat of it…I got mad and I bit him with my teeth on his shoulder. Then he got mad and cut me with his knife [above the left elbow]. Then he said, "Oh, you are tough lady," and then he ripped off all my clothes and I was completely naked.

After that, six security [personnel] raped me. One would pull my left leg, one would pull my right leg wide, one would hold each of my hands and one would rape me. Then they would change places.

The security that cut me with the knife raped two of the other girls and used a condom. And then he came to me and opened my mouth wide and pushed his penis with the condom

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[95] Human Rights Watch interview #27, Porgera, May 7, 2010.

[96] Human Rights Watch interview #83, Porgera, May 14, 2010.

into my mouth. After he released … he made me swallow the condom. But the condom went only halfway down my throat and I pulled it out.

I felt really sick and I tried to vomit and then I was unconscious. In the evening my relatives came looking for me and found me lying there.

They security [had] said, "If you go and lay a complaint at the police station we will lock you up in the jail—you ladies came to steal here so you will go to jail and pay a very big fine." I was scared to lay a complaint—I did not know if they are doing this on the order of the company. Maybe if we go there to complain they will just lock us up.

When people asked me how I was cut I said oh, I just accidentally cut myself with my own knife. But my parents, I told them I had been raped. They could not do anything, so I told them and we just left it like that.

I have lost a lot of weight—I wasn't like this before, I used to be a fat woman. Even when I see good food I think of the condom that was used on other ladies pushed into my mouth and I do not feel good about eating.

I really got a bad name from that. [People who] saw me spread the news that I was raped and was chewing condoms. That really made me feel low.

I can still remember the faces of those six security [officers]. If I see them again I will cut them with a bush knife or an axe and I don't care if I go to prison. As long as I live I will think of this thing that happened to me.

Treatment of Detainees in APD Custody

Human Rights Watch interviewed more than two dozen people detained by APD personnel. Aside from the alleged rape victims, a large majority said their captors treated them fairly and without abuse. But Human Rights Watch did hear of several cases where APD personnel allegedly committed abuses against people in their custody. As is the case with the gang rapes described above, almost all these incidents occurred on or near the mine's waste dumps, the areas where APD personnel operate furthest from direct scrutiny by their superiors within the force. People arrested by PJV security guards often spend the night detained in a company-run detention facility inside the mine site before being transferred to police custody in Paiam town. Almost all of the former detainees interviewed by Human Rights Watch said that they did not suffer abuse while in detention there, although a handful alleged that they had.

One young man told Human Rights Watch that he was looking for rocks on the Anawe waste dump with his father when both were surprised by a group of PJV security guards who fired tear gas at them without warning. "When I saw them I tried to run away and they shot me with tear gas," he said. "I fell down on the hard rocks. My father also fell down on the rocks." He said the guards caught him and that six stood around him and his father, kicking the pair in the ribs, stomach, and back with steel-toed boots as they lay helpless on the ground. He was imprisoned and then released after paying a K1,500 ($570) fine.[97]

A 15-year-old boy told Human Rights Watch that PJV security guards caught him on the Anawe waste dump after he had walked across it to collect firewood. He tried to run away but tripped. "I fell down and one of the security [personnel] came and held me," he said. "One just landed his fist on my face—I stood up and he punched me in the face." He said that the guards handcuffed him and then—after he had already been cuffed—repeatedly threatened to let their security dog attack him. "They were trying to let the dog bite me and I was scared of the dog," he said.[98] Yet another young man said that after arresting him, APD personnel held him down and sprayed him repeatedly in the face with a small aerosol canister full of pepper spray that burned his eyes and face.[99]

A female illegal miner told Human Rights Watch that a PJV guard kicked her repeatedly as she lay on the floor of a land cruiser after she had been arrested. "It was a man who kicked me so it really hurt," she said. She also said that she was thrown to the ground and kicked by an APD security guard at the mine detention site who asked her, "You people coming to this area, why do you keep coming to this place?"[100] A woman arrested on the Anawe dump in July 2009 said she was subjected to sexual harassment while in custody at the mine site:

> The security guards brought a box of condoms and put it on the ground between us and said, "What is this?" I was a bit confused. All the condoms were in the box so I did not know what they were—I only know what they look like in their own wrappers. So I thought it was a camera box or something and I said, "It's a camera." They just laughed and laughed and laughed … We were scared when they opened the box and we saw condoms inside. We thought that they were going to rape us.

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[97] Human Rights Watch interview #39, Porgera, May 9, 2010.

[98] Human Rights Watch interview #56, Porgera, May 11, 2010.

[99] Human Rights Watch interview #14, Porgera, May 6, 2010. APD personnel are equipped with a "hand-held pepper spray equivalent." Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[100] Human Rights Watch interview #15, Porgera, May 6, 2010.

She said that the guards ultimately left her and the other women detained with her unharmed. She was transferred into police custody the next morning.[101]

Excessive Use of Force

Human Rights Watch interviewed 21 people who said that they had been beaten, shot at, or tear gassed by APD personnel in 2009 and 2010. As discussed above, APD personnel often face violent situations that justify responding with force.[102] But in some cases they appear to have used force in circumstances that are not permitted by international principles that form the basis for their own rules of engagement.

Barrick says that its policies on the use of force by APD personnel are "aligned" with key sources of international standards: the Voluntary Principles on Security and Human Rights, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the UN Code of Conduct for Law Enforcement Officials.[103] Generally speaking, accepted standards allow for the use of force in a wide array of circumstances—including if necessary to apprehend a criminal suspect—but require that law enforcement officials "shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result."[104]

However, Human Rights Watch interviewed several illegal miners who described being shot with drag-stabilized beanbag projectiles (which they described as "rubber bullets") or tear gas without warning or any real chance to surrender.[105] A few said that PJV security guards had fired tear gas at them while they were either fleeing or still scouring the dumps for rocks, not having yet seen the guards.[106]

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[101] Human Rights Watch interview #16, Porgera, May 6, 2010.

[102] See above, "Violence and Illegal Mining: PJV's Security Challenges."

[103] Letter from Smare, September 7, 2010.

[104] United Nations, "UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials," August 7, 1990, Sec. 4, http://www2.ohchr.org/english/law/firearms.htm (accessed November 12, 2010).

[105] Human Rights Watch interviews #17, #28, #30, #62, #63, and #73, Porgera, May 2010.

[106] Human Rights Watch interviews #64 and #65, Porgera, May 2010.

IV. Barrick and the Mobile Police Deployment to Porgera

In February 2009 increasing levels of violent insecurity around Porgera led the government to deploy four police mobile squads to the area.[107] This move came with a significant catch, the government was unwilling to bear the costs of the operation, so Barrick agreed to assume most of the responsibility for supporting the mobile squads while they were in Porgera, including by housing and feeding them on PJV property.[108] The deployment remained in place as of September 2010, though it had been reduced to two squads, or about 70 men.

The close relationship between PJV and the mobile police deployment was a cause of concern from the outset, police mobile squads have a long history of violence and abuse directed at ordinary citizens.[109] Then, in April 2009, the mobile squads attacked and burned a village adjacent to the mine called Wuangima and destroyed homes in another village called Kulapi as well. In February 2010, Amnesty International published a report documenting the widespread violent abuses involved in these operations and condemned them as illegal forced evictions. Amnesty called for an independent inquiry into the abuses, appropriate remedies for the victims, and prosecution of those responsible.[110] When Human Rights Watch visited Porgera in May 2010, Wuangima was a deserted hillside littered with trash and the foundations of ruined homes.

Barrick initially maintained that Wuangima was not a permanent community at all but merely a collection of 35 "crude structures" inhabited primarily by transient criminals and illegal miners.[111] In fact, while Wuangima was often used as a staging point for raids on the open pit by illegal miners, the community had many longtime residents and permanent structures including a church.[112] The company also made the astonishing assertion that, "There is no

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[107] See Amnesty International, "Undermining Rights: Forced evictions and police brutality around the Porgera gold mine, Papua New Guinea," AI Index: ASA/34/001/2010, February 2, 2010, http://www.amnesty.org/en/library/info/ASA34/001/2010/en (accessed September 15, 2010), p. 5.

[108] In April 2009 PJV and the police signed an agreement providing that PJV would provide the deployment with "'limited passive [in kind] support'… in the form of food, lodging and fuel." Barrick Gold, "Police Deployment, Enga Province, Papua New Guinea (PNG), http://www.barrick.com/CorporateResponsibility/KeyTopics/PorgeraJV/PoliceDeployment/default.aspx (accessed January 21, 2011).

[109] The mobile police have adhered to what one expert described as "a long tradition from colonial policing—very militarized, mostly about pacifying and teaching people a lesson, not investigating crime or anything like that." Human Rights Watch interview with Sinclair Dinnen, The Australian National University, Canberra, April 27, 2010.

[110] Amnesty International, "Undermining Rights," p. 20.

[111] Ibid., pp. 5-7.

[112] Human Rights Watch interviews with former residents of Wuangima, Porgera, May 2010; Amnesty International, "Undermining Rights," p. 7.

evidence that the PNG police who carried out the actions in question used excessive or disproportionate force, or, indeed, that they used *any* force," even though PJV employees in Porgera told Human Rights Watch they watched Wuangima burn from inside the mine site.[113] Barrick has since partially backed away from its initial, untenable position and acknowledged that homes were destroyed.[114] The company still maintains that none of its personnel knew about any police plan to destroy Wuangima until they saw smoke rising from the burning houses.[115]

Barrick has engaged Ila Geno, a respected former commissioner of police and ombudsman, to make occasional trips to Porgera to monitor the conduct of the mobile squads there. His reports to Barrick are not public. While Geno's engagement is a positive step, there is still need for an independent investigation into the forced evictions of 2009. Geno's mandate does not include such an investigation.[116]

A mobile squad section commander interviewed by Human Rights Watch in May 2010 claimed that the conduct of the deployment had improved since the 2009 forced evictions. "We are trying to work with people so the people know we are here to help them and not to chase them or harass them," he said. "We no longer bash [beat] people around like that."[117] But abuses did not halt altogether. In July 2010 a group of mobile police allegedly kidnapped three teenage girls whom they kept overnight at their quarters on the mine site and raped. Police officials in Port Moresby took the unusual step of investigating the incident and suspended three officers it identified as responsible. Barrick officials told Human Rights Watch that they had urged police officials to take the incident seriously and believed the perpetrators would be prosecuted.[118]

One fundamental question looms large in light of these abuses: should the mobile deployment in Porgera continue, and if so, under what terms? Amnesty International has

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[113] Letter from Patrick Garver, former Barrick Executive Vice President and General Counsel, to Irene Khan, Amnesty International Secretary General, May 22, 2009; Human Rights Watch interviews with PJV employees, Porgera, May 2010.

[114] Amnesty International, "Undermining Rights," p. 11.

