Submission to the United Nations Working Group on the Use of Mercenaries

In regard to the relationship between private military and security companies and extractive industry companies from a human rights perspective in law and practice

This Submission is in regard to the North Mara Gold Mine in Tanzania and the Porgera Joint Venture Gold Mine in Papua New Guinea.

March 2019
Catherine Coumans, Ph.D.

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Introduction

This submission is made in support of an investigation and forthcoming report by the United Nations Working Group on the Use of Mercenaries (the Working Group)[1] that examines the relationship between private military and security companies and extractive industry companies from a human rights perspective.

Following communications with the Working Group, this submission covers issues related to excess use of force by private mine security and by police who participate in securing mines through memorandums of understanding between mine proponents and police agencies of the states hosting the mines. The sections below follow organizational and informational guidelines provided by the Working Group.[2]

This submission highlights that: state security forces deployed with private security often abuse their power in violation of the human rights of local populations; corporate-led monitoring and responsive measures are insufficient both to prevent abuse and to ensure meaningful accountability; greater attention needs to be given to crafting robust remedy mechanisms for those who have been harmed by both public and private security at mine sites; and, international soft law guidance on these issues (e.g. the Voluntary Principles on Security and Human Rights; the Global Compact (principle 2); the IFC Performance Standards (standard 4)) have proven insufficient to stop these abuses as Barrick Gold is a member of the Voluntary Principles and the Global Compact and says it adheres to the IFC Performance Standards.

MiningWatch Canada has a 20 year history of concern for the issues under consideration by the Working Group.[3] The information provided in this submission is based on 14 years of engagement by MiningWatch Canada (MiningWatch) with affected community members around the Porgera Joint Venture (Porgera) gold mine in Papua New Guinea, including numerous field trips and documentation of human rights impacts related to alleged excess use of force by private and public mine security, as well as 5 years of yearly field trips by MiningWatch, starting in 2014, to the North Mara Gold Mine Ltd. (North Mara mine) in Tanzania, where MiningWatch has documented human rights impacts related to clashes between villagers and private and public mine security in the cases of 66 local community members.*

As MiningWatch Canada has long-standing engagements with victims of excess use of force in both Papua New Guinea and Tanzania, we note similarities in the accounts of security-related violence at both mines, as well as similarities in security arrangements between the mines and policing agencies in both countries, and in responses by the mines' proponents to international criticism regarding alleged human rights abuses perpetrated by private and public mine security.

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[1] Full title - The Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. https://www2.ohchr.org/english/issues/mercenaries/

[2] https://www.ohchr.org/Documents/Issues/Mercenaries/WG/GuidingQuestionsExtractives_EN.pdf

[3] Memorandum Submitted to the Special Rapporteur on the Use of Mercenaries of the Human Rights Commission of the United Nations Mr. Enrique Bernales-Ballesteros and Minister of Foreign Affairs and International Commmerce of Canada Mr. Lloyd Axworthy and Canada's Ambassador to the United Nations Mr. Robert Fowler. *Towards a Spiral of Violence? "the Dangers of Privatising Risk Management of Investments in Africa" Mining Activities and the Use of Private Security Companies*. February 2000. Samia Kazi Aoul, Masters candidate in Political Science, University of Québec at Montréal (UQAM) Émilie Revil, Masters candidate in Political Science, UQAM Bruno Sarrasin, Lecturer at UQAM and Doctoral candidate at the University of Paris 1 Bonnie Campbell, Professor, Dept. of Political Science, UQAM with the collaboration of Denis Tougas, Entraide missionnaire. Presented by: The Working Group on Human Rights in Congo/Kinshasa, Development and Peace, MiningWatch Canada. http://www.ieim.uqam.ca/IMG/pdf/spiral_en.pdf

**This number was adjusted in September 2025 to reflect only the interviews MiningWatch Canada had conducted up to the time of this publication with alleged victims of assault by private mine security or police contracted by the mine, or with family members of victims who died as a result of their assault.*

1. Context

This submission covers two gold mine projects: the North Mara Gold Mine Ltd. (North Mara mine) located in the Tarime district of the Mara region of Tanzania against the Kenyan border and the Porgera Joint Venture (Porgera) gold mine located in Porgera, in Enga Province in the highlands of Papua New Guinea. Both mines are on the land of indigenous peoples, the Kurya of North Mara and the Ipili of Porgera.

The North Mara Mine

The North Mara Gold Mine Ltd. started operations in 2002. It was owned by Canadian mining company Placer Dome Inc. until Placer Dome was acquired by Canada's Barrick Gold Corp. (Barrick) in March 2006.[4] The project consists of an underground mine (Gokona) and open pit mine (Nyaburama) and is wholly-owned and operated by UK-Based Acacia Mining plc. (Acacia), itself 63.9% owned by Barrick.[5]

Summary of Concerns:

The North Mara mine has a long and well-documented[6] history of excess use of force against local men, women and youth by private security forces at the mine and by police who also provide security at the mine through successive Memorandum of Understanding agreements between the mine`s proponents and the Tanzanian police force.[7]

The mine's operations have taken over land that was previously used for agriculture, cattle herding, and small scale gold mining, thereby deepening poverty in the Kurya communities around the mine. To supplemented scarce income men, women and children enter the massive waste rock dumps around the mines to access residual gold in the waste rock. Some villagers also venture into other mine areas in search of ore. Villagers commonly told MiningWatch Canada that they had to pay the mine`s private

[4] https://www.barrick.com/news/news-details/2006/Barrick-Completes-Acquisition-of-Placer-Dome/default.aspx
[5] In 2010 Barrick created African Barrick Gold, listed on the London Stock Exchange, as a subsidiary through which to run the North Mara mine. In 2014, Barrick changed the name of African Barrick Gold to Acacia Mining.
[6] See among others: *Women Speak Out About Abuse at Barrick Gold's North Mara Mine in Tanzania. MiningWatch Releases Video and Critique of the Mine's Grievance Mechanism.* 2018. https://www.miningwatch.ca/blog/2018/6/25/women-speak-out-about-abuse-barrick-gold-s-north-mara-mine-tanzania ; *Anger Boils Over at North Mara Mine – Barrick/Acacia Leave Human Rights Abuses Unaddressed Field Assessment Brief*. July 2017. Catherine Coumans, MiningWatch Canada. https://miningwatch.ca/sites/default/files/2017_field_report_final_-_anger_boils_over_at_north_mara_mine.pdf; Report to U.N. Committee on the Elimination of Racial Discrimination, 93rd session, July - August 2017, for its review of Canada's 21st - 23rd periodic reports. MiningWatch Canada, Human Rights Research and Education Centre, Human Rights Clinic, University of Ottawa. https://miningwatch.ca/sites/default/files/cerd_final_8.10.pdf ; *Report to the UN Committee on the Elimination of Discrimination against Women ("the Committee") for consideration during its 65th session and review of Canada's combined eighth and ninth periodic reviews*. 2016. EarthRights International, MiningWatch Canada, Human Rights Research and Education Centre, Human Rights Clinic, University of Ottawa. https://miningwatch.ca/sites/default/files/cerd_final_8.10.pdf ; *Barrick Faces Court in London*. 5 November 2014. Catherine Coumans, MiningWatch Canada and Shanta Martin, Leigh Day. https://miningwatch.ca/news/2014/11/5/barrick-faces-court-london; *The Report of the Inquiry into the Death of Five People on 16/05/2011 shot by the police at the North Mara mine.* The United Republic of Tanzania Office of the Prime Minister Regional Administration and Local Government District Commissioner of Tarime. Translation 13 June 2013. https://miningwatch.ca/sites/default/files/commision_of_inquiry_report_english.pdf; *Barrick's Tanzanian project tests ethical mining policies.* 2011. Geoffrey York. Report on Business. Globe and Mail. https://www.theglobeandmail.com/report-on-business/rob-magazine/barricks-tanzanian-project-tests-ethical-mining-policies/article559188/
[7] The 2010 MOU was not published by Acacia, but was disclosed as a result of legal proceedings in London, UK. For a copy see: https://miningwatch.ca/sites/default/files/nmgml-tarime_police_mou_2010.pdf

security and police a bribe to enter the waste rock dumps and other mine areas.[8] Much of the violence against villagers by private mine security and police brought in to guard the mine, including shootings severe beatings and rape, takes place in the waste dumps and other mining areas, but MiningWatch has also documented examples of villagers being subject to violence by mine security and police outside of mine property, for example after being chased out of the waste rock dumps or other mine areas, or as bystanders of police and security actions (for more on these human rights abuses see section 3. below).

For many years Barrick and Acacia have denied the extent of the problem, delayed taking action to reduce the high level of incidences of security related violence, and been less than transparent in regard to the yearly numbers of villagers wounded and killed at the mine site, the nature of the injuries and the complicity in violent encounters of, respectively, the mine's own security and the police the mine has brought in to secure the mine.