[115] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[116] Human Rights Watch interview with Ila Geno, Port Moresby, April 30, 2010.

[117] Human Rights Watch interview with mobile police section commander (#49, name withheld), Porgera Station, May 10, 2010.

[118] Human Rights Watch interviews with senior Barrick officials, Toronto, September 9, 2010. See also Porgera Alliance, "Three Girls Raped at Porgera Mine Site," July 10, 2010, http://www.porgeraalliance.net/2010/07/three-girls-raped-at-porgera-mine-site/ (accessed September 15, 2010).

called for Barrick to withdraw accommodation and other support to the mobile deployment in light of the 2009 forced evictions and the impunity enjoyed by those responsible.[119]

Human Rights Watch agrees that in principle the forces should not be housed and fed on the mine site, this creates the appearance of company control over the police, as well as the possibility that inappropriate collusion could occur. But it is also true that the mobile deployment would probably end if Barrick stopped providing that support; the government has consistently refused to commit the resources necessary to maintain law and order around Porgera.

The mobile deployment has by all accounts greatly reduced violence and crime around Porgera. Almost all local residents and officials interviewed by Human Rights Watch said they wanted the mobile deployment to continue in Porgera. The ranking police officer at Paiam police station said that in the months prior to the deployment, Porgera resembled "some kind of Wild West area where nobody cared for anybody." He said the police were confronted with 10-15 rape cases and 5-6 murders every month, along with numerous armed robberies and tribal fights. "I know for sure this lawlessness will come again after this police operation is withdrawn," he asserted.[120] The head doctor at the hospital in Paiam town told Human Rights Watch that on a typical day in the months before the mobile deployment began, the hospital would treat three to four serious injuries resulting from highway robberies, tribal fighting, or domestic violence, and that such injuries were far less common since the deployment began.[121]

Human Rights Watch urges Barrick to do more to keep the mobile deployment at arm's length from company operations, including by pressing the PNG government to provide room and board for the deployment off company premises. But we also recognize the need to balance this goal against the importance of avoiding a return to the dismal situation that prevailed before the deployment.

Barrick officials told Human Rights Watch they believe that the only viable long-term solution to the chronic insecurity and violence around Porgera is for the government to bolster the capacity of the area's regular police presence and justice sector institutions. In partnership with the national and provincial governments, the company has launched an initiative that aims to increase the number of police deployed to Porgera from 16 to 66 and improve the

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[119] Amnesty International, "Undermining Rights," p. 20.

[120] Human Rights Watch interview with Senior Seargent Itapu Poko, Paiam town, May 10, 2010.

[121] Human Rights Watch interview with Dr. Moises Garanda, Paiam town, May 7, 2010.

quality of the infrastructure the force and the local courts rely on. Barrick has agreed to build or pay for much of the necessary infrastructure, including a new police barracks that should be completed in September 2011, but the government will have to follow through on promises to supply the personnel.[122] As Barrick's vice-president for security and crisis management put it, "Problem one is getting a permanent police presence of the right nature. Problem two is influencing that police presence to operate in an appropriate way."[123]

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[122] Porgera Joint Venture, "Restoring Justice: Law and Justice Sector Partnerships in the Papua New Guinea Highlands;" Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[123] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

V. Barrick's International Human Rights Obligations

Although governments have primary responsibility for promoting and ensuring respect for human rights, corporations also have a number of responsibilities, as increasingly recognized by international law and other norms. These norms reflect an expectation that corporations should have policies and procedures in place that ensure human rights abuses do not occur and that they undertake adequate due diligence to identify and effectively mitigate human rights problems.[124]

This approach has been elaborated by John Ruggie, the United Nations special representative of the secretary general on the issue of human rights and transnational corporations and other business enterprises. Ruggie has developed a framework known as the "protect, respect and remedy" approach to business-related human rights issues that in part outlines the basic steps that companies should take to respect human rights, avoid complicity in abuses, and adequately remedy them if they occur.

Barrick is a member of the UN Global Compact, a voluntary initiative which incorporates human rights commitments. Under the compact companies pledge their adherence to ten "universally accepted principles in the areas of human rights, labour, environment and anti-corruption" that derive from the Universal Declaration on Human Rights and other texts.[125] One of the 10 principles is that companies should "make sure that they are not complicit in human rights abuses."[126]

Of most direct relevance to the abuses discussed above, Barrick has formally subscribed to the Voluntary Principles on Security and Human Rights (Voluntary Principles). The Voluntary Principles are a framework that brings together a range of multinational extractive companies, home governments, and civil society organizations around a set of principles on the relationship between extractive companies and the public or private security forces they rely on for protection. They focus on how companies should seek to prevent human rights abuses by those security forces as well as on how companies should respond when abuses do

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[124] There is, however, as yet no shared understanding of the full scope of businesses' human rights responsibilities, whether these are or should be binding under international law, and if so, how they can best be enforced. In the past such issues have proven highly contentious.

[125] See United Nations Global Compact, "The Ten Principles," at http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html (accessed October 4, 2010).

[126] See United Nations Global Compact, "Principle 2," http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/Principle2.html (accessed October 4, 2010).

occur.[127] While the company only joined the Voluntary Principles in October 2010, the company accepted them as "a basis for the operation of all of Barrick's mines … incorporated into a number of different company policies" even before it formally joined the process.[128]

Of particular relevance in the context of Porgera, the Voluntary Principles ask companies, inter alia, to:

- Maintain the safety and security of their operations within a framework that ensures respect for human rights;
- Ensure that private security forces act in a lawful manner and act in line with international guidelines such as the UN Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials;
- Ensure that private security forces do not include individuals credibly implicated in human rights abuses;
- Ensure that the conduct of private security forces are adequately monitored;
- Ensure that allegations of abuse are properly investigated and that disciplinary measures are in place that are sufficient to prevent and deter such abuses;
- Report allegations of abuse by private security forces to local law enforcement authorities where appropriate;
- Record and report any credible allegations of human rights abuses by either private or public (for example, government) security forces, and urge investigations into alleged abuses where appropriate.[129]

As described below, Barrick has taken steps to implement the Voluntary Principles since acquiring the Porgera mine in 2006. However, those steps fell short in a number of key respects, and failed to prevent or deter the abuses described above. More recent steps—many of them taken since mid-2010 in direct response to Human Rights Watch's allegations—could do much to remedy these deficiencies if implemented in good faith.

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[127] The Voluntary Principles on Security and Human Rights, http://voluntaryprinciples.org/ (accessed October 4, 2010).

[128] Letter from Smare, September 7, 2010.

[129] The Voluntary Principles on Security and Human Rights, http://voluntaryprinciples.org/ (accessed October 4, 2010).

VI. Barrick's Response to Human Rights Concerns at the Porgera Mine

Local and international activists have criticized Barrick over alleged human rights abuses and environmental damage at operations around the world. In fact, one small group of international activists—ProtestBarrick.net—has led a permanent campaign specifically aimed at calling attention to alleged human rights abuses and environmental destruction at Barrick's worldwide operations, including at Porgera.[130] This has contributed to a siege mentality among some Barrick officials.

Some allegations leveled by critics of Barrick have been exaggerated or incorrect.[131] But too often in the past, Barrick has responded to legitimate human rights and environmental criticisms of the Porgera mine with a "shoot the messenger" approach, attacking the company's critics while failing to address important substantive concerns.

To cite two recent examples:

- When Amnesty International published a report on forced evictions by mobile police squads around Porgera in 2009, Barrick's public response focused largely on vague allegations about the "adequacy and objectivity" of Amnesty's research.[132] In a May 2009 letter to Amnesty, Barrick stated that, "Virtually every 'fact' recited by [Amnesty] was either without foundation or unfairly painted a picture of this action by PNG police and Barrick that, is fundamentally misleading." Far from addressing the very serious human rights abuses that took place during the evictions, the company's initial response refused even to concede basic contextual elements that were obviously true, such as the fact that the police used force, or that they destroyed peoples' homes.[133]

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[130] For an extensive catalogue of allegations that have been leveled against the company see the website of an NGO called Protest Barrick at http://www.protestbarrick.net (accessed September 20, 2010).

[131] For instance, Barrick claims that in March 2009 a speaker affiliated with Protest Barrick publicly stated that the company is responsible for the murder of sixty people around the Porgera mine every year, an absurd allegation if it was actually leveled, given that this figure is far higher than the total number of deaths the mine's most strident critics implicate the company in during the entire period of the mine's existence. Letter from Barrick Gold Corporation to Joanne Bauer and Chris Avery, June 16, 2009, http://www.reports-and-materials.org/Barrick-Gold-response-re-Porgera-mine-16-Jun-2009.pdf (accessed October 6, 2010).

[132] See above, the Mobile Police Deployment in Porgera.

[133] "Statement on Amnesty International Report," Barrick and Porgera Joint Venture Statement, February 2, 2010, http://www.barrick.com/CorporateResponsibility/KeyTopics/PorgeraJV/Amnesty/default.aspx (accessed October 6, 2010). Amnesty described Barrick's response as "wholly inadequate." "Barrick response to evidence of human rights violations wholly inadequate: Amnesty International calls on Canadian government to act," Amnesty International media release, February 3, 2010,

- When the Norwegian government pension fund's Council on Ethics investigated the controversial practice of riverine tailings disposal at Porgera (discussed in more detail below), Barrick's response to the council's inquiries was dismissive and hostile. The company complained that the council's draft recommendation "mixes allegations, data, unattributed hearsay and other information into single sentences and paragraphs," and that "it is difficult to dissect the document, separate the facts from the errors and respond to the individual points." And so the company didn't bother. The council complained that Barrick's response neither addressed key concerns with PJV's practice of riverine tailings disposal in any detail nor provided any substantive data that would allow anyone to corroborate its insistence that the practice is unlikely to cause serious long-term harm.[134]

More recently Barrick has shown signs of a tangible shift toward more serious engagement with human rights concerns. One senior company official told Human Rights Watch that "Our approach has changed. We want to be more open. There are a lot of good things this company does … but we need to be more open to talking about the bad things as well."[135]

Over the course of several months beginning in May 2010, Barrick has engaged in a frank and substantive dialogue with Human Rights Watch about all of our concerns regarding the Porgera mine. The company has also taken or promised to take several meaningful steps to address the most serious human rights abuses described in this report. The following pages describe those steps, as does the letter from Barrick that is published as an annex to the report.[136]

Human Rights Watch welcomes Barrick's commitments to act, but it was not yet possible at the time of writing to determine whether they would be implemented effectively and in good faith. And even highly effective efforts to prevent and respond to abuse in the future cannot obviate the need to ensure accountability for abuses that have already occurred.

Long Term Company Efforts to Implement the Voluntary Principles on Security and Human Rights

Since taking over PJV in 2006, Barrick has taken a number of steps to incorporate the Voluntary Principles on Security and Human Rights into the operations of the APD force at

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http://www.amnesty.ca/resource_centre/news/view.php?load=arcview&article=5150&c=Resource+Centre+News (accessed October 6, 2010).

[134] Council on Ethics, The Government Pension Fund—Global, "Recommendation of 14 August 2008," http://www.regjeringen.no/pages/2146647/Recommendation%20Barrick%20final.pdf (accessed September 7, 2010) p. 25.

[135] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[136] Letter from Barrick Gold to Chris Albin-Lackey, December 23, 2010 (see annex).

Porgera. The company has funded external assessments of some of its operations, including Porgera, to determine what needs to be done in order to align the operation with the Voluntary Principles. It has also produced a "Voluntary Principles Standard" that "defines the company's interpretation and detailed requirements for implementation of the [Voluntary Principles], including responsibilities and accountabilities." Barrick also says that it "seeks to have the Voluntary Principles recognized in any relevant dealings and agreements with Government agencies."[137] More specifically, the company says that it:

- **Carries out trainings on human rights principles and the Voluntary Principles for APD personnel.**[138]

- **Has facilitated human rights training for mobile police squads based on international norms including the Voluntary Principles**. In 2007 the company facilitated this training for mobile police squads deployed to the Porgera valley. Company officials say that since 2008 the PNG police have integrated that training into regular training for existing mobile squad members and new recruits.[139]

- **Investigates every incident involving use of force by APD personnel**. APD personnel are required to account for and justify every discharge of their weapons.[140]
- **Carries out rigorous investigations of alleged incidents of abuse by APD personnel**. APD maintains an investigations unit that is responsible for investigating allegations of abuse or breaches of company policy by APD personnel. At least a handful of APD personnel have been fired because of abuses carried out against illegal miners in their custody, including at least two in 2010.[141] The company states that "reports are investigated and appropriate action is taken resulting in human resources disciplinary proceedings, terminations and police charges where justified by the evidence….Termination is always the preferred option in cases of assault or human rights abuse, along with escalation to RPNGC [police] and criminal charges, depending on the evidence."[142]
- **Implemented policies regarding the use of force that the company says are "aligned with" the Voluntary Principles.** Barrick says that its procedures draw on the norms

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[137] Letter from Smare, September 7, 2010.

[138] Ibid.

[139] Ibid.

[140] Ibid.

[141] Ibid; Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[142] Letter from Smare, September 7, 2010. In September 2007, APD referred a case to the police involving a security guard who cut a local youth on the leg with a bush knife. Ibid.

explicitly referenced in the Voluntary Principles, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.[143]

- **Has equipped APD personnel with a range of less-lethal weaponry.** Before 2006 APD personnel relied on firearms using live ammunition as a primary mode of force. Barrick has made what senior company officials describe as a "very significant drive to get the munitions types at Porgera morphed into exactly what you'd see in the first world" to the greatest extent possible.[144] Barrick has equipped the APD force with shotguns that can be used to fire less-lethal projectiles (or "soft munitions") as well as live ammunition (or "hard munitions"). The force now employs drag-stabilized beanbag projectiles,[145] batons, hand- and launcher-deployable tear gas and a hand-held pepper spray equivalent.[146] Hard munitions (buckshot) are meant to be employed only as a last resort when there is "an imminent danger of death or serious injury to any person." Barrick asserts that "the vast majority of discharges by PJV security force personnel are 'soft' munitions."[147]

Falling Short

While the measures described above are positive, PJV's efforts have fallen short of what is required by the Voluntary Principles, and have failed to prevent violent abuses by APD personnel or ensure accountability for abuses that do occur. In April 2010, Barrick's country director for Papua New Guinea responded to a question about alleged abuses by APD personnel by saying:

> Illegal miners, in my view, give more abuse to the local communities then they receive. They steal gold, sell it, get drunk and become violent. So if he gets belted up in the course of getting processed through the right channels then that is less serious than the abuse he himself has done.[148]

Such statements hardly accord with the company's policy of taking all alleged abuses seriously. In general, though, the problem has lain not in the company's response to

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[143] Letter from Smare, September 7, 2010.

[144] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[145] Several interviewees spoke of APD personnel shooting them with "rubber bullets." APD does not use rubber bullets and the interviewees were almost certainly referring to beanbag projectiles.

[146] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010; Human Rights Watch interview with current APD security force member (interview #84), (location withheld), May 2010.

[147] Letter from Smare, September 7, 2010.

[148] Human Rights Watch interview with Ila Temu and Anthony Smare, Port Moresby, April 30, 2010.

allegations of abuse by APD personnel but in its failure to detect abuses in the first place through internal channels, coupled with a tendency to regard external sources of allegations as not credible. In Human Rights Watch's view, the company's efforts have fallen woefully short in two key respects:

- **PJV's monitoring mechanisms for APD personnel are inadequate.** PJV senior management initially maintained to Human Rights Watch that they were entirely unaware of *any* alleged incidents of sexual violence abuses involving APD personnel.[149] And a December 2010 letter stated that prior to Human Rights Watch's investigation, "PJV has heard rumors and received general allegations of wrongdoing, and made attempts to investigate them, but the limited information received was insufficient for PJV or the police to conduct meaningful inquiries."[150] This indicates a disastrous failure on the part of the company to ensure that the conduct of APD personnel was adequately monitored.

  The company monitors APD personnel through a variety of means including radio networks, CCTV visual monitoring, and physical site inspections.[151] But not all of these means are available in all of the areas where APD personnel operate.[152] PJV appears to do a good job of monitoring APD personnel in the open pit, stockpile, and underground areas, as well as other central parts of the mine. None of the abuses described in this report took place in those areas. But the company has failed to adequately monitor APD personnel operating on and around the waste dumps, far from the immediate proximity of their supervisors.

- **There is no viable channel that victims of abuse can use to lodge a complaint.** Barrick says that members of the communities around Porgera can approach PJV's Community Affairs section to complain about misconduct by APD guards or other grievances. The fact that no one has used this channel to report any of the abuses described in this report indicates that it does not work. PJV has failed to establish a complaints channel that community members perceived as safe, and failed to adequately inform community members about the channels that did exist.

In the past Barrick has blithely stated that if incidents of sexual violence involving APD personnel did occur, either the victims or international organizations compiling their

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[149] Ibid.

[150] Letter from Barrick, December 23, 2010.

[151] Letter from Smare, September 7, 2010.

[152] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

accounts should refer the matter to the police. This was not only a deplorable abdication of responsibility on the part of the company, but also unrealistic. The police enjoy little public confidence to begin with due to their reputation for violent abuse and incompetence, and many victims fear retaliation since they suffered abuse after being arrested for criminal activity. As discussed in detail above, this is a fear that some abusive APD personnel have effectively played upon to dissuade their victims from reporting abuses to the police.

These are crucial—and inexcusable—omissions. But Barrick does appear to have acknowledged these failures and to be taking serious measures to address them. As the company itself put it, "The fact that these incidents may have occurred, that the PJV's inquiries failed to reveal them, and that women did not raise these incidents with the PJV but openly spoke of them with Human Rights Watch, tells us in clear and unmistakable terms that we have not met the standards and expectations we set for ourselves in this regard."[153]

Barrick's Response to Human Rights Watch's Allegations

Human Rights Watch provided Barrick officials in Porgera and Port Moresby with a general overview of the allegations and concerns described in this report in May 2010. We also attended an eight-hour meeting with senior Barrick officials in September 2010 to discuss these issues. In June 2010, at Barrick's request, we provided a more detailed written summary of the incidents of sexual violence described in this report. As described above, Barrick responded to that information by retaining Ila Geno, a respected former commissioner of police and ombudsman, to look into the allegations.[154] After initial inquiries in communities around Porgera, Geno recommended the police launch a criminal investigation, which they ultimately did.[155] Geno told Human Rights Watch: "I came to a point where there was cause for concern and I advised the commissioner of police very strongly that there should be a police investigation."[156]

Barrick officials agreed to provide logistical and other support to a team of police investigators who then traveled from the capital to carry out the investigation. The company also says that it proactively urged the police to dispatch experienced senior investigators and to ensure that the investigating team included a female officer.[157] In addition, Barrick says that the company's

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[153] Letter from Barrick, December 23, 2010.

[154] Letter from Barrick, December 23, 2010, p. 2.

[155] Human Rights Watch telephone interview with Ila Geno, Port Moresby, September 21, 2010.

[156] Human Rights Watch interview with Ila Geno, Porgera, November 23, 2010.

[157] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

own internal investigation into the allegations saw a team of 15 investigators carry out more than 650 interviews with company employees over the course of several months.[158] "This is being approached in the way that you would approach a major, systematic criminal event," said Barrick's vice-president for security and crisis management.[159]

By November 2010, senior company officials appeared to have reached the point of accepting that there was a pattern of sexual abuse by some APD personnel.[160] The inquiries by Barrick and the police uncovered at least 13 "potential crimes" by APD personnel, apparently separate from the cases investigated by Human Rights Watch.[161] "We've got some bad eggs and we're going to get rid of them," Mac Grace, Barrick's Papua New Guinea security manager, told Human Rights Watch, adding that "processes were in place but some of those processes weren't working."[162]

In January 2011 Barrick fired six employees who PJV mine manager Mark Fischer said were "credibly implicated in criminal activity, are alleged to have misled investigators, or were aware of these alleged crimes and did not come forward."[163] The company provided records of 30 of those interviews to police investigators.[164] The police subsequently arrested three current and former Barrick employees, charging two of them with rape.[165] At the time, the police stated that additional arrests were likely to follow.[166]

Human Rights Watch welcomes the above steps, but emphasizes that investigations should focus on unearthing broader patterns of abuse, as well as ensuring accountability for the incidents described in this report.

Barrick has taken several measures that could make it easier for community members to complain about alleged abuses. These are laid out in detail in the annex to this report. Key

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[158] Letter from Barrick, p. 3.

[159] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[160] Human Rights Watch interview with Mac Grace and Anthony Smare, Porgera, November 22, 2010.

[161] Letter from Barrick, p. 3.

[162] Human Rights Watch interview with Mac Grace and Anthony Smare, Porgera, November 22, 2010.

[163] "Porgera Joint Venture terminates employees after thorough internal investigation: PJV Working in close cooperation with police," Porgera Joint Venture press release, January 17, 2011.

[164] Letter from Barrick, December 23, 2010.

[165] Human Rights Watch telephone interview with Sybil Veenman and Peter Sinclair, January 18, 2011.