Barrick and Acacia have also failed to provide equitable remedy to those harmed. Following the initiation of a law suit on behalf of victims of violence by UK-based law firm Leigh Day in 2013, the mine created an ad hoc and non-transparent remedy mechanism, which it used to persuade Leigh Day's clients to drop their suit, accept non-equitable remedy from the company, and sign legal waivers prohibiting them from seeking judicial remedy.[9] When the suit was settled out of court in 2015 the company mechanism became unresponsive to complaints brought by villagers. Only after years of high profile international focus on the problems at the mine has the mine initiated a new operational level grievance mechanism that is also deeply flawed (see further discussion below under section 4.) A new UK-based law suit on behalf of victims is currently underway.[10]

The Porgera Mine

The Porgera Joint Venture gold mine started operations in 1990 under majority ownership and management control of Canadian mining company Placer Dome Inc. In March 2006, Barrick Gold Corp. acquired Placer Dome's then-95% share and management control of the Porgera mine, which is held through a local subsidiary Barrick (Niugini) Ltd. (BNL)[11] The remaining 5% is held by Mineral Resources Enga.[12] In 2015 Barrick sold 50% of its ownership of BNL to the Chinese company Zijin Mining Group.[13]

Summary of Concerns:

[8] This practice was documented in 2011 by Canada`s Globe and Mail and by MiningWatch in yearly interviews conducted with villagers since 2014. See: *Barrick's Tanzanian project tests ethical mining policies.* 2011. Geoffrey York. Report on Business. Globe and Mail. https://www.theglobeandmail.com/report-on-business/rob-magazine/barricks-tanzanian-project-tests-ethical-mining-policies/article559188/; MiningWatch Canada and RAID-UK, August 2014, *Violence ongoing at Barrick mine in Tanzania. https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human ;*

[9] Leigh Day and MiningWatch Canada. 2014. *Barrick Faces Court in London.* https://miningwatch.ca/news/2014/11/5/barrick-faces-court-london; MiningWatch Canada. *Lawyers say Barrick Thwarts Access to Justice for Victims of Violence. https://miningwatch.ca/blog/2014/11/27/lawyers-say-barrick-thwarts-access-justice-victims-violence*

[10] *Acacia Mining faces more legal claims over mine site deaths.* The Telegraph. 23 July 2017. https://www.telegraph.co.uk/business/2017/07/23/acacia-mining-faces-legal-claims-mine-site-deaths/

[11] *Barrick Completes Acquisition of Placer Dome*, (Mar. 15, 2006), http://www.barrick.com

[12] 2.5% of the shares of Mineral Resources Enga belong to the Enga Provincial Government, the other 2.5% are in the hands of the Porgera Landowners Association.

[13] *Barrick Announces Strategic Partnership with Zijin Mining Group*, (May 26, 2015), http://www.barrick.com

The Porgera mine has a long and well-documented history of excess use of force against local men, women and children by private security forces at the mine and by police who provide security at the mine through a Memorandum of Understanding between the mine`s proponents and the Royal Papua New Guinea Constabulary,[14] as well as through other agreements further described in section 2 below.

The mine itself, located in the mountainous highlands of Papua New Guinea has increasingly taken over land that had been in use for housing and agriculture. Furthermore, the Porgera mine is unusually environmentally and socially harmful as it does not contain its mine waste. Waste rock and tailings, the latter containing mercury, arsenic, cadmium, copper, lead, zinc, as well as milling chemicals, including cyanide,[15] are dumped directly into valleys and river systems surrounding the mine from where they make their way downstream.[16] This uncontained disposal of waste continuously erodes away adjacent land in the steep mountain valleys further putting village structures and people at risk and exacerbating the serious problem[17] of lack of land for housing, subsistence farming, and food security. In 2009 the Norwegian Pension Fund divested from Barrick over this unacceptable waste disposal practice at the Porgera mine.[18]

Loss of land and sources of clean water due to the open pit, the mine's infrastructure and processing facilities, the massive waste dumps and the erosion of land have left local indigenous villagers living in severely overcrowded and unhealthy conditions. Further exacerbating this situation is the fact that the mine's public police security, reportedly with support from private mine security, regularly burn down houses in villages inside the special mine lease area and surrounding the mine. These villages were allowed to remain in place and these villagers have never been resettled.[19] This issue was reported on by Amnesty International[20] in 2010, but continues to occur with regularity.[21] As recently as March 2017, numerous houses in the village of Wangima,[22] were once again burnt down by mine security leaving

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[14] For a copy of the Memorandum of Understanding see Appendix B4, International Human Rights Clinic, Harvard Law School and Center for Human Rights and Global Justice, New York University School of Law, *Legal Brief before the Standing Committee on the Foreign Affairs and International Development House of Commons Regarding Bill C-300*, pp.11-16, (2009), https://www.business-humanrights.org/sites/default/files/reports-and-materials/Harvard-testimony-re-Porgera-App-B4.pdf

[15] Report to the U.N. Committee on the Elimination of Racial Discrimination 93rd session, July - August 2017 for its review of Canada's 21st - 23rd periodic reports. MiningWatch Canada, Human Rights Research and Education Centre, Human Rights Clinic, University of Ottawa. https://miningwatch.ca/sites/default/files/cerd_final_8.10.pdf

[16] The Columbia Law School Human Rights Clinic and The Advanced Consortium on Cooperation, Conflict and Complexity. *Red Water: Mining and the Right to Water in Porgera, Papua New Guinea*. February 2019. http://ac4.ei.columbia.edu/files/2019/03/Red-Water-Report-2019.pdf

[17] OECD complaint to Canada's National Contact Point. 2011. Mark Ekepa, Porgera SML Landowners Association, Jethro Tulin, Akali Tange Association, Catherine Coumans, MiningWatch Canada, Request for Review, Mar. 1. http://miningwatch.ca/sites/default/files/OECD_Request_for_Review_Porgera_March-1-2011.pdf

[18] Norwegian Council on Ethics: The Government Pension Fund—Global*, "Recommendation of 14 August 2008,"* p.11, https://www.regjeringen.no/contentassets/facb9ec5f43a4750a7fe4aaa86520a9f/recommendation-barrick-final.pdf

[19] See urgent appeal to UN Special Rapporteurs by MiningWatch Canada 2009 http://www.miningwatch.ca/en/urgentappeals-united-nations-special-rapporteurs-regarding-human-rights-abuses-porgera-mine See also Amnesty International's public statement 2009; http://www.amnestyusa.org/document.php?id=ENGASA340012009&lang=e Center on Housing Rights and Evictions 2009 http://www.cohre.org/store/attachments/AP_IE_PNG_EngaProvince_26May09.pdf ; Barrick Gold put out a public response on its web site the first week of June 2009 http://www.barrick.com/CorporateResponsibility/KeyTopics/PorgeraJV/default.aspx ; OECD complaint to Canada's National Contact Point. 2011. Mark Ekepa, Porgera SML Landowners Association, Jethro Tulin, Akali Tange Association, Catherine Coumans, MiningWatch Canada, Request for Review, Mar. 1. http://miningwatch.ca/sites/default/files/OECD_Request_for_Review_Porgera_March-1-2011.pdf .

[20] Amnesty International. 2010. *Undermining Rights: Forced Evictions and Police Brutality around the Porgera Gold Mine, Papua New Guinea*. January. https://www.amnestyusa.org/reports/undermining-rights-forced-evictions-and-police-brutality-around-the-porgera-gold-mine-papua-new-guinea/

[21] MiningWatch Canada. 2014. *Villagers' Houses Burnt Down Again at Barrick Gold Mine in Papua New Guinea: Repeat of 2009's Gross Human Rights Violations Follow Failed Resettlement Negotiations*. 2014. https://miningwatch.ca/news/2014/6/11/villagers-houses-burnt-down-again-barrick-gold-mine-papua-new-guinea

[22] Also sometimes spelled "Wingima" and "Wuangima."

families homeless.[23] The need to address the unacceptable living conditions of indigenous people around the Porgera mine through resettlement was pointed out to Barrick as early as 2007 in a report[24] by the global engineering firm URS that was commissioned by Barrick, but not made public.

As the cost of living has gone up due to, among others, loss of land and ready access to clean water, villagers around the mine have increasingly come to rely on panning for gold in the mine's polluted waste flows for their livelihood. This puts the men, women and children who participate in this means of livelihood at continuous risk from chemical contamination. As recently as July of 2017, villagers reported to MiningWatch Canada that more than a hundred people had been burned by waste dumped into an area where they were panning for gold. Although Barrick acknowledged the release and resulting casualties in a brief statement on July 15,[25] and provided some further information in response to a letter from MiningWatch[26] it is still unclear how many people will need long-term treatment and whether the company will provide compensation for the injuries.

Villagers who enter the waste flows to eke out a living are also vulnerable to violence and excess use of force by the mine's public and private security forces. There is a long history of men and women being severely beaten, men and boys being shot at and sometimes killed, and women and girls enduring rape and gang rape. After years of denial, Barrick implemented a severely flawed[27] and short duration remedy program, only accessible for victims of sexual assault by private security. In November 2016, all 119 women who had received remedy through this program, in return for signing legal waivers, filed a complaint[28] with the UN Working Group on Business and Human Rights critiquing both the process they had endured and the remedy they had received. Many other women who allege rape by mine security were unaware or unprepared to participate in the mechanism. These issues are discussed further in the sections to follow.

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[23] MiningWatch Canada. 2017. *Village Houses Burnt Down – Again – at Barrick Mine in Papua New Guinea; Violence Against Local Men and Women Continues Unabated*.. https://miningwatch.ca/news/2017/3/28/village-houses-burnt-down-again-barrick-mine-papua-new-guinea-violence-against-local

[24] OECD complaint to Canada's National Contact Point. 2011. Mark Ekepa, Porgera SML Landowners Association, Jethro Tulin, Akali Tange Association, Catherine Coumans, MiningWatch Canada, Request for Review, Mar. 1. http://miningwatch.ca/sites/default/files/OECD_Request_for_Review_Porgera_March-1-2011.pdf P. 4-7.

[25] Hazardous Waste Incident – Porgera Mine. http://barrick.q4cdn.com/808035602/files/porgera/BNL-Statement-Hazardous-Waste-Incident-07152017.pdf

[26] Letter to Barrick from Mining Watch Canada. August 17, 2017. Response from Barrick Gold Corp. August 2017. https://miningwatch.ca/blog/2017/8/20/chemical-exposure-porgera-mine-anawe-waste-site-papua-new-guinea

[27] MiningWatch Canada & Rights and Accountability in Development, Privatized Remedy and Human Rights: Re-thinking Project-Level Grievance Mechanisms, Third Annual UN Forum on Business and Human Rights Palais des Nations, (Dec. 1, 2014), http://miningwatch.ca/sites/default/files/privatized_remedy_and_human_rights-un_forum-2014-12-01.pdf ;Harvard Law School, International Human Rights Clinic and Columbia Law School, Human Rights Clinic, *Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Key Concerns and Lessons Learned*, pp.23-26, (Nov. 2015), http://static1.squarespace.com/static/562e6123e4b016122951595f/t/565a12cde4b0060cdb69c6c6/1448743629669/Righting+Wrongs.pdf

[28] *119 Indigenous Women Demand Justice from Barrick Gold at UN Forum in Geneva.*
Letter from Porgera Women to 2016 UN Forum on Business and Human Rights
Tired of waiting for fair compensation from mining giant for gross sexual violence, 119 indigenous women from Papua New Guinea call for UN intervention. https://miningwatch.ca/news/2016/11/16/119-indigenous-women-demand-justice-barrick-gold-un-forum-geneva

2. The relationship between the mines' security, the company and the State

The North Mara Mine

Security at the North Mara mine is provided by private mine security – which local villagers often call "mobile units" or "mobiles" – as well as the Tanzanian police force. The Tanzania police force is involved at the mine through a Memorandum of Understanding MOU)[29] between North Mara Gold Mine Limited and the Tanzanian police force, as an organ of the United Republic of Tanzania, together with the Regional Police Commander (RPC) of the Tarime-Rorya Special Zone.[30] MiningWatch has obtained a 2010 copy of the MOU, which has been updated since.[31] The police assigned to the function of contributing to mine security retain their weapons and their powers of detention and arrest.

Under the MOU the North Mara mine provides the police with, among others: fuel, vehicles, maintenance, per diems "and any other type of monetary support," accommodation and meals, administrative support. While the MOU states that police will normally operate "outside the perimeter of the Mine Site security fence" the document repeatedly refers to operations by the police "in and around the Mine Site." Furthermore, the document stipulates that operations will be outside the Mine Site "[u]nless requested by the ABG [African Barrick Gold, now Acacia] Corporate Security Manager or if unavailable, the Mine Site Security Manager…" [emphasis added]. Additionally, while the MOU indicates that police will "act under the orders of their hierarchical Police officers" the MOU also says that this will be done "in coordination with the Mine Site Security Manager (or his designee)." From MiningWatch's interviews with victims of violence by mine security it appears not uncommon for police to be found inside the mine's perimeter.

A review of independent reports indicates that there has long been concern about "excessive force, police corruption, and impunity" with respect to the Tanzanian police with the US State Department's 2017 Human Rights Report noting that the "most significant human rights issues included: arbitrary deprivation of life and excessive use of force by security forces; lengthy pretrial detention…."[32] Note however, that based on MiningWatch's interviews with local victims of the mine's joint security arrangements, serious harm and death is as likely to result from clashes with police at the mine[33] as with the mine's private security and that commonly security actions are carried out jointly by both forces.

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[29] The 2010 MOU was not published by Acacia, but was disclosed as a result of legal proceedings in London, UK. For a copy see: https://miningwatch.ca/sites/default/files/nmgml-tarime_police_mou_2010.pdf See also: MiningWatch Canada and RAID-UK. *Broken Bones and Broken Promises: Barrick Gold Fails to Address Ongoing Violence at Tanzania Mine*, 17 November 2015. https://miningwatch.ca/news/2015/11/17/broken-bones-and-broken-promises-barrick-gold-fails-address-ongoing-violence

[30] Tarime District, where the mine is located, and the neighbouring district of Rorya, are under a special policing zone reportedly implemented to deal with law and order issues such as cattle rustling. Under this arrangement police management, the Regional Police Commander, reports directly to national headquarters. See Tanzania Daily News. *Tarime Settles After Special Police Zone Contained Crime.* https://allafrica.com/stories/201306070493.html

[31] MiningWatch has seen a 2014 copy of the updated MOU and it was substantially the same as the 2010 MOU. It has since been further updated. Acacia has not published its most recent MOU and MiningWatch does not have a copy. See also: 2016, MiningWatch Canada and RAID-UK. *In Need of Repair: Acacia Mining's Grievance Mechanism at North Mara Gold Mine, Tanzania*. https://miningwatch.ca/blog/2016/5/10/need-repair-acacia-mining-s-grievance-mechanism-north-mara-gold-mine-tanzania ; Response from Acacia 2016, https://www.acaciamining.com/~/media/Files/A/Acacia/documents/sustainability/Acacia%20Response%20to%20MWC%20and%20RAID%20-%20March%202016.pdf

[32] US State Department, 2017. Tanzania 2017 Human Rights Report. https://www.state.gov/documents/organization/277299.pdf

[33] For example: Interview #5-2016. This case involves a male who survived being shot by police while seeking gold with many others in a waste rock dump. The shot was to his left leg and the bullet passed through. His friends were able to get him out of the waste rock dump and to a clinic where he was stitched up. Three years later this same victim was again looking for gold in a waste rock dump with many others. This time inside a mine fence. Both police and "mobiles," private security, descended on the

The MOU indicates that the mine retains the right to "suggest to the police administration to remove a particular Police officer from the Mine Site." It is clear that, in spite of public reports of excess use of force by police at the mine going back to at least 2005,[34] removals of police in response to human rights abuses have not been common practice. Both the mine[35] and MiningWatch's local community contacts have noted that only in recent years, 2017 and 2018, shooting deaths of villagers by police guarding the mine appear to have finally gone down, in comparison to 2014, 2015 and 2016, the first three years MiningWatch conducted human rights field assessments (in which we interviewed victims of excess use of force from those three years and many previous years) and reported out on our findings on excess use of force. In August of 2018, MiningWatch raised the apparent decline in security related deaths in interviews with both the head of the mine's Community Impacts & Remediation Investigation Team (CIRIT) and a member of the mine's Grievance Committee and was told that one reason for the decline is attributable to the mine having started to expel police involved in cases of excess use of force. This raises the troubling question why such dismissals were not routinely carried out previously, as high numbers of casualties and victims of excess use of force had been reported publicly by MiningWatch since 2014, and previously by mainstream Canadian media in 2011,[36] and through legal action initiated in 2013. Acacia does not report on how often it has requested the removal of a particular police officer from the mine site.

The understandings and arrangements between Mine Site Security Managers and personnel and the private and public security personnel deployed at the mine site further raise concerns based on interviews with victims of excess use of force by MiningWatch from 2014-2018. In some of these interviews, victims explained that they had entered the waste rock dump or mining area, after having bribed police and private security forces guarding the area. Subsequently, they were shot at with bullets or targeted by rubber bullets or tear gas canisters upon the arrival of a mine vehicle and a "white man" from the mine.[37] Some of these victims explained this sequence of events by saying that the police and private security they had bribed were compelled to take action against them when the "white man" arrived because otherwise it would look to their boss as though they were not doing their job in keeping people out of the mine areas. The fact that the arrival of what was likely mine security management would cause private and public security forces to start to use potentially lethal force raises questions as to their understanding of the expectations of mine management, regardless of what is in the MOU. In other cases we were told of beatings, or use of potentially lethal force while a "white man" looked on.[38] Many of the victims said

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trespassers and started to throw tear gas bombs. He could not see well enough to escape and was caught and held by both police and "mobiles" while he was severely beaten with batons leaving him with severe cranial injuries and lasting impacts.

[34] Two killed after fracas at mining area. July 2005. The Guardian. http://protestbarrick.net/article.php@id=366.html

[35] *Sustainability Report 2017*. Acacia Mining plc. https://www.acaciamining.com/~/media/Files/A/Acacia/reports/2018/ACA-5251-Sustainability-Report-2018-06-12-NO.pdf p. 20.

[36] Barrick's Tanzanian project tests ethical mining policies. 2011. Geoffrey York. Report on Business. *Globe and Mail*. https://www.theglobeandmail.com/report-on-business/rob-magazine/barricks-tanzanian-project-tests-ethical-mining-policies/article559188/

[37] For example: Interview #23-2016. This case involves a man who was looking for residual gold in one of the mine's waste dumps at about 10 pm at night. When he arrived, there were only private security forces (which he calls mobiles) at first. He and others who had arrived with him each paid the mobiles 5000 Tanzanian Schillings to be allowed into the waste rock dump. About 20 minutes after they entered, the mobiles started yelling at everyone to get out of the waste rock pile area because the "white man" was coming. But before he could get away the mobiles started shooting teargas bombs at the people. One of the teargas bombs landed near him and something entered his left eye. He lost that eye as a result of the encounter.