[166] "Porgera Joint Venture terminates employees after thorough internal investigation: PJV Working in close cooperation with police," Porgera Joint Venture press release, January 17, 2011; "Police taskforce takes action against violence towards women in Porgera," Royal Papua New Guinea Constabulary Media Release, January 17, 2011.

measures include the following:

- **The company has retained a consultant to examine ways of improving the channels available to community members to complain about alleged abuses.** The consultant was to "review the grievance mechanism and recommend ways to improve and strengthen the current system." The company noted that "issues such as security and anonymity of complainants will be considered as part of this review."[167] This work was slated to take place in early 2011.
- **The company has acknowledged the need for greater public outreach** to improve ties with local communities and, in particular, to explain what conduct is acceptable on the part of PJV employees and how aggrieved community members can complain about misconduct.[168]
- **Barrick has announced plans to create a women's liaison position**. This would be supported by the company but kept at "arm's length" from it in "affiliation" with the Porgera District Women's Association, to serve as a safe and independent point of contact for women in the community. The office would be located in Porgera Station—the town closest to the mine—rather than on the mine site itself, to ensure community members could gain easy access.[169] As of January 2011 PJV had recently filled the position, but its impact remained to be seen.[170]
- **Barrick has hired a prominent anthropologist with experience working in Porgera** to "look at sexual assault and violence against women and focus on understanding these pervasive problems within Porgera society and to report on these matters, including identifying barriers to the reporting of crimes."[171] The company says that it will share research findings and consult with both community members and government authorities on the best way to address these broader issues. [172] The company also hopes to help address "the problem of sexual violence and recourse to justice" through its Restoring Justice program, which aims to support government efforts to improve the capacity of the police and judiciary around Porgera.[173]

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[167] Letter from Smare, September 7, 2010.

[168] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010; Letter from Barrick, December 23, 2010.

[169] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[170] Letter from Barrick, December 23, 2010.

[171] Ibid.

[172] Letter from Smare, September 7, 2010; Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[173] Ibid. For more on the Restoring Justice initiative, see *Restoring Justice: Law and Justice Sector Partnerships in the Papua New Guinea Highlands*. For an overview of Barricks' rationale for the program, see Barrick Gold Corporation, "Barrick in Papua

Barrick says that a project has been underway since early 2009 to "improve security infrastructure and oversight at PJV."[174] In December 2010 the company acknowledged that "The results of the internal investigation have made clear to us that further changes to the security function at Porgera must be undertaken."[175] Barrick has committed itself to several new measures that should strengthen its ability to prevent, monitor, and respond to abuses by APD personnel at Porgera if implemented effectively and in good faith. Those commitments are spelled out in detail in the letter attached as an annex to this report. Key points include the following:

- **Company officials said that they recognize the need to make procedures for investigating the conduct of APD personnel more proactive.** "Our guys do a pretty good job," one senior company official said. "But I don't disagree [with you] that there's a large internal focus to how that is done. We want people completely external to any operation to come in, and not just on a reactive basis. In line with modern methods of law enforcement, we also need people going in proactively and looking for red flags."[176] The annex to this report lists a range of measures the company plans to implement in this regard.[177]
- **As of September 2010, the company says that a review of the supervisory model for APD field operations was underway**. As a temporary measure, Barrick said that PJV assigned expatriate staff normally tasked with training and supervisory duties to accompany APD personnel on field operations, including on the waste dumps. The company has also reduced the range of scenarios where security personnel operate on their own without other officers present.[178] PJV also plans on introducing frequent random field visits by APD supervisors to ensure that personnel in the field cannot predict when supervisors are likely to visit a particular area.[179] The annex to this report lists these and other measures in additional detail.[180]
- **The company says it is installing systems that will allow it to better monitor—and keep records of—the exact whereabouts of on-duty APD personnel at all times.** The system will allow supervisors in a command and control center to see the location of all on-duty APD

New Guinea: A special report on Porgera," *Beyond Borders: Responsible Mining at Barrick Gold Corporation*, September 8, 2010, http://barrickbeyondborders.com/2010/09/barrick-in-papua-new-guinea (accessed October 5, 2010).

[174] Letter from Smare, September 7, 2010; Human Rights Watch interview with Mac Grace and Anthony Smare, Porgera, November 22, 2010.

[175] Letter from Barrick, December 23, 2010.

[176] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[177] Letter from Barrick, December 23, 2010.

[178] Ibid.

[179] Human Rights Watch interview with Mac Grace and Anthony Smare, Porgera, November 22, 2010.

[180] Letter from Barrick, December 23, 2010.

personnel and vehicles at all times. This data will be archived—at the time of writing it is not clear for how long—in part so that supervisors can later use it to help identify APD personnel implicated in any alleged abuses.[181]

- **The company says it will greatly expand a planned network of infrared cameras to not only improve the mine's security but also to allow for better monitoring of APD personnel in the field.** Originally conceived as a security measure to help protect the mine's perimeter, Barrick says the planned network of sophisticated cameras will be expanded to cover as much of the area of the mine's waste dumps as possible. Two of the cameras will be installed at Paiam town and have the ability to survey a large part of the Anawe waste dump; they will be powerful enough to identify the face of a person standing on one of the faraway dumps.[182]
- **Barrick says it will install cameras on all APD vehicles to prevent abuses from taking place inside or near the cars.** The cameras will be located both inside and outside of the cars, ensuring that everything APD personnel do in or near their vehicles will be recorded. The cameras will have both audio and visual recording capability.[183]
- **The company has indicated that it intends to examine ways to improve mechanisms APD personnel can use to safely report misconduct by their colleagues.**[184] The company currently maintains a 24-hour phone hotline that Barrick employees anywhere in the world can use to report misconduct by other company employees.[185] However, Barrick officials acknowledged that this hotline was not conceived as a way to report human rights abuse and that employees have not used it for that purpose.[186] In general APD employees are "encouraged" to report abuses to the Security Manager at the mine site or the Country Security Manager, rather than internally through APD.[187]
- **The company says that it will increase monitoring of APD's on-site detention facility to ensure that detainees are not maltreated.** The company will request frequent police visits to the facility each day in addition to internal monitoring.[188] It also plans to ensure that all female detainees are overseen by at least one female APD staff member.[189]

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[181] Letter from Smare, September 7, 2010; Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[182] Human Rights Watch interview with Mac Grace and Anthony Smare, Porgera, November 22, 2010.

[183] Ibid.

[184] Letter from Smare, September 7, 2010; Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[185] Letter from Smare, September 7, 2010.

[186] Human Rights Watch meeting with senior Barrick officials, Toronto, September 9, 2010.

[187] Letter from Smare, September 7, 2010.

[188] Human Rights Watch interview with Mac Grace and Anthony Smare, Porgera, November 22, 2010.

[189] Letter from Barrick, December 23, 2010.

Barrick also states that it is pursuing "other substantial internal changes outside of security." These include appointing an independent Director to its Board of Directors with expertise in Corporate Social Responsibility and enhancing company human rights compliance programs.[190]

Human Rights Watch welcomes these measures, but at time of writing many had not yet been implemented so their effectiveness was impossible to gauge. Ultimately their value will depend entirely on whether they succeed in preventing serious abuses and in bringing abuses to the company's attention if they do occur.

[190] Ibid.

VII. Health and Environmental Concerns Regarding Riverine Tailings Disposal at Porgera

A ton of ore-bearing rock yields only a tiny amount of gold. The remaining material is processed into tailings, a waste product made up mostly of rock, heavy metals, and trace elements of chemicals like cyanide that are used to extract the gold. PJV produces roughly six million tons of liquid tailings every year; in 2008 the mine generated almost 9.5 tons of tailings for every ounce of gold produced.[191]

PJV discharges its iron-rich tailings into the nearby Porgera River, staining its upper reaches a rusty red color. The Porgera River's water ultimately flows into the Strickland River system, one of Papua New Guinea's longest and most important. Many locals refer to the tailings, and to stretches of the Porgera River itself, as "the red water" and regard it with considerable fear and apprehension.[192]

The long-term environmental and health impacts of PJV's riverine tailings disposal have been hotly debated for many years.[193] Critics fear that the build-up of heavy metals downstream could have unpredictable and potentially dangerous consequences for the environment and human health. Before the mine even opened, PJV's plans to employ riverine tailings disposal were publicly rejected by Papua New Guinea's minister of environment and conservation as "totally unacceptable."[194] But the Papua New Guinea government ultimately approved the plan in spite of those objections.

Barrick maintains that, due partly to unique characteristics of the Porgera River and its surrounding environment, there is no reason to believe the practice of riverine tailings disposal at Porgera has or will have any serious negative health or environmental impacts

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[191] In 2008 the Porgera mine produced 632,000 ounces of gold and 6.05 million tons of tailings. This is in addition to another 12.5 million tons of suspended sediments that enter the river system through the Anawe and Anjolek erodible waste dumps. Porgera Joint Venture, "Information booklet;" Porgera Environmental Advisory Komiti (PEAK), "Strickland River Report Card 2009,"2009, http://www.peakpng.org.pg/docs/Report%20Card%20Oct%2009-Final.pdf (accessed September 16, 2010). For more on the conversion of PJV's creation and disposal of tailings, see IIED, "Mining for the Future," sec 3.1.

[192] Human Rights Watch interviews, Porgera, May 2010. See also Aletta Biersack, "Red River, Green War: The Politics of Place along the Porgera River," in Aletta Biersack and James B. Greenberg, eds., *Reimaging Political Ecology* (Durham: Duke University Press, 2006), noting for example that, "Many consider contact with the river lethal" (p. 234) and that as early as 1992 "[M]any villagers claimed to be 'genuinely afraid that this red water is harmful or poisonous'" (p. 255).

[193] See Jackson and Banks, *In Search of the Serpent's Skin,* pp. 240-270; IIED, "Mining for the Future."

[194] Euralia Pane, "Porgera gold waste plan is rejected," *Papua New Guinea Post Courier*, February 16, 1988, p. 1.

downstream from the mine.[195] "Is there an environmental impact? Sure, you're not going to hear us say there isn't," acknowledged Bill Williams, Barrick's vice-president for the environment. "But it's manageable and it appears to be reversible."[196]

Critics vehemently disagree, arguing that PJV's tailings send potentially harmful heavy metals flowing downstream in quantities that far exceed anything that would be permissible under the water quality standards of developed countries, and that the long-term negative effects of riverine tailings disposal in any given context are difficult and perhaps impossible to accurately predict.[197] The Norwegian government's pension fund excluded Barrick from its investment portfolio in March 2009 on the recommendation of its Council on Ethics, which found that PJV's practice of riverine tailings disposal carried unacceptable risks of harm to human health and "long-term and irreversible environmental damage."[198]

The weight of industry good practice is firmly and clearly against the practice of riverine tailings disposal.[199] In fact, Porgera is one of only three large mines in the world run by international companies that still dispose their tailings into river systems; all three are on the island of Papua.[200]

In July 2010, more than a dozen people went to the hospital in Paiam town suffering from chemical burns. According to the hospital's chief doctor, they said they had been panning

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[195] Barrick cites factors including the speed and high sediment load of the river, its naturally low population of aquatic life, and the absence of large communities that regularly utilize its upper reaches for water or food. Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010; Letter from Smare, September 7, 2010.

[196] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[197] See Mineral Policy Institute, "The Porgera File: Adding to Australia's Legacy of Destruction," December 1995, http://users.nlc.net.au/mpi/reports/porgera_report_print.html (accessed September 7, 2010).

[198] Council on Ethics, The Government Pension Fund—Global, "Recommendation of 14 August 2008," p.25, http://www.regjeringen.no/pages/2146647/Recommendation%20Barrick%20final.pdf (accessed September 7, 2010).

[199] The 2003 final report of the World Bank's Extractive Industries Review stated that "no [World Bank Group]-supported mining project should use riverine tailings disposal," http://irispublic.worldbank.org/85257559006C22E9/All+Documents/85257559006C22E985256FF6006843AB/$File/volume1 english.pdf (accessed January 21, 2011). The International Finance Corporation's Environmental, Health and Safety Guidelines for Mining state that "Riverine [for example, rivers, lakes and lagoons] tailings disposal is not considered good international industry practice." International Finance Corporation, "Environmental, Health and Safety Guidelines for Mining," December 10, 2007, http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/gui_EHSGuidelines2007_Mining/$FILE/Final+-+Mining.pdf (accessed September 7, 2010).

[200] PNG's larger Ok Tedi mine also employs riverine tailings disposal, as well as the Freeport mine on the Indonesian half of the island of Papua. See also International Institute for Environment and Development, *Breaking New Ground: Mining, Minerals and Sustainable Development* (London: Earthscan, 2002), http://www.wbcsd.org/DocRoot/ev8jEJvTiMYd4mJhGGHQ/finalmmsdreport.pdf (accessed September 16, 2010), p. 242, noting that "Riverine disposal is also currently used by many small-scale artisanal miners, by a number of small or medium companies, and at an unknown number of sites in Russia and China."

for gold in the mine's tailing discharge and had been burned by it.[201] Barrick later said it was investigating whether the tailings had not been diluted properly over the course of several days owing to a lack of adequate water during a dry spell.[202]

Box 6: The Ok Tedi Disaster

Papua New Guinea has a painful history with riverine tailings disposal gone awry. The country's enormous Ok Tedi copper mine also employs the practice. In 1999 that project sparked an international scandal when data revealed that tailings had overflowed river banks downstream, destroying gardens and killing large swathes of vegetation. BHP Billiton, the company that owned and operated the mine at the time, pulled out in 1999. Then-Managing Director and Chief Executive Paul Anderson publicly stated that the mine was "not compatible with our environmental values and the company should never have become involved."[203] BHP Billiton has since publicly committed not to become involved in any project that employs riverine tailings disposal.[204]

PJV has also drawn fire for the way it measures compliance with water quality standards. The company asserts that levels of dissolved metals downstream from the mine are consistently within the range that Papua New Guinean law prescribes.[205] But the company measures this at a "compliance point" that is 165 kilometers downstream from the mine. By this point the mine's tailings have been considerably diluted; more than two-thirds of the river's flow at the compliance point comes from sources untouched by PJV's operations.[206]

Barrick maintains that the 165 km between the tailings discharge point and the compliance point constitute a "mixing zone," a defined area around an effluent discharge point where water quality standards do not apply. Mixing zones are standard practice in the mining industry but they generally constitute much smaller areas, sometimes measured in square meters rather than kilometers. The Norwegian government Council on Ethics, recommending that the pension fund divest itself of Barrick stock due to the risk of severe environmental harm at Porgera, stated that, "In the council's opinion, Porgera's mixing zone does not

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[201] Human Rights Watch interview with Dr. Moises Granada, Porgera, November 2010.

[202] Human Rights Watch interview with Senior Barrick officials, Toronto, September 9, 2010.

[203] Bob Burton, "BHP admits Ok Tedi mine is environmental disaster," *Asia Times*, August 13, 1999, http://www.atimes.com/oceania/AH13Ah01.html (accessed September 17, 2010).

[204] BHP Billiton, "Resourcing the Future: Our Sustainability Framework," May 2010, http://www.bhpbilliton.com/bbContentRepository/docs/ourSustainabilityFramework.pdf (accessed September 17, 2010), p. 5.

[205] Barrick Gold, "Porgera Mine Responsibility Report," Fall 2009, http://www.barrick.com/Theme/Barrick/files/docs_performance/2009-Fall-Porgera-Responsibility-Report.pdf (accessed September 16, 2010), p. 2.

[206] PEAK, "Strickland River Report Card."

constitute a mixing zone in the internationally accepted sense of the term."[207]

Barrick defends the size of its mixing zone as legitimate and says that the Papua New Guinea government set the compliance point, not PJV. At the same time, the company acknowledges that the current mixing zone is a "large area" and says that it may relocate the compliance point further upstream, but only if it is certain the mine will remain within acceptable water quality standards if it does so.[208]

This report does not seek to evaluate the likely impact of PJV's riverine tailings disposal on human health or the environment. But concerns about the practice are certainly legitimate, and Barrick has displayed a troubling lack of transparency in addressing those concerns that it should immediately remedy. Recently, the company has expressed some willingness to do just that, agreeing to make public its environmental reports to the government. If honored, this commitment will make it more feasible for independent experts to evaluate the likely health and environmental impacts of tailings disposal at Porgera.

Transparency Concerns

In recommending that Norway's pension fund divest itself of all Barrick stock, the fund's Council of Ethics cited among other things a "lack of openness and transparency in the company's environmental reporting."[209] In Human Rights Watch's view, that criticism was directly on the mark.

Until September 2010, Barrick consistently refused to make public key data that could allow for independent assessment of its claims regarding the likely impacts of riverine tailings disposal at Porgera especially its periodic environmental reports to the Papua New Guinea government. Alternative independent sources of data do not exist.

PJV has facilitated the production of a "Strickland River Report Card" by the Porgera Environmental Advisory Komiti (PEAK), a nominally independent body, entirely funded by Barrick, mandated to monitor the environmental impact of PJV's operations. The report card contains basic data about overall levels of heavy metals at various points along the river. This is a first step in the direction of greater transparency—the first and so far only report

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[207] Council on Ethics, The Government Pension Fund—Global, "Recommendation of 14 August 2008, p. 13.

[208] Letter from Smare, September 7, 2010; Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[209] Council on Ethics, The Government Pension Fund—Global, "Recommendation of 14 August 2008, p. 25.

card was produced in 2009—but it is only a brochure, with color-coded graphics distilled from the hard data in the company's environmental reports.[210]

Barrick monitors potential health and environmental impacts downstream from the mine. The company has commissioned a Health Risk Assessment by an outside consultant that should be completed in early 2011, which it has agreed to make available to Human Rights Watch. It is also undertaking a new study of mercury levels downstream from the mine, which should be completed in late 2012 or early 2013.[211]

In September 2010, Barrick agreed to provide Human Rights Watch with a copy of PJV's 2009 environmental report once it has undergone peer review, and to provide a copy of the 2010 report when it is completed as well.[212] At the time of publication the company said that neither document had yet been finalized. Company officials also said that they were in the early stages of developing an initiative to regularly publish a broad range of environmental data relating to all of Barrick's operations, probably on the internet.[213] Human Rights Watch welcomes all of these commitments as important steps in the direction of meaningful transparency around the Porgera mine's possible environmental and health impacts.

Barrick has also not been transparent about its basis for another key assertion, its claim that in the case of the Porgera mine there is no viable alternative to riverine tailings disposal. PJV has long argued that tailings dams (permanent structures that store and isolate mine tailings) are too dangerous to use around Porgera because of high seismicity, frequent landslides, illegal miners, and other factors.[214] It is true that safe construction and maintenance of on-land tailings retention facilities in Papua New Guinea is both technically daunting and expensive.[215] But it is not clear whether it is true that no safer methods of riverine tailings disposal are feasible at Porgera.

Barrick commissioned a US$5 million study in 2006 to examine potential alternatives to riverine tailings discharge—including construction of a large tailings storage facility—and

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[210] PEAK, "Strickland River Report Card."

[211] Letter from Smare, September 7, 2010.

[212] Ibid.

[213] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

[214] PJV's 1988 environmental plan—produced before the mine was built—asserted that "retention of Porgera tailing in permanently secure impoundments is impossible" and recommended riverine discharge. Porgera Joint Venture, "Porgera Gold Project Environmental Plan," Volume B, January 1988, pp. 23-24.

[215] See, for example, Len Murray and Mark Thompson, "Obstacles to On-Land Mine Tailings Disposal in Papua New Guinea," Klohn Crippen Berger, http://www.infomine.com/publications/docs/Murray.pdf (accessed September 10, 2010), p. 18.

says that the study's findings indicated that "[Tailings storage facility] engineering had not advanced sufficiently since the mine was originally permitted to address these significant risk factors and that the operation should not be reconfigured."[216] But Barrick has refused to make the study itself public; Human Rights Watch urges it to do so in order to make independent evaluation of its claims possible.[217] The company asserts that cost has not been "the principal factor in determining tailings options at Porgera," but it is not clear exactly what that means, or how much of a factor cost actually constituted.[218]

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[216] Letter from Smare, September 7, 2010.

[217] Barrick declined to provide Human Rights Watch with a copy of the study on the grounds that it was "prepared for internal purposes only" and is "considered proprietary and commercial-in-confidence."Letter from Smare, September 7, 2010.

[218] Letter from Smare, September 7, 2010. When Human Rights Watch visited Porgera in May 2010 PJV was in the process of constructing a tailings paste production plant at an estimated cost of $42 million. Paste is easier to dispose of safely than liquid tailings in difficult environments like Porgera, but the process can be very expensive. The PJV paste plant, scheduled to be functioning at the end of 2010, aims to convert "up to ten percent" of the mine's tailings into paste that will be mixed with cement and used to fill up unused portions of the mine's underground operations. Letter from Smare, September 7, 2010. PJV asserts that it cannot convert more tailings into paste than this because it has nowhere to store it. Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

VIII. Mercury Use by Small-Scale and Illegal Miners

Small-scale and illegal miners around Porgera routinely employ an extremely dangerous method of extracting gold from ore-bearing rock using mercury. This exposes them, their families, and the communities around them to a very high risk of mercury poisoning. [219]

The method small-scale miners around Porgera usually employ to process ore-bearing rock is to crush it into a dust, wash as many undesirable rock particles out of the dust as possible, and then pour mercury into the remaining material. The mercury binds to any gold present in that material, creating a gold-mercury amalgam that excludes everything else. Miners then cook this amalgam over an open flame, causing the mercury to turn into vapor and escape into the air. [220] The miners are left with pure gold, which they can sell on the open market.