[38] For example: Interview #1–2015. This case involves a man who went to seek residual gold in a waste rock dump, together with many others. There were both mobiles (private security) and police there. It was a place where "new" rock was being dumped by large dump trucks coming out of the pit. He did not have to bribe any of the private security or police to be there. There were three police vehicles nearby and one white mine vehicle. Suddenly the private security started to beat him and others. The police did not beat him but watched. He saw a white man was also there and watched him being beaten. The police and the "mobiles" were in their respective uniforms and were black, but the white man was wearing "mine clothes" not police or mobile clothes. The victim was so badly beaten he was rendered unconscious. When he came to he was in the Sunga Sunga in Nyamongo (the African Barrick Gold sponsored clinic).

they recognized the white man's face but did not know his name. Some explained that there were different white men and that some were more likely to be associated with violent acts by police and private mine security than others.[39]

In addition to concerns regarding excess use of force by police in their interactions with villagers in and around the mine, MiningWatch's interviews also indicate that police guarding the mine use their powers of arrest in ways that abuse human rights. For example, MiningWatch was told by multiple victims of excess use of force that they were afraid to be taken to the Nyamongo clinic (sungo sungo), which was supported by African Barrick Gold (later Acacia), because they would likely be arrested there. Some told us of being taken to the Nyamongo clinic by police guarding the mine while unconscious or unable to flee due to injuries sustained in the confrontation with mine security. They often ended up being handcuffed to the hospital bed. If they could get away from the guards on their own, or with the help of friends, they would rather head to smaller and less well-equipped clinics in the villages around the mine, for example in Kerende. Fear of being arrested and put in jail for trespassing was particularly acute, as was explained to MiningWatch, because many victims were too poor to be able to pay for bail, or to pay the bribes requested by the police, and they may find themselves jailed for indeterminate time, in one case even years, without being charged or without going to trial.[40]

Finally, there have been at least two government investigations into excess use of force by mine security at the mine site. One investigation[41] followed a high profile clash in 2011 in which seven villagers lost their lives and many more were injured.[42] This event also sparked a law suit on behalf of these victims and others, filed in 2013 by UK-based Leigh Day.[43] As noted by MiningWatch, the report from this government-initiated investigation was flawed. [44] The Committee was given just seven days to complete its investigation and submit its findings. The report does not contain any interviews with the victims of violence, their families or eyewitnesses. Seven of the 24 people interviewed were police or mine security and four were community relations officers paid by the mine (others were customary elders and local officials). None of the report's recommendations relate to use of force by mine security or by police that guard the mine.

Following MiningWatch Canada's first field visit to the mine in 2014, Inspector General of Police, Ernest Mangu and Home Affairs Minister Mathias Chikawe toured the mine for the first time. Mangu assured

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[39] Interview #7-2016. This case involves a male. He had been in the dump for about two hours before the police came. There was also a white man with them who stood outside his mine vehicle and watched as the victim was shot by police in his right thigh. The bullet passed through his leg, but he was in danger of dying from loss of blood. The police took him to the hospital in Tarime. He spent months in medical care and lost movement and feeling in his leg, but survived. This victim explained that the police did not always arrive and shoot right away, as they had that day. Sometimes they would just tell people to go away. This victim said: "It depends on the white man. With certain white men the police will chase us and shoot at us but some other white men will not allow the shooting."

[40] 5 August 2014. *Violence Ongoing at Barrick Mine in Tanzania: MiningWatch Canada and RAID (UK) Complete Human Rights Assessment.* https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human

[41] The United Republic of Tanzania, Office of the Prime Minister, Regional Administration and Local Government District Commissioner of Tarime. No date. *The Report of the Inquiry into the Death of Five People on 16/05/2011 shot by the police at the North Mara mine.* https://miningwatch.ca/sites/default/files/commision_of_inquiry_report_english.pdf

[42] *Barrick's Tanzanian project tests ethical mining policies*. 2011. Geoffrey York. Report on Business. *Globe and Mail.* https://www.theglobeandmail.com/report-on-business/rob-magazine/barricks-tanzanian-project-tests-ethical-mining-policies/article559188/

[43] *Barrick Faces Court in London*. 5 November 2014. Catherine Coumans, MiningWatch Canada and Shanta Martin, Leigh Day. https://miningwatch.ca/news/2014/11/5/barrick-faces-court-london

[44] *Violence Ongoing at Barrick Mine in Tanzania: MiningWatch Canada and RAID (UK) Complete Human Rights Assessment.* 5 August 2014. https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human

that "strong disciplinary measures would be taken against any police officers engaging in unethical practices when assigned to guard the mine," and Chikawe "declared zero tolerance against unethical police officers."[45]

In November 2014 the Tanzanian authorities wrote a letter to the company[46] calling for "zero intrusions and zero fatalities" at the North Mara mine. The letter states:

> For a long time, NMGM [North Mara Gold Mine] has been using the Police Force to control security of the mine in the outer perimeter of the mine site through a MoU signed by the two parties. However, despite having large number of police at the mine (about 160) the intrusions have been escalating. It was reported during the visit that, some of the Police collude with some of the intruders by allow them to enter and get low grade rocks from the mine, the situation that encourages invasions from other intruders who are not in agreement with the Police.'

The letter asked the company to relieve the situation by removing the police guards and relinquishing some areas, for which it has prospecting licences, for small-scale mining.[47]

In February and March of 2016, a government mandated committee of inquiry conducted interviews in villages surrounding the mine in regard to a wide range of concerns related to the mine`s operations. On 23 July 2016 the Tanzanian Ministry of Energy and Minerals (MEM) revealed some of the findings of its inquiry in meetings in the village and distributed a Swahili summary,[48] but the entire report was not made available.[49] Among the findings of this inquiry the committee noted that it had received reports of 65 killings and 270 people injured by police responsible for mine security.[50] A member of the opposition party, who participated in an advisory role to the committee of inquiry, complained that the report's findings had been watered down to protect the interests of the mine.[51] It is notable that the report only provides numbers for complaints received related to police activities, and not activities by the mine's private security guards.

In its annual report covering 2016, (published in March 2017), and after considerable pressure to publish information about deaths and human rights abuses related to security at the mine site, Acacia reported that at the North Mara mine there had been "37 allegations relating to public or private security" made to the mine and that of these "30 involved allegations of use of excessive force by police…and 7 involved

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[45] See https://allafrica.com/stories/201407160933.html and https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human

[46] Letter from Eliakim Maswi, Permanent Secretary, Tanzanian Ministry of Energy and Minerals, to Deo Mwanyika, Vice President Africa Barrick Gold 19 November 2014, made available to a 2016 Committee of Inquiry.

[47] MiningWatch Canada and RAID-UK. *Background Brief: Adding Insult to Injury at the North Mara Gold Mine, Tanzania*. September 2016. https://miningwatch.ca/sites/default/files/adding_insult_to_injury_north_mara_0.pdf

[48] MEM 'Mapendekezo Ya Namna Bora Ya Utekelezaji Wa Taarifa Ya Kamati Ya Kuchunguza Malamiko Kati Ya Wananchi Na Mgodi Wa Dhahabu Wa North Mara' July 2016 (*Investigating Committee's Recommendations for the Best Means of Resolving Complaints between Citizens and the North Mara Gold Mine*).

[49] See: MiningWatch Canada and RAID-UK. *Tanzanian Government Investigation Receives Hundreds of Reports of Violence and Deaths at North Mara Gold Mine*. News Release September 2016. https://miningwatch.ca/news/2016/9/22/tanzanian-government-investigation-receives-hundreds-reports-violence-and-deaths; MiningWatch Canada and RAID-UK. *Background Brief: Adding Insult to Injury at the North Mara Gold Mine, Tanzania.* September 2016. https://miningwatch.ca/sites/default/files/adding_insult_to_injury_north_mara_0.pdf ;

[50] *Globe and Mail.* Police killed 65, injured 270 at Barrick mine in Tanzania, inquiry hears. Geoffrey York. Thursday, Sep. 22, 2016. https://miningwatch.ca/news/2016/9/26/police-killed-65-injured-270-barrick-mine-tanzania-inquiry-hears

[51] Letter from John Heche MP to the Minister of Energy and Minerals, 29 July 2016 (original Swahili) RE: Major Limitations of the Committee to Resolve Disputes between Citizens and the Mine.

allegations of use of excessive force by private security."[52] Acacia indicated that in 2015 these numbers had been, respectively 58 and 16.

The Porgera Mine

Security at the Porgera mine is provided by private mine security, as well as Papua New Guinea (PNG) reserve police who are armed, have powers of arrest and are largely integrated into the regular police in PNG. The PNG reserve police are engaged at the mine under provisions of a Memorandum of Understanding (MOU)[53] between the Porgera Joint Venture (PJV) mine and the Royal PNG Constabulary. A copy of the 2005 MOU, and any subsequent iterations there may be, has never been made public by the Porgera mine, Barrick Gold, the local subsidiary BNL or the PNG state. In the 2005 MOU the reserve police are described as "employees of the mine":

> The Commissioner of Police of the RPNGC authorizes the deployment of an agreed number of Reserve Police (who are employees of the PJV), for the purpose of assisting regular Police in providing a Police service to Enga province, and other such areas as authorized by the Commissioner.

Although the reserve police are described as "employees of the PJV" in the 2005 MOU they retain their police weapons and their powers of detention and arrest.