This is an extremely dangerous practice that can damage the brain, central nervous system, kidneys, and lungs, as well as lead to psychiatric problems including wild mood swings and loss of memory and concentration.[221] Unborn fetuses and children can suffer developmental problems if exposed to mercury.[222] The chief doctor at Paiam hospital said that although his institution lacks the equipment necessary to test for mercury poisoning, they regularly diagnosed cases of mercury poisoning from the severe symptoms of many illegal miners. He said that many patients resembled "zombies" by the time they reached the hospital and added that, "some will recover, some will not."[223]

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[219] See, for example, Cathy Reto, "Possible mercury poisoning in alluvial gold miners in the Porgera valley, Papua New Guinea," *Journal of Rural and Remote Environmental Health*, vol. 1 (2002), p. 10, asserting that "Silent mercury poisoning among alluvial miners in the Porgera Valley, which is yet to be addressed, is causing more immediate serious human health effects than environmental degradation."

[220] Human Rights Watch interviews with illegal miners, Porgera, May 2010. See also Reto, "Possible mercury poisoning in alluvial gold miners," p. 10.

[221] See US Environmental Protection Agency (US EPA), "Mercury Report to Congress Office of Air Quality and Standards," vol. 5 (Washington, DC: US Environmental Protection Agency, 1997), http://www.epa.gov/ttnatw01/112nmerc/volume5.pdf (accessed October 12, 2010); US EPA, "Mercury Report to Congress Office of Air Quality and Standards," vol. 7, http://www.epa.gov/ttnatw01/112nmerc/volume7.pdf (accessed October 12, 2010); US Agency for Toxic Substances and Disease Registry (ATSDR), *Toxicological Profile for Mercury*, (Atlanta: ATSDR, 1999), pp. 29-161, http://www.atsdr.cdc.gov/toxprofiles/tp46.pdf (accessed October 12, 2010). For a brief and easily accessible summary of mercury's known effects on human health, see ATSDR, *ToxFAQs: Mercury,* April 1999, http://www.atsdr.cdc.gov/tfacts46.pdf (accessed October 12, 2010).

[222] See B.J. Koos and L.D. Longo, "Mercury toxicity in the pregnant woman, fetus, and newborn infant," *American Journal of Obstetrics and Gynecology,* 126(3), Oct 1, 1976; pp. 390-40; ATSDR, *Toxicological Profile for Mercury,* http://www.atsdr.cdc.gov/toxprofiles/tp46.pdf (accessed January 21, 2011), pp. 301-310.

[223] Human Rights Watch interview with Dr. Moises Granada, Paiam, November 2010.

Making matters worse, around Porgera this dangerous method of separating mercury from gold is often carried out inside people's homes, in some cases using the same utensils families use to prepare food. Human Rights Watch's researcher observed this taking place in several communities all around Porgera.

The widespread use of these dangerous practices is primarily due to two factors. First, there is widespread ignorance regarding the dire health consequences of current methods of mercury use and the availability of safer alternatives. Many illegal miners interviewed by Human Rights Watch said they had heard that mercury could be dangerous but believed they had been working with the substance for so long they were no immune to any negative effect it might normally have. Most interviewees were not aware of safer methods of cooking their amalgam, such as using simple retorts that trap mercury vapor and condense it back into liquid so that it is not inhaled, or else declined to use such methods because they believed that they yielded less gold.[224]

A second problem is that many people are loath to work with gold outside their homes because they do not want their neighbors to know how much they have. Having broken the law to obtain gold-bearing rock from PJV property in the first place, many illegal miners also do not want police or APD personnel to see them working with gold.[225]

Shops in Porgera station sell vials of mercury openly. It is not clear that banning the sale of mercury is feasible given the overall lack of law and order in the area, and in any case, many local people depend on small-scale mining to feed their families. But even if Porgera's mercury problem has no easy or straightforward solution, clear first steps must be taken as a matter of urgency:

- **The Papua New Guinea government or an independent organization should carry out a public health survey of communities around Porgera.** The survey would seek to determine the extent of exposure to dangerous levels of mercury and identify an appropriate response. The government should also make funds available to outfit Paiam

[224] Human Rights Watch interviews with illegal miners, Porgera, May 2010. For a discussion of the difficulties encountered by efforts to persuade small-scale and illegal miners in Ghana to use retorts, which raises many issues that are mirrored in the context of Porgera, see Gavin Hilson, Christopher J. Hilson, and Sandra Pardie, "Improving awareness of mercury pollution in small-scale gold mining communities: challenges and ways forward in rural Ghana," *Environmental Research*, no. 103 (2007), pp. 275-287.

[225] Human Rights Watch interviews with illegal miners, Porgera, May 2010. See also Reto, "Possible mercury poisoning in alluvial miners," p. 11, describing the case of a PJV employee who got chronic mercury poisoning from cooking amalgam inside his house, which he said he did because he was stealing the gold from PJV and did not want to be caught.

hospital with the equipment and staff it needs to screen for cases of mercury poisoning. The hospital presently lacks the equipment needed to conduct such tests.

- **The Papua New Guinea government should embark upon an intensive public education campaign around Porgera regarding the dangers of mercury use and the availability of relatively safe techniques such as use of retorts**. If the government is unable to do this, it should identify partner organizations that are willing and able to do so. The Papua New Guinea government reportedly possesses educational materials designed for this purpose but has not put them to recent use around Porgera.[226]

[226] Human Rights Watch interviews with Barrick officials, Port Moresby, May 2010.

IX. The Need for Canadian Government Regulation

Canada is arguably the mining industry's most important global hub. The country is a leading producer of several key minerals and home to many of the world's largest multinational mining companies.[227] But no Canadian law provides a mechanism to allow Canadian authorities to exercise meaningful scrutiny and oversight of the human rights impact and compliance of Canadian extractive companies operating overseas. On these issues, Canadian companies operating overseas generally only have to comply with the laws and regulations of the countries in which they work. This often means the bar is set far too low.

Since gaining independence in 1975, Papua New Guinea has struggled—and largely failed—to build functional institutions of governance. The government is continually mired in allegations of corruption and mismanagement, while key public institutions such as the police have grown consistently more dysfunctional and abusive over time.[228]

The Papua New Guinean government also has a long track record of failing to adequately regulate the operations of foreign extractives companies, whose operations dominate the national economy. For instance in the timber industry political power and corruption have long combined to ensure the country's environmental laws are ignored and rural communities are exposed to abuse.[229] Rather than address legitimate concerns around these issues, the government has increasingly focused on quashing objections that might stand in the way of new extractive projects.

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[227] The country is a leading producer of uranium, potash, nickel, cobalt, aluminum, and platinum. Mining Association of Canada, "Facts and Figures 2009: a report on the state of the Canadian mining industry," http://www.mining.ca/www/media_lib/MAC_Documents/Publications/2009/2009_F_and_F_English.pdf (accessed September 17, 2010), p. 67. The country is home to a range of international mining giants and, according to the Mining Association of Canada, some 60 percent of the world's exploration companies. Over 1400 Canadian and international companies are listed on the Toronto Stock Exchange and roughly half the projects of listed companies are outside of Canada. Mining Association of Canada, "The Canadian Mining Industry: Overview, Issues and the Way Forward," April 2010, http://www.mining.ca/www/media_lib/MAC_Documents/Presentations/2010/04_12_10_Expomin_2010eng1.pdf (accessed September 17, 2010), p. 6.

[228] See The Commission of Inquiry Generally into the Ministry of Finance, "Final Report," October 29, 2009; Rowan Callick, "$300 million pillaged in Papua New Guinea graft," *The Australian,* April 30, 2010, http://masalai.wordpress.com/2010/04/30/300-million-pillaged-in-papua-new-guinea-graft/ (accessed September 17, 2010); Jonathan Tannos, "Billions of kina being pocketed," *Papua New Guinea Post-Courier*, March 30, 2010; Bill Reilly, "The Africanisation of the South Pacific," *Australian Journal of International Affairs,* vol. 54, no. 3 (2000), pp. 261-268; National Research Institute, "Papua New Guinea's Development Performance: 1975-2008," September 2010, pp. 141-159; Human Rights Watch, *Making Their Own Rules;* Human Rights Watch, *Still Making Their Own Rules*.

[229] The Centre for Environmental Law and Community Rights, "Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large Scale Logging Industry," August 2006, http://www.illegal-logging.info/uploads/ACF_PNG_Full_Report.pdf (accessed September 7, 2010).

In March 2010 people living near the Chinese-owned Ramu nickel mine filed a lawsuit challenging the legality of the project's plans to construct a pipeline that would deposit mine tailings in the ocean. The plaintiffs won a temporary injunction halting construction of the pipeline.[230] Parliament responded by passing amendments to the country's Environment Act that would strip citizens of their right to challenge the legality of large, government-sanctioned extractives projects in court.[231] The move triggered widespread public outrage and as of September 2010 the changes had not yet been signed into law.

Box 7: No Oversight of APD in Porgera

The PNG government's failure to establish any coherent mechanisms of oversight for private security forces like the APD force in Porgera is emblematic of its broader shortcomings. To the extent that there is any government oversight of the APD force, it rests with police officials in the faraway capital of Port Moresby. In practice this means that there is no meaningful, regular government oversight of the APD force at all.

The police station commander in Paiam town has no oversight role over the force. Asked whether his officers could investigate allegations of abuse or criminality by APD personnel, he replied, "They would not allow us permission to enter the premises…. The company paid for it. They have the right to protect their property. I will never enter the company premises without their permission."[232]

Ila Geno, the respected former commissioner of police and ombudsman whom Barrick retained to monitor the conduct of mobile police squads deployed around Porgera, told Human Rights Watch that in his view the theoretical oversight of the APD force by police officials in the capital was "impracticable and very loose." He advocated that the police give the station commander in Paiam town more responsibility for oversight of the APD force, but he also said that such a move would be useless or worse unless the token police presence in Paiam was bolstered with the capacity it would need to do the job correctly. [233] Barrick officials told Human Rights Watch that the PNG government is working on legislation that would install mechanisms to oversee private security forces in the country, and that the company views that effort as positive.[234]

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[230] See Liam Fox, "Court scuppers miner's waste pipeline," *Australian Broadcasting Corporation News*, March 22, 2010, http://www.abc.net.au/news/stories/2010/03/22/2852734.htm?section=world (accessed September 17, 2010). Deep Sea Tailings Disposal is a controversial practice whose likely environmental impacts are fiercely debated. See Mining Watch Canada, "Submarine/Subaqueous Tailings Disposal," http://www.miningwatch.ca/en/home/issue/submarinesubaqueous-tailings-disposal (accessed September 17, 2010).

[231] Environment (Amendment) Bill (2010), http://actnowpng.org/sites/default/files/Amend%20Enivrn%20Act-1.pdf (accessed September 17, 2010).

[232] Human Rights Watch interview with Senior Seargent Itapu Poko, Paiam town, May 10, 2010.

[233] Human Rights Watch interview with Ila Geno, Port Moresby, April 30, 2010.

[234] Human Rights Watch interview with senior Barrick officials, Toronto, September 9, 2010.