The establishment of reserve police at the mine site was envisioned before mining started and detailed in a "Fly in/Fly out Agreement" that was implemented, in 1989, which also included provisions for the development of a town in Porgera called Paiam. This agreement was between the Independent State of Papua New Guinea, the Enga provincial Government, The Porgera District Landowners, The Porgera Local-Level Government Special Purposes Authority and the Porgera Joint Venturers. A clause in this agreement notes that the "State agrees to the establishment of a Reserve Constabulary establishment of a minimum of 40 personnel." The same agreement notes that the "State shall also increase the number of regular policemen stationed at Porgera to a minimum of thirty (30) and maintain that number for the remainder of the life of the Porgera Mine…."

Human Rights Watch (HRW) issued two reports in 2005 and 2006[54] focussed on serious concerns with policing in Papua New Guinea, particularly singling out reserve police and mobile police squads, which are deployed in Porgera. Subsequent yearly HRW reports indicate that there have not been any substantive improvements in regard to human rights abuses associated with policing by reserve police or mobile squads. HRW notes that reserve police receive far less pay and training than regular police, although they form a "major part of operational policing" and, with auxiliary police, are "especially blamed for violence and other illegal acts" (HRW 2005).

Under the provisions of the 2005 MOU, the costs of the reserve police, who "shall not be deployed exclusively to provide for the PJV" are borne by the Porgera mine:

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[52] https://www.acaciamining.com/~/media/Files/A/Acacia/reports/2017/2016-acacia-annual-report-accounts.pdf p. 58.

[53] A copy of the 2005 MOU was obtained by members of the International Human Rights Clinic, of Harvard Law School and Center for Human Rights and Global Justice, of New York University School of Law. For a copy of the Memorandum of Understanding see Appendix B4, International Human Rights Clinic, Harvard Law School and Center for Human Rights and Global Justice, New York University School of Law, *Legal Brief before the Standing Committee on the Foreign Affairs and International Development House of Commons Regarding Bill C-300*, pp.11-16, (2009), https://www.business-humanrights.org/sites/default/files/reports-and-materials/Harvard-testimony-re-Porgera-App-B4.pdf

[54] Human Rights Watch. August 30, 2005. "Making Their Own Rules" Police Beatings, Rape, and Torture of Children in Papua New Guinea; Human Rights Watch. October 29, 2006. Still Making Their Own Rules. Ongoing Impunity for Police Beatings, Rape, and Torture in Papua New Guinea.

> The PJV shall be responsible for all costs and expenses associated with the Reserve Police, made up of authorized PJV employees, including remuneration, training and the provisions of uniforms and equipment.[55]

The reserve police are housed at the mine and although the MOU states that reserve police are supposed to take "daily supervision and discipline from the Police Station Commissioner," MiningWatch was told by Porgerans, in 2008, that they take their daily orders from the Porgera mine's head of security. The 2005 MOU dedicates a large section on the establishment, through a breeding program, and training of a Police Reserve Dog Unit, under the initial expertise and direction of the Porgera mine's Asset Protection Department, but does not mention human rights.

Mobile police squads, often referred to as "mobiles" by locals, have paramilitary training and HRW (2005) notes that victims "singled out task forces and mobile squads, which are in theory composed of regular police, for their extreme brutality." Mobile police squads have also had a presence at the Porgera mine since its inception. Annex A of the original 1989 mine lease agreement between The Independent State of Papua New Guinea and the joint venture partners of the mine[56] consists of a letter from Placer (PNG) PTY limited to the Secretary of the Department of Minerals and Energy that states that "[t]he Joint Venturers will assist to an extent to be agreed, in funding the stationing of a Mobile Squad at Porgera on a permanent basis."

As with reserve police, the line of command for the Mobile Squads deployed to the mine, which should be through police hierarchy, has in practice been murky. Following house burnings in 2009, carried out by police in villages surrounding the mine inside the mine lease area (see context above) Amnesty International investigated and found that:

> Both the Chief of Police Operations and acting Deputy Commissioner of Police (who oversees all Mobile Squad operations), and the Deputy Director of Police Special Services (the Mobile Squad commander in Porgera from 16 July 2009) advised Amnesty International that deployment of the Mobile Squad to Porgera has occurred on several occasions at the request of PJV. Both stated that the April 2009 deployment occurred at the request of PJV and the national government.

It is important to note that in MiningWatch's human rights assessments in Porgera, through interviews with victims of excess use of force by the mine's security, both private and public security were named as being responsible for human rights abuses. However, an additional threat to men and women who are victims of excess use of force by police guarding the mine is the threat of arrest and detention. In interviews with women MiningWatch was told on multiple occasions that when they were caught in the waste rock or tailings areas by police guarding the mine they were asked if they wanted to be arrested or go home. If they said they wanted to go home that meant they would be raped or gang raped. However, even if women said they wanted to be arrested, to avoid rape they may still be raped. It was also quite common for a woman to be raped and subsequently brought to the jail in Paiam for detention.[57]

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[55] Memorandum of Understanding - https://www.business-humanrights.org/sites/default/files/reports-and-materials/Harvard-testimony-re-Porgera-App-B4.pdf

[56] The original joint venture partners were: Canadian Placer Dome subsidiary Placer (PNG) PTY. Limited, Highlands Gold Properties PTY Limited and RGC (Papua New Guinea) Pty Limited.

[57] See also: International Human Rights Clinic, Harvard Law School and Center for Human Rights and Global Justice, New York University School of Law,2009. *Legal Brief before the Standing Committee on the Foreign Affairs and International Development House of Commons Regarding Bill C-300*. P. 12. http://www.reports-and-materials.org/sites/default/files/reports-and-materials/Harvard-testimony-re-Porgera-Main.pdf ; Columbia Law School Human Rights Clinic and Harvard Law School International Human Rights Clinic. 2015. *Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Key Concerns and Lessons Learned*. P. 33. Available at: http://hrp.law.harvard.edu/wp-content/uploads/2015/11/FINALBARRICK.pdf

In 2006, the National Executive Council of the Government of Papua New Guinea created a "Porgera Investigation Committee" to "inquire into and report to the Government on the incidence and causes of injuries and deaths at the Porgera mine site."[58] But the terms of reference for the investigation[59] were flawed as they focused narrowly on deaths and injuries related to 'unauthorized gold mining."

Jethro Tulin of Akali Tange Association Inc., a grassroots human rights organization, stated publicly in 2006:

> We have evidence of shootings and killings by the mine's security guards, and we have evidence of rapes by security guards and of the death of children by drowning in mine waste. Many of these cases have nothing to do with so-called unauthorized mining; in some cases people are just taking their traditional path to their gardens.[60]

The results of the Government's investigation were never made public in spite of numerous requests by Porgerans for the results to be publicized.

3. Alleged human rights abuses of the mines' security forces

The North Mara Mine

The most commonly reported human rights abuses involving private and public security documented by MiningWatch Canada over five years since 2014 are related to:

- Shootings of villagers in and around the mine site;
- Severe beatings of men women and children with, among others, batons, wooden sticks, guns, rocks;
- Rape and gang rape of women;
- Targeting of villagers with projectiles such as rubber bullets and tear gas canisters;
- Throwing rocks at men women and children;
- Pushing large rocks down on villagers, particularly in the waste rock dumps and the pits;
- Pushing villagers into mine pits;
- Tampering with bodies and scenes of violence – for example moving bodies from the location where they were killed or adding or removing items from the scene;
- Issuing threats and intimidation.

Most of these issues have been documented in publications and videos produced by MiningWatch Canada and Rights and Accountability in Development, some of which are referenced here, as well as one news article.[61]

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[58] MiningWatch Canada. *Papua New Guinea Conducts Flawed Investigation of Killings at Barrick Mine.* News Release, 10 July 2006. https://miningwatch.ca/news/2006/7/10/papua-new-guinea-conducts-flawed-investigation-killings-barrick-mine

[59] For a copy of the terms of reference for the PNG government's Commission of Inquiry see: https://miningwatch.ca/sites/default/files/porgera_tor.jpg

[60] MiningWatch Canada. *Papua New Guinea Conducts Flawed Investigation of Killings at Barrick Mine.* News Release, 10 July 2006. https://miningwatch.ca/news/2006/7/10/papua-new-guinea-conducts-flawed-investigation-killings-barrick-mine

[61] **2018** – MiningWatch Canada. *Silent No More: Women Speak Out About Mining Violence*. Video in which women rape victims speak out - https://miningwatch.ca/blog/2018/6/25/women-speak-out-about-abuse-barrick-gold-s-north-mara-mine-tanzania
2017 – MiningWatch Canada. *Anger Boils Over at North Mara Mine: Field report of interviews with victims of excess use of force by mine security* - https://miningwatch.ca/sites/default/files/2017_field_report_final_-_anger_boils_over_at_north_mara_mine.pdf
- Letter to Acacia Mining re: new report of violent death and ongoing concerns regarding access to remedy for victims at the North Mara Gold Mine - https://miningwatch.ca/sites/default/files/lettertokelvindushniskyandbradgordon2017-08-27.pdf

The Porgera Mine

The most commonly reported human rights abuses involving private and public security as documented by MiningWatch Canada and others since 2005 are related to:

- Shootings of villagers in and around the mine site;[62]
- Severe beatings of men women and children with, among others, batons, wooden sticks, guns, rocks;
- Rape and gang rape of women and girls;
- Targeting of villagers with projectiles such as rubber bullets and tear gas canisters;
- Throwing rocks at men women and children;
- Pushing large rocks down on villagers, particularly in the pits;
- Pushing villagers into mine pits;
- Regular house burnings in villages near the mine and in the mine lease area;
- Issuing threats and intimidation.

Most of these issues have been documented in publications and videos produced by Porgeran community

- Response to Acacia - https://miningwatch.ca/sites/default/files/responseacaciaoctober172017.pdf

2016 – *Globe and Mail*, Police killed 65, injured 270 at Barrick mine in Tanzania, inquiry hears. Geoffrey York. Sep. 22, 2016. https://miningwatch.ca/news/2016/9/26/police-killed-65-injured-270-barrick-mine-tanzania-inquiry-hears

- MiningWatch Canada and RAID-UK. *Background Brief: Adding Insult to Injury at the North Mara Gold Mine,* Tanzania. September 2016. https://miningwatch.ca/sites/default/files/adding_insult_to_injury_north_mara_0.pdf

- MiningWatch Canada and RAID-UK - *Tanzanian Government Investigation Receives Hundreds of Reports of Violence and Deaths at North Mara Gold Mine*. September 22, 2016. https://miningwatch.ca/news/2016/9/22/tanzanian-government-investigation-receives-hundreds-reports-violence-and-deaths

- MiningWatch Canada and RAID-UK. *North Mara, Tanzania – Unanswered questions for Acacia Mining and Barrick Gold*. September 30, 2016. https://miningwatch.ca/sites/default/files/northmararesponse-final.pdf

2015 - MiningWatch Canada and RAID-UK. *Broken Bones and Broken Promises: Barrick Gold Fails to Address Ongoing Violence at Tanzania Mine*. November 17, 2015, with Summary of findings from human rights assessments at Barrick Gold's North Mara Gold Mine - https://miningwatch.ca/news/2015/11/17/broken-bones-and-broken-promises-barrick-gold-fails-address-ongoing-violence

2014 – MiningWatch Canada, RAID-UK, London Mining Network, CORE. *Investors brief: A Pattern of Abuse: Human Rights at Risk at African Barrick's North Mara Mine in Tanzania*. March 26, 2014. https://miningwatch.ca/publications/2014/3/26/pattern-abuse-human-rights-risk-african-barricks-north-mara-mine-tanzania

- MiningWatch Canada and RAID-UK. 5 August 2014. *Violence Ongoing at Barrick Mine in Tanzania*: *MiningWatch Canada and RAID (UK) Complete Human Rights Assessment*. https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human

- Letters to chief executives of North Mara Gold Mine ltd., Acacia, Barrick Gold - https://miningwatch.ca/news/2014/8/5/violence-ongoing-barrick-mine-tanzania-miningwatch-canada-and-raid-uk-complete-human

See also: MiningWatch Canada and RAID-UK.

[62] This was first time killings are admitted by Placer Dome, prior to the takeover by Barrick in 2006. See, Burton, Bob. 2005. *Canadian Firm Admits to Killings at PNG Gold Mine*. http://www.ipsnews.net/news.asp?idnews=31074

members themselves,[63] MiningWatch Canada,[64] Harvard Law School Center for Human Rights and Global Justice and New York University School of Law,[65] Columbia Law School Human Rights Clinic,[66] Amnesty International,[67] and others.[68]

[63] See among others: Akali Tange Association. **2005**. *The Shooting Fields of Porgera Joint Venture: Now a Case to Compensate and Justice to Prevail*. A Compensation Specific Submission to the Porgera Joint Venture on behalf of Placer Dome Canada Inc, Durban Roodepoot Deep of South Africa and Mineral Resources Enga Ltd and the Independent State of Papua New Guinea; On the Unlawful Killings of Village Alluvial Gold Miners at the PJV Mine Site – Special Mining Lease (SML) and Lease for Mining Purpose (LMP) Areas. Available at: http://miningwatch.ca/sites/default/files/ATA_Case_Documentation.pdf; *Video Message from Porgera Women to UN Forum on Business and Human Rights.* **2016**. https://miningwatch.ca/blog/2016/11/16/video-message-porgera-women-un-forum-business-and-human-rights ; **2017.** *119 Indigenous Women Demand Justice from Barrick Gold at UN Forum in Geneva. Tired of waiting for fair compensation from mining giant for gross sexual violence, 119 indigenous women from Papua New Guinea call for UN intervention.* https://miningwatch.ca/news/2016/11/16/119-indigenous-women-demand-justice-barrick-gold-un-forum-geneva ; Everlyn Gaupe and Joycelyn Mandi. 25 April. *Background: Indigenous Ipili Women Speak Out at Barrick AGM 2017.* https://miningwatch.ca/blog/2017/4/25/statements-and-questions-everlyn-guape-and-joycelyn-mandi-barrick-gold-s-2017-annual

[64] See among others: **2007 -** MiningWatch Canada. *Urgent Appeal to United Nations Special Rapporteurs Regarding Human Rights Abuses at Porgera Mine.* https://miningwatch.ca/blog/2007/12/2/urgent-appeal-united-nations-special-rapporteurs-regarding-human-rights-abuses

2008 - MiningWatch Canada. News Release and detailed brief. 12 May. *Barrick Gold's Porgera mine in Papua New Guinea linked to grave human rights abuses, environmental impacts.* https://miningwatch.ca/news/2008/5/12/barrick-gold-s-porgera-mine-papua-new-guinea-linked-grave-human-rights-abuses ;

2009 - 8 May. MiningWatch Canada. *MiningWatch Appeals to U.N. over Human Rights Abuses Related to Barrick Mine in Papua New Guinea*. https://miningwatch.ca/sites/default/files/special_rapporteurs_2009_05_03_0.pdf ; MiningWatch Canada.May 17. *Backgrounder: Issues Related to Barrick's Porgera Joint Venture Mine in Papua New Guinea.* https://miningwatch.ca/blog/2009/5/17/backgrounder-issues-related-barrick-s-porgera-joint-venture-mine-papua-new-guinea

2010 - News Release and detailed background brief. 5 May. *Indigenous Leaders from Papua New Guinea Accuse Barrick Gold of Abuses.* https://miningwatch.ca/news/2010/5/5/indigenous-leaders-papua-new-guinea-accuse-barrick-gold-abuses ;

2011 - April. Mark Ekepa, Chairman, Ipili Porgera Landowners Association, Jethro Tulin, Executive Director, Akali Tange Association, Catherine Coumans, MiningWatch Canada.*Barrick's Porgera Joint Venture Mine – Neither Sustainable, Nor Development.* https://miningwatch.ca/sites/default/files/porgera_case_study_uncsd_april_12_2011.pdf ; .Submitted by: Mark Ekepa, Porgera Landowners Association; Jethro Tulin, Akali Tange Association; MiningWatch Canada. March 1. *Request for Review Submitted to the Canadian National Contact Point Pursuant to the OECD Guidelines for Multinational Enterprises regarding The Operations of Barrick Gold Corp. at the Porgera Joint Venture Mine on the Land of the Indigenous Ipili of Porgera, Enga Province, Papua New Guinea.* https://miningwatch.ca/sites/default/files/OECD_Request_for_Review_Porgera_March-1-2011.pdf.;

2014. June 11. MiningWatch Canada. *Villagers' Houses Burnt Down Again at Barrick Gold Mine in Papua New Guinea: Repeat of 2009's Gross Human Rights Violations Follow Failed Resettlement Negotiations.* https://miningwatch.ca/news/2014/6/11/villagers-houses-burnt-down-again-barrick-gold-mine-papua-new-guinea; **2017.** March 28**.** MiningWatch Canada**.** *Village Houses Burnt Down – Again – at Barrick Mine in Papua New Guinea; Violence Against Local Men and Women Continues Unabated.* https://miningwatch.ca/news/2017/3/28/village-houses-burnt-down-again-barrick-mine-papua-new-guinea-violence-against-local

[65] International Human Rights Clinic, Harvard Law School and Center for Human Rights and Global Justice, New York University School of Law,*2009. Legal Brief before the Standing Committee on the Foreign Affairs and International Development House of Commons Regarding Bill C-300.* http://www.reports-and-materials.org/sites/default/files/reports-and-materials/Harvard-testimony-re-Porgera-Main.pdf

[66] Columbia Law School Human Rights Clinic and Harvard Law School International Human Rights Clinic. 2015. *Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Key Concerns and Lessons Learned*. Available at: http://hrp.law.harvard.edu/wp-content/uploads/2015/11/FINALBARRICK.pdf

[67] Amnesty International. 2010. *Undermining Rights: Forced Evictions and Police Brutality around the Porgera Gold Mine, Papua New Guinea*. January. https://www.amnestyusa.org/reports/undermining-rights-forced-evictions-and-police-brutality-around-the-porgera-gold-mine-papua-new-guinea/

[68] Human Rights Watch. 2011. *Gold's Costly Dividend: Human Rights Impacts of Papua New Guinea's Porgera Gold Mine*, February. New York: Human Rights Watch. https://www.hrw.org/report/2011/02/01/golds-costly-dividend/human-rights-impacts-papua-new-guineas-porgera-gold-mine

4. International, national and company-level regulations, mechanisms and procedures, standards

The North Mara Mine

The sections above have discussed the MOU between the Tanzanian police and the North Mara mine, the role of the Tanzanian state in investigating allegations of violence against local villagers by mine security, and legal action taken on behalf of victims of excess use of force by mine security by UK-based law firms, Leigh Day (2013-2015) and Deighton Pierce Glynn, ongoing.[69]

Additionally, there are a number of relevant mechanisms, standards and procedures that bear mentioning, including the Voluntary Principles on Security and Human Rights, the UN Guiding Principles on Business and Human Rights, and Operational Level Grievance Mechanisms, and company reporting on human rights.