The lack of meaningful government regulation and oversight in countries like PNG creates a void that could be filled by sensible regulation by multinational companies' home governments. Canada's parliament recently considered and disappointingly rejected a bill that could have been a good first step in that direction.

Bill C-300: A Missed Opportunity

Human Rights Watch believes that mandatory rules by companies' home governments obliging them to respect human rights are an essential safeguard that most governments have yet to implement. Although voluntary initiatives like the Voluntary Principles on Security and Human Rights are supported by governments and some key industry players, they are not mandatory rules and compliance with them is limited.

In Canada, an opportunity for progress was lost in October 2010 when the House of Commons narrowly rejected a modest bill called C-300 that would have obliged the Canadian government to monitor whether Canadian oil, mining, and gas companies complied with basic human rights and environmental standards in their overseas operations.[235] While the bill included no criminal penalties, companies that refused to comply with its guidelines would have faced public government investigations and the loss of some limited forms of government financing and consular support. [236]

Many companies, including Barrick, claim they already adhere to many of the standards incorporated into C-300. But the mining industry lobbied heavily against the bill, and Barrick vocally opposed its passage.[237] Some industry representatives indulged in fanciful scare tactics about the bill's supposed potential to eviscerate the country's mining industry.[238]

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[235] The bill was a private member's bill introduced by John McKay, a Liberal MP representing Toronto's Scarborough-Guildwood constituency.

[236] The standards that would be incorporated into the guidelines are: several sources of IFC standards on social, environmental, and health issues; the Voluntary Principles on Security and Human Rights; and "human rights provisions that ensure corporations operate in a manner that is consistent with international human rights standards."Bill C-300, An Act respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries, February 2009, sec 5(2), http://www2.parl.gc.ca/HousePublications/Publication.aspx?Docid=3658424&file=4 (accessed September 17, 2010).

[237] See Mining Association of Canada, "Briefing Note: November 2009," http://www.mining.ca/www/media_lib/MAC_Documents/Briefs/2009/11242009_Final_C300_Briefing_Note.pdf (accessed September 17, 2010); Peter Munk, Barrick Gold Chairman, "Lack of Support for Mining Bill," letter to the editor, *Toronto Star*, October 31, 2010, http://www.thestar.com/opinion/letters/article/883400--lack-of-support-for-mining-bill (accessed January 21, 2011).

[238] For instance, the Mining Association of Canada has argued that C-300 would "restrict access to credit for Canadian companies, effectively forcing them out of the market" and that "under C-300, the void left by Canadian companies is more likely to be filled by other international players with little regard for [Corporate Social Responsibility]." Mining Association of Canada, "Briefing Note: November 2009," http://www.mining.ca/www/media_lib/MAC_Documents/Briefs/2009/11242009_Final_C300_Briefing_Note.pdf (accessed September 17, 2010).

Conservative members of parliament opposed the bill, and C-300's prospects also suffered because of the ambiguous position taken by Liberal MP Michael Ignatieff, who leads the opposition.[239]

Canadian oil, mining, and gas companies should have welcomed C-300 rather than treat it as a potential catastrophe. By setting clear standards based on international norms that many Canadian companies already claim to respect, the bill could have saved companies the laborious and complicated task of developing those rules on their own.

Canada's government must now go back to the drawing board. In theory, a consensus already exists as to what the Canadian policy on these issues ought to look like. A 2007 roundtable process that included representatives of both industry and civil society arrived at a series of recommendations about the way forward. Those recommendations should all be adopted. The roundtable participants recommended, among other things, the creation of an independent ombudsman office to examine complaints against Canadian companies and sanctions for non-compliant companies similar to those set down in C-300.[240]

In human rights terms, the recommendations of the roundtable advisory group are modest, but they represent a good place to start. Unfortunately though, the "consensus" that appeared to have emerged from the roundtable process may be an illusion. The government of Prime Minister Stephen Harper has done little to implement the roundtable recommendations, and in particular, has not created the ombudsman position. Instead, the government created a corporate social responsibility counselor that has been widely criticized as ineffectual. Moreover, the fact that industry representatives treated provisions of C-300 that were largely based on the roundtable report as anathema has reinforced many analysts' fears that the industry now intends to undermine the consensus it helped forge.

The only way to clarify this murky picture is for both of Canada's major political parties to spell out in detail where they stand on implementing the roundtable recommendations, and what they think a government-led framework to oversee the human rights records of oil, mining, and gas companies should look like. As of late 2010, neither the Liberal nor the Conservative party had done this.

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[239] See Chris Albin-Lackey and James Ron, "Ignatieff has some explaining to do," *Ottawa Citizen*, November 4, 2010, http://www.ottawacitizen.com/story_print.html?id=3775950&sponsor= (accessed November 8, 2010).

[240] National Roundtables on Corporate Social Responsibility (CSR) and the Canadian Extractive Industry in Developing Countries, "Advisory Group Report," March 29, 2007, http://www.pdac.ca/pdac/misc/pdf/070329-advisory-group-report-eng.pdf (accessed January 21, 2011).

X. Acknowledgements

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Human Rights Watch thanks all of the organizations and individuals interviewed in Papua New Guinea for this report for their invaluable assistance and insight.

Annex: Barrick's Response to Human Rights Watch

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Dear Chris:

Barrick Gold Corporation ("Barrick") and the Porgera Joint Venture ("PJV") welcome the opportunity to provide Human Rights Watch with updated information in relation to the Porgera mine site in Papua New Guinea, operated by the PJV.

Background

Over the past six months, Barrick, the PJV and Human Rights Watch have had multiple meetings in Toronto, Washington, D.C., and Papua New Guinea, held many conversations, and engaged in numerous email exchanges about a range of important topics in connection with Porgera. Those topics have included the security function, allegations of violence against women by mine personnel, grievance mechanisms at the mine site, the problems caused by illegal miners in the area, and environmental matters. In addition to providing detailed responses to the 31 questions posed by Human Rights Watch in its letter of July 30, 2010, we have also provided Human Rights Watch with access to Barrick and PJV personnel and the Porgera mine site. The dialogue has been open, frank and highly constructive, and we have appreciated the productive thoughts and advice Human Rights Watch has provided. We look forward to continuing this dialogue going forward.

As Human Rights Watch no doubt has come to learn, Porgera's operating environment is highly complex. The Highlands of Papua New Guinea (a broader area within which the Porgera Mine is located) are subject to violent crime, caused by inter-clan conflicts, illegal liquor distribution, and other challenging social issues. It is an area in which the Government faces significant challenges in maintaining law and order. Further, as U.S. Secretary of State Hillary Clinton recently noted, violence against women is prevalent throughout Papua New Guinea.[1]

[1] For more information see US Secretary of State Hillary Clinton's remarks of November 3, 2010 at a Women's Empowerment Event at the Parliament House in Port Moresby, Papua New Guinea (http://www.state.gov/secretary/rm/2010/11/150343.htm).

The PJV and its employees, many of whom live in the community, obviously are impacted by the causes and effects of those social ills. The PJV strongly desires to build the type of effective stakeholder partnerships that can help build local institutions which can provide a safe and prosperous environment for all in the Porgera Valley. In light of that, the PJV is committed to engaging in meaningful partnerships with the government and all stakeholders, to help ensure that law and order and the rule of law are upheld, and to maintain its responsibility to the larger community. The PJV recognizes that this commitment means it must be especially vigilant in ensuring that it meets the high standards and expectations it sets for itself.

Immediate Action: Police and Company Investigations

It is in that vein that we particularly appreciate the manner in which Human Rights Watch has engaged with us. In the past, the PJV has heard rumors and received general allegations of wrongdoing, and made attempts to investigate them, but the limited information received was insufficient for PJV or the police to conduct meaningful inquiries.

In May 2010, Human Rights Watch advised us generally of its concerns regarding criminal activities by PJV security personnel against local women, and on June 28, 2010, in response to our request provided a letter identifying specific allegations.

The information that Human Rights Watch provided was deeply disturbing and Barrick and the PJV were outraged that PJV personnel may have been involved. Quite simply, sexual assaults are not and will not be tolerated by Barrick or the PJV. The fact that these incidents may have occurred, that the PJV's inquiries failed to reveal them, and that women did not raise these incidents with the PJV but openly spoke of them with Human Rights Watch, tells us in clear and unmistakable terms that we have not met the standards and expectations we set for ourselves in this regard.

Following the May communication, the PJV brought in a leading female member of the Porgera community to conduct inquiries of local women. Within days of receiving the June 28 letter, the PJV undertook several additional actions. Representatives of the PJV met with the police to encourage an investigation, and pledge the PJV's assistance and support to try to bring to justice any PJV employee whom local law enforcement believes violated the law. The police have deployed experienced investigators to Porgera in furtherance of that investigation, and the PJV has provided requested support to them. That investigation is ongoing as of this date.

The PJV also invited Ila Geno, the highly respected former Ombudsman for Papua New Guinea and former Police Commissioner, to conduct an independent inquiry into alleged violence against women – including the allegations contained in the June 28 letter – and report his findings directly to the police. Consistent with his engagement, Mr. Geno, together with the leading female community member the PJV brought in, conducted numerous interviews of alleged victims and others. They both have since participated in multiple conversations with Papua New Guinea law enforcement authorities based on their inquiries (although we understand they may not have spoken to all of the alleged victims Human Rights Watch has identified). Mr. Geno also communicated with the then Police Commissioner and recommended that a criminal investigation into the allegations be commissioned and the leading female community member is now assisting the police in their efforts. We understand

that much of this may already be known to you as Human Rights Watch had the opportunity to meet in private with Mr. Geno in late November when a group from Human Rights Watch was in the Porgera area.

Company Investigation Results and Assistance for Police Investigation

Also within days of receiving the June 28 letter, Barrick commissioned outside legal counsel to oversee a thorough independent internal investigation (see Appendix A for more detail). This investigative team was comprised of over 15 independent members and interviewed more than 650 company employees over several months.

Although most employees were unaware of criminal activities, the internal investigation revealed allegations involving 13 incidents concerning potential crimes extending back more than four years and implicating nine security personnel. More than 30 records of interviews were provided to the police, who now are actively conducting an investigation with the PJV's support and cooperation. Since turning over the records of interviews, the PJV has received further inquiries from the police for certain additional information to assist in the investigation and the PJV continues to cooperate with the Police in providing all such requested information.

Internally, the PJV is taking a zero tolerance policy regarding these incidents – it has terminated or will terminate employees who have been credibly implicated in criminal activity, employees who misled investigators asking about these or related issues, and employees who were aware of these alleged crimes when they occurred and did not come forward. Following that approach, the PJV intends to terminate a number of security personnel due to either apparent involvement in a crime, misleading investigators, not coming forward with information, and/or other breaches of company policy. In addition, 8 members of the security unit who were directly implicated had previously been terminated for violating company policies. Additional terminations and other disciplinary actions may occur pending the results of police investigations. All remaining security personnel will receive renewed training in human rights and regarding the company's discipline policy, investigations policy, and other related matters.