Barrick/Acacia – Both companies have their own human rights policies and procedures. Barrick is a member of the Voluntary Principles on Security and Human Rights (VPs) and Acacia says it has made "voluntary commitments to the VPs through Barrick.[70] Acacia works with consultants Search for Common Ground and Avanzar on human rights issues at the mine. However, many of the years in which Barrick was already a member of the VPs and Acacia already worked with Search for Common Ground (which has an office in Tarime) were also years in which the levels of violence by mine security were, and remained, extremely high.

Factors that seem to be more likely related to an apparent decrease in violence by mine security in 2017 and 2018 are increased financial risk to Barrick and Acacia due to intense international exposure of the human rights issues, at the same time that the Acacia and Barrick found themselves in a costly multi-year conflict with the Tanzanian President, elected in 2015, over taxation issues.[71] Additionally, a new lawsuit was launched in the UK on behalf of the victims of excess use of force by mine security.[72] Under international pressure the company may have finally taken the necessary steps to curtail the violence.

While the head of the mine's Community Impacts & Remediation Investigation Team (CIRIT) told MiningWatch in 2018 about recent removals of some police for human rights offenses, as discussed above, the company does not report on such dismissals. Acacia reported on one "employee," presumably private security, who was dismissed for excessive use of force in 2016.[73] There is no information on the nature of the incident or whether the person was charged. Acacia's 2017 Sustainability Report does not report any dismissals, but does note that the mine sent information on two police "to the authorities for investigation…."[74] MiningWatch has no information that any police officer or private security found by the mine to be associated with human rights abuses or excess use of force has been charged.

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[69] *The Telegraph*. Acacia Mining faces more legal claims over mine site deaths. 23 JULY 2017. https://www.telegraph.co.uk/business/2017/07/23/acacia-mining-faces-legal-claims-mine-site-deaths/

[70] *Sustainability Report 2017*. Acacia Mining plc. https://www.acaciamining.com/~/media/Files/A/Acacia/reports/2018/ACA-5251-Sustainability-Report-2018-06-12-NO.pdf p. 20.

[71] Tanzania charges Acacia subsidiaries with tax evasion, corruption. *CNBC*. October 17, 2018. https://www.cnbc.com/2018/10/17/reuters-america-update-1-tanzania-charges-acacia-subsidiaries-with-tax-evasion-corruption.html

[72] *The Telegraph*. Acacia Mining faces more legal claims over mine site deaths. 23 JULY 2017. https://www.telegraph.co.uk/business/2017/07/23/acacia-mining-faces-legal-claims-mine-site-deaths/

[73] *Annual Report and Accounts 2016*. Acacia Mining plc. https://www.acaciamining.com/~/media/Files/A/Acacia/reports/2017/2016-acacia-annual-report-accounts.pdf p. 58.

[74] *Sustainability Report 2017*. Acacia Mining plc. https://www.acaciamining.com/~/media/Files/A/Acacia/reports/2018/ACA-5251-Sustainability-Report-2018-06-12-NO.pdf p. 20.

MiningWatch and Raid-UK have asked[75] Acacia mining and Barrick Gold to provide more detailed accounts of the deaths and injuries at the North Mara mine but reporting remains inadequate.

Access to Remedy – In addition to raising awareness of the high levels of security-related violence around the North Mara mine, MiningWatch has focused, since 2014, on access to remedy for the victims.[76] As noted under the *Context* section above, Barrick and Acacia have failed to provide equitable remedy to those harmed by the mine's private and public security. Initial ad hoc remedy agreements made with a limited number of victims (between 2012-2015), many of whom were drawn from a law suit that had been filed on their behalf by UK-based Leigh Day,[77] lead to limited compensation and short term work contracts in return for which the victims signed legal waivers. These victims included women who had been raped, some of whom have recently spoken up in a video about the harm they endured and the lack of equitable remedy.[78]

In 2017, a new operational level grievance mechanism (OGM) was put in place that purports to comply with the UN Guiding Principles' Effectiveness Criteria for such mechanisms. In 2018 MiningWatch reviewed and critiqued the Standard Operating Procedure (SOP) for this mechanism.[79] Also in 2018, MiningWatch conducted interviews with victims of excess use of force and reported on serious concerns related to the implementation of the mechanism.[80] Among these are: the process on the ground does not respect the SOP in ways that disadvantages the victims; lack of independence of the mechanism from the mine results in biased process that disadvantages the victims; lack of adequate provisions for independent legal support throughout the entire process greatly disadvantages the victims.

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[75] MiningWatch Canada and RAID-UK. 30 September 2016. *North Mara, Tanzania – Unanswered questions for Acacia Mining and Barrick Gold*. https://miningwatch.ca/blog/2016/9/30/north-mara-tanzania-unanswered-questions-acacia-mining-and-barrick-gold

[76] **2014** - *Brief on Concerns Related to Project-Level Non-Judicial Grievance Mechanisms Data derived from work by MiningWatch Canada and partners on the Porgera Joint Venture Mine in Papua New Guinea and the North Mara Gold Mine in Tanzania.* Prepared for the Expert Meeting: "Sharing experiences and finding practical solutions regarding the implementation of the UNGP's effectiveness criteria" The Hague, April 3-4, 2014, Catherine Coumans, Ph.D. https://miningwatch.ca/sites/default/files/briefonnjgmsaccessmeetingapril2014.pdf
- MiningWatch Canada and RAID-UK. *Privatized Remedy and Human Rights: Re-thinking Project-Level Grievance Mechanisms Third Annual UN Forum on Business and Human Rights.* Palais des Nations, Room XXII 1 December 2014 11:45-13:15 https://miningwatch.ca/sites/default/files/privatized_remedy_and_human_rights-un_forum-2014-12-01.pdf
- MiningWatch Canada and RAID-UK. *Letter to Barrick regarding African Barrick Gold's non-judicial "remedy programs" at North Mara*, Tanzania.
21 February 2014. https://miningwatch.ca/blog/2014/2/21/letter-barrick-regarding-african-barrick-gold-s-non-judicial-remedy-programs-north
2015 - MiningWatch Canada and RAID-UK. *Broken Bones and Broken Promises: Barrick Gold Fails to Address Ongoing Violence at Tanzania Mine.* 17 November 2015. https://miningwatch.ca/news/2015/11/17/broken-bones-and-broken-promises-barrick-gold-fails-address-ongoing-violence
2016 - MiningWatch Canada and RAID-UK. *In Need of Repair: Acacia Mining's Grievance Mechanism at North Mara Gold Mine, Tanzania May 2016.* https://miningwatch.ca/sites/default/files/memorandum_to_acacia_revised.pdf
2017 - *Remarks on Operational-Level Grievance Mechanisms Presented to the UN Working Group on Business and Human Rights Upon their Visit to Canada.* Ottawa, May 23, 2017 Catherine Coumans, Ph.D. https://miningwatch.ca/sites/default/files/remarks_on_operational_grievance_mechanisms_final_may_23_2017.pdf

[77] Forum on Business and Human Rights, UN Geneva, 3 Dec 2014 – Panel discussion: Operational-level grievance mechanisms. http://webtv.un.org/search/operational-level-grievance-mechanisms-forum-on-business-and-human-rights-2014/3947311996001?term=Evans%20Sichalwe at 42:50.

[78] MiningWatch Canada. *Silent No More: Women Speak Out About Mining Violence* Video in which women rape victims speak out - https://miningwatch.ca/blog/2018/6/25/women-speak-out-about-abuse-barrick-gold-s-north-mara-mine-tanzania

[79] MiningWatch Canada. *Review of Barrick Gold/Acacia Mining's Draft "Community Grievance Process - Standard Operating Procedure" for the North Mara Gold Mine in Tanzania*. Catherine Coumans, April 2018. https://miningwatch.ca/sites/default/files/review_of_new_north_mara_grievance_mechanism_april_2018_final_0.pdf

[80] MiningWatch Canada. *Inequality of Arms: A summary of concerns raised by victims of violence by private and public mine security at Barrick Gold's North Mara Gold Mine in Tanzania regarding the mine's new Operation-level Grievance Mechanism.* Catherine Coumans, 2018. https://miningwatch.ca/sites/default/files/north_mara_final_brief_-_inequality_of_arms_september_2018_-_clean_0.pdf

The mine's OGM is itself abusive of the human rights of those that attempt to use it to gain access to remedy, most of whom are rejected. Acacia reported that in 2016 alone the mine rejected 109 of 117 cases filed with the mine related to excess use of force by the mine's private and public security.[81]

The Porgera Mine

The sections above have discussed the MOU between the Papua New Guinea police and the Porgera mine and the other agreements involving the mine that have brought, respectively, police reserves and mobile units into Porgera to provide security for the mine with remuneration and material an logistical support covered by the mine, while the mine also retains its private security. Also discussed, the Papua New Guinea state has once, in 2006, launched a formal investigation of security related human rights abuses, but the findings from that investigation have never been made public.

Additionally, there are a number of relevant mechanisms, standards and procedures that bear mentioning, including the Voluntary Principles on Security and Human Rights, the UN Guiding Principles on Business and Human Rights, and Operational Level Grievance Mechanisms, and company reporting on human rights.

Barrick – Barrick has human rights policies and procedures and is a member of the Voluntary Principles on Security and Human Rights (VPs).[82] Barrick also works with international human rights consultants, such as BSR and Avanzar.

In spite of public allegations that the Porgera mine`s public and private security was killing men and raping women dating back to the year Barrick took over the mine from Placer Dome, in 2006,[83] including four years in which delegations of Porgerans flew to Canada to make these allegations (as well as raising the house burnings by mine security) in front of shareholders and the board of directors at Barrick`s AGM in Toronto (2008-2011), Barrick's response was characterized by denial. BSR has reported that "In 2007 and 2009, Barrick conducted its own internal investigations into the human rights and security-related allegations but again released no findings."[84]

MiningWatch Canada and Harvard and New York University's human rights clinics testified before a Canadian parliamentary committee[85] regarding the security related human rights abuses in 2009 and the clinics tabled a detailed brief.[86] Although Barrick had already conducted internal investigations, the company replied with denial as reported in Canadian media:

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[81] Annual Report and Accounts 2016. Acacia Mining plc. https://www.acaciamining.com/~/media/Files/A/Acacia/reports/2017/2016-acacia-annual-report-accounts.pdf p. 58.

[82] See: *Barrick Joins Voluntary Principles and Announces New Corporate Social Responsibility Initiatives: Company to engage independent experts in CSR advisory capacity* https://www.barrick.com/news/news-details/2010/Barrick-Joins-Voluntary-Principles-and-Announces-New-Corporate-Social-Responsibility-Initiatives/default.aspx

[83] MiningWatch Canada. *Papua New Guinea Conducts Flawed Investigation of Killings at Barrick Mine.* News Release, 10 July 2006.. https://miningwatch.ca/news/2006/7/10/papua-new-guinea-conducts-flawed-investigation-killings-barrick-mine

[84] BSR. September 2018. *In Search of Justice: Pathways to Remedy at the Porgera Gold Mine*. https://www.bsr.org/reports/BSR_In_Search_of_Justice_Porgera_Gold_Mine.pdf p. 22.

[85] Testimony before Canadian Parliament re Barrick & Porgera JV (Papua New Guinea) https://www.business-humanrights.org/en/documents/testimony-before-canadian-parliament-re-barrick-porgera-jv-papua-new-guinea

[86] International Human Rights Clinic, Harvard Law School and Center for Human Rights and Global Justice, New York University School of Law,2009. *Legal Brief before the Standing Committee on the Foreign Affairs and International Development House of Commons Regarding Bill C-300.* http://www.reports-and-materials.org/sites/default/files/reports-and-materials/Harvard-testimony-re-Porgera-Main.pdf

> Responding to the testimony at the committee, Barrick spokesman Vince Borg flatly denied the allegations and said such actions would have been the subject of a full investigation by Barrick and its subsidiary in Papua New Guinea.[87]

As noted by the Harvard and Columbia University human rights clinics in their 2015 report:

> Canadian mining company Barrick Gold Corporation, was slow to respond to abuse allegations. Local and international actors who called attention to these serious human rights violations have spent the greater part of the last decade seeking investigations, acknowledgement, and appropriate preventative measures and remedies.[88]

Although the company did not formally join the Voluntary Principles until 2010, Amnesty International's reporting on the house burnings in 2009 indicates that "Barrick and PJV [the Porgera mine] claim to implement the Voluntary Principles, including at the Porgera mine" and that Barrick was clearly aware of international principles governing public and private security:

> PJV has accommodated the increased police presence within the mine site and provided them with housing, food and fuel. In an exchange of letters between PJV and the police, PJV stated that its support to the police is conditional on compliance with "all applicable laws and regulations of Papua New Guinea and relevant international legal instruments regarding the use of force, including the Voluntary Principles on Security and Human Rights, the UN Code of Conduct for Law Enforcement Officials, and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials."[89]

Access to Remedy – In addition to raising awareness of the high levels of security-related violence around the Porgera mine, MiningWatch has focused on access to remedy for the victims. After the UN Guiding Principles were adopted (2011) Barrick announced that the company would implement an operational-level grievance mechanism (OGM) at the Porgera mine to deal with some of the victims of excess use of force by mine security.

The short-term OGM that was implemented by Barrick at the Porgera mine on behalf of victims of sexual violence by mine security and personnel was publicly critiqued by MiningWatch and others[90] as it was about to be implemented, based on the provisions in its framework document.[91] It continued to be critiqued throughout its implementation and after its completion, including by Harvard and Columbia's

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[87] Les Whittington, Toronto Star, *MPs told of gang rapes at mine - Toronto-based company hotly denies crime at South Pacific site.* https://www.thestar.com/news/investigations/2009/11/24/mps_told_of_gang_rapes_at_mine.html

[88] Harvard Law School, International Human Rights Clinic and Columbia Law School, Human Rights Clinic, *Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Key Concerns and Lessons Learned*, pp.23-26, (Nov. 2015), http://static1.squarespace.com/static/562e6123e4b016122951595f/t/565a12cde4b0060cdb69c6c6/1448743629669/Righting+Wrongs.pdf p. 1

[89] Amnesty International. 2010. *Undermining Rights: Forced Evictions and Police Brutality around the Porgera Gold Mine, Papua New Guinea*. January. https://www.amnestyusa.org/reports/undermining-rights-forced-evictions-and-police-brutality-around-the-porgera-gold-mine-papua-new-guinea/ p. 11-12.

[90] MiningWatch Canada, RAID-UK, EarthRights International. 30 January 2013. *Rape Victims Must Sign Away Rights to Get Remedy from Barrick.* https://miningwatch.ca/news/2013/1/30/rape-victims-must-sign-away-rights-get-remedy-barrick ; MiningWatch Canada and Raid-UK.

[91] *Olgeta Meri Igat Raits*. https://miningwatch.ca/sites/default/files/framework_of_remediation.pdf

human rights clinics.[92] Following a complaint[93] to the UN Working Group on Business and Human Rights by the 119 women who received some remedy through the mechanism, in return for signing legal waivers, Barrick hired BSR to carry out a study on "how to provide remedy for persons harmed at or around the Porgera Gold Mine in Papua New Guinea."[94] The recommendations from the BSR report have not yet been followed up on by the Porgera mine. There is no functioning remedy mechanism at the Porgera mine now, although human rights harms associated with the mine's security continue to be a concern.[95]

The corporate responsibility to provide remedy to those whose human rights have been harmed through actions caused or contributed to by the corporation is now established. The relevance of this case for the issues at the centre of this submission lies in the fact that when Barrick designed the Porgera remedy mechanism the mechanism was constrained in a number of ways. It was only to be in existence for two years, it was only for victims of sexual violence, and it was only for victims of mine personnel, not for victims of the police guarding the mine, despite clear links to the mine in terms of agreements and financial and other support from the mine.

[92] MiningWatch Canada and RAID-UK. 2014. *Privatized Remedy and Human Rights: Re-thinking Project-Level Grievance Mechanisms*. Third Annual UN Forum on Business and Human Rights. Palais des Nations. December. https://miningwatch.ca/sites/default/files/privatized_remedy_and_human_rights-un_forum-2014-12-01.pdf ; *Brief on Concerns Related to Project-Level Non-Judicial Grievance Mechanisms. Data derived from work by MiningWatch Canada and partners on the Porgera Joint Venture Mine in Papua New Guinea and the North Mara Gold Mine in Tanzania.* Prepared for the Expert Meeting: "Sharing experiences and finding practical solutions regarding the implementation of the UNGP's effectiveness criteria." The Hague, April 3-4, **2014**. https://miningwatch.ca/sites/default/files/briefonnjgmsaccessmeetingapril2014.pdf ; 3 April **2015**, MiningWatch Canada. *Barrick Settlement on Rapes and Killings in Papua New Guinea Proof that Victims Need Independent Legal Counsel*. https://miningwatch.ca/news/2015/4/3/barrick-settlement-rapes-and-killings-papua-new-guinea-proof-victims-need-independent ; Harvard Law School, International Human Rights Clinic and Columbia Law School, Human Rights Clinic, *Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Key Concerns and Lessons Learned*, pp.23-26, (Nov. **2015**), http://static1.squarespace.com/static/562e6123e4b016122951595f/t/565a12cde4b0060cdb69c6c6/1448743629669/Righting+Wrongs.pdf

[93] *119 Indigenous Women Demand Justice from Barrick Gold at UN Forum in Geneva.* Letter from Porgera Women to 2016 UN Forum on Business and Human Rights

[94] BSR. September 2018. *In Search of Justice: Pathways to Remedy at the Porgera Gold Mine.* https://www.bsr.org/reports/BSR_In_Search_of_Justice_Porgera_Gold_Mine.pdf

[95] See for example: News Release. MiningWatch Canada and Akali Tange association. 28 March 2017. *Village Houses Burnt Down – Again – at Barrick Mine in Papua New Guinea; Violence Against Local Men and Women Continues Unabated*. https://miningwatch.ca/news/2017/3/28/village-houses-burnt-down-again-barrick-mine-papua-new-guinea