Improving the Security Function

The results of the internal investigation have made clear to us that further changes to the security function at Porgera must be undertaken. While the PJV has been reforming its security function over the past two years, it now is further reviewing all aspects of the provision of security on site. This review includes the personnel it employs, their supervision and training, internal reporting mechanisms, applicable policies and procedures, available technology, how investigations are conducted, the physical security environment and interactions with public security forces. It is making many immediate changes – including certain of the actions detailed in Appendix B – and as of this date is assessing still others.

Committed to Protecting Human Rights

Although Barrick and the PJV have clear, well-established Codes of Conduct that apply to every employee, Barrick and the PJV also are pursuing other substantial internal changes outside of

security. Barrick recently announced that it plans to appoint an independent Director to its Board of Directors with experience in corporate social responsibility (CSR). Barrick also intends to establish a CSR advisory board to provide advice and guidance to the company on challenging social and environmental issues and encourage further innovation and leadership in CSR. Further, with the assistance of human rights and legal experts, Barrick and the PJV are substantially enhancing their human rights compliance programs to deter, detect, investigate and remediate potential human rights abuses by employees and third-party service providers. That structure will include formal human rights policies and procedures, trainings, audits and assessments, internal and external reporting mechanisms, certifications, and other compliance elements. In addition, as Human Rights Watch knows, in the past few months Barrick was admitted to the Voluntary Principles on Security and Human Rights, and it looks forward to formally engaging with participating governments, civil society, and other extractive companies through this process in seeking further ways to improve security and human rights at all of its locations.

Combating Violence Against Women

The PJV also is actively seeking to work with the community to improve reporting systems to make sure that people who are victims of crimes, have information about crimes, or have other complaints feel comfortable coming forward. The PJV is taking concrete steps in this regard, including working with experts to improve the existing mechanisms that allow such concerns to be effectively raised by all individuals with information of wrongdoing or other grievances, whether or not the underlying incident may relate in some way to the PJV.

The PJV further is continuing its efforts to better understand and directly combat the complex issues associated with sexual assault and violence against women within the Porgera Valley. To this end, the PJV is funding an independent Women's Welfare Liaison Officer, in affiliation with the Porgera District Women's Association (PDWA), to support victims of sexual assault and domestic violence. The PDWA has now hired an individual for this new position and she has recently commenced working. The PJV is also exploring partnership opportunities with non-governmental organizations dealing with the issue of violence against women and is considering other opportunities that may exist to support and/or create local resources that can assist victims of sexual assault and other violent crimes, help educate the community on violence against women, and otherwise work to benefit women in the area.

The PJV also has engaged an external researcher with expertise in PNG/Porgera cultural issues to look at sexual assault and violence against women and focus on understanding these pervasive problems within Porgera society and to report on these matters, including indentifying barriers to the reporting of crimes. The PJV also will continue to be a partner in the Restoring Justice Initiative. This is a multi-stakeholder initiative in the Porgera region to strengthen law and order and build the capacity of the justice system, which will assist in addressing the problem of violence against women. The PJV is actively examining other aspects of its community programs, and seeking to make effective changes.

Conclusion

For several years, Barrick and the PJV have been undertaking some of these programmatic changes, while pursuing an expanded role of assisting communities within the Porgera Valley to achieve social progress. The engagement with Human Rights Watch has helped make clear the need to expedite and enhance our efforts, and to further consider means of addressing the underlying causes of the problems that have been identified. For that reason, we greatly appreciate the work Human Rights Watch has done in the Porgera Valley. We look forward to continuing to engage with Human Rights Watch, to implementing numerous improvements which we have already discussed, and working together to ensure that the PJV meets and exceeds the high standards expected of us, and which we expect of ourselves.

Yours sincerely,

Vice-President

Corporate Social Responsibility

Encl.

BARRICK

Appendix A to Letter of December 23, 2010 to Human Rights Watch

External investigators were engaged by outside legal counsel on behalf of Barrick Gold Corporation on July 12, 2010 to conduct a review and provide recommendations regarding certain security-related issues in or around the Porgera mine site in Papua New Guinea following allegations by Human Rights Watch and receipt of certain other information. Key actions taken included:

- Two visits to the Porgera Mine covering over 50 days.
- Over 15 personnel involved, including a team leader and six investigators.
- 482 of 486 Security personnel interviewed (over 99%).
    - The four persons not interviewed were either on sick leave or extended leave.
- 177 of 190 Community Relations personnel interviewed (over 93%).
    - There were 13 people not interviewed due to maternity leave, sick leave or operational commitments in remote areas where they were unreachable by investigators.
- 36 second round interviews conducted with previously interviewed personnel.
- The interview revealed allegations involving 13 incidents concerning potential crimes extending back more than four year and implicating 9 security personnel, 8 of which had previously been terminated for violating company policies.
- The company is taking a zero tolerance policy regarding these incidents. It has terminated or will terminate (1) employees who have been credibly implicated in criminal activity, (2) employees who misled investigators asking about these or related issues, and (3) employees who were aware of these crimes when they occurred and did not come forward. In addition to the 8 former security personnel already terminated, further security personnel are planned to be terminated and additional terminations and other disciplinary actions may occur pending the results of police investigations. These security personnel have been or will be terminated due to involvement in criminal activities, misleading investigators, not coming forward with information, and/or other breaches of company policy. All remaining security personnel will receive renewed training in human rights and regarding the company's discipline policy, investigations policy, and other related matters.
- Statements of 30 witnesses during the investigation have been turned over to the Royal Papua New Guinea Constabulary for potential investigation. The company has agreed to provide the police with assistance and support for those investigations.

Appendix B to the Letter of December 23, 2010 to Human Rights Watch

1. Operational/logistical changes implemented or to be implemented within the PJV Asset Protection Department (APD):

    - Introduce security personnel monitoring systems via individually assigned radios to all security personnel allowing real time tracking of locations and actions of security personnel and logging of data for future investigation, if required;
    - Review of security personnel shift pattern to mix the compositions of patrols;
    - Develop phased approach for ensuring a secure perimeter of pit via use of various instruments (fence, cameras, guarding, etc.);
    - Identify areas for further fencing/security controls (such as certain dump areas);
    - Installation of in-car cameras in security vehicles: an in-car camera vendor has attended site and conducted testing on camera requirements, options and design. Installation of in-car cameras is expected on a pilot and longer-term basis in the near future in all security vehicles;
    - Implementation and expansion of CCTV and thermal CCTV for enhanced monitoring in pit and dump areas;
    - Identification and implementation of integration strategies with Community Affairs (such as dedicated Community Affairs personnel being placed in security patrol vehicles (or separate vehicles at APD disposal) as first response to certain incidents); and
    - Installation of additional lighting on portions of the fence perimeter.

2. Supervision/oversight changes implemented or to be implemented regarding APD personnel and practices:

    - Automatic reporting to Security Control Centre (SCC) on every occasion there is (A) a confrontation with or detention of an illegal miner or trespasser, (B) a weapon discharge;
    - Hiring of additional female APD staff members;
    - At the earliest opportunity, all female detentions to include female APD staff member as oversight until detainee is released or conveyed to Police;
    - Regular situation reports to Chief Duty Officer reporting illegal miner and trespasser numbers, engagements and confrontations;
    - Daily presentation to management with corresponding trespasser numbers, times and locations displayed during the presentation;
    - Sector patrols implemented with Sector Commanders/Supervisors reporting on activities within their sector;
    - Leadership training for all Supervisors, including field supervision and oversight training;
    - Enhanced supervision and oversight over security personnel on ore stockpiles and dumps;
    - Regular monitoring of detainees prior to transfer to Police custody and verification of same on a daily basis by APD Management; and

- Investigations group engaged on every occasion an illegal miner or trespasser is found to be injured.

3. Structural/reporting changes to APD implemented or to be implemented:

   - Establishment of off-site reporting to country or regional management by the investigations department with regard to serious offences and policy breaches (including Code of Conduct);
   - Establishment of better ties with the local communities via the creation of community liaison groups (staffed by a mix of APD and Community Affairs personnel) and working with public security on community outreach;
   - Engagement with the Police to identify potential opportunities for enhanced community police presence in the Porgera Valley;
   - Education campaigns, liaison with womens' groups, local educational institutions, etc.;
   - Working with Community Affairs to ensure broader and more effective community outreach, including review of existing resources and information flow and skills development/enhancement efforts of outreach officers;
   - Integrate Country Security Manager into PJV Safety and Security Governance Committee;
   - Implement formal security/risk assessment process and audit protocol;
   - Creation of a new "Security Operations Manager" position to work under the Country Security Manager and provide additional senior management oversight of APD operations;
   - Confirm and formalise dual reporting of APD Manager to both on-site function (General Manager) and off-site function (Security Operations Manager); and
   - Additional diversity and leadership training for APD management.

4. Policy/procedural changes implemented or to be implemented:

   - Review of all APD policies and procedures and identification of areas for improvement;
   - Operational and legal review of existing APD practices and interactions with public security providers, including the 2005 Memorandum of Understanding agreed with the Royal Papua New Guinea Constabulary; and
   - Engage with Police regarding the provision of 3rd Party Training in Human Rights (with a focus on sexual violence) to Police personnel prior to deployment in the area.

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Gold's Costly Dividend

Human Rights Impacts of Papua New Guinea's Porgera Gold Mine

This details the story of Papua New Guinea's rich and controversial Porgera gold mine. Ninety-five percent owned and fully operated by Barrick Gold, a Canadian company that is the world's largest gold producer, the mine has long been a boon to PNG's national treasury. But its impact on local communities has been far more complicated.

Gold's Costly Dividend: Human Rights Impacts of Papua New Guinea's Porgera Gold Mine describes how some private security personnel employed by the Porgera mine have allegedly engaged in brutal gang rapes of local women as well as other violent crimes. It also sets out longstanding environmental and health concerns about the mine's operations— especially its practice of dumping 16,000 tons of liquid waste into the nearby Porgera river every day – and Barrick's response for many years to disclose only the minimum of relevant data.

Based on interviews with local community members, victims of human rights abuses, company and government officials, police personnel and others, the report shows how Barrick failed to take appropriate action in relation to allegations of serious abuses around the mine. But in response to Human Rights Watch research, the company has taken meaningful steps to address the inadequacies —including supporting a criminal investigation of its own personnel. The company has also undertaken to disclose key environmental data for the first time.

Playing an absentee role in all of this is the Canadian government. Canada is home to more than half of the world's international mining and exploration companies, but the government does virtually nothing to oversee or regulate their conduct overseas. The longstanding problems at Porgera show why there is an urgent need for the Canadian authorities to play a more constructive role in guiding and overseeing the human rights practices of Canada's corporate citizens abroad.

Women pan for gold in liquid waste discharged by the Porgera gold mine in Papua New Guinea.

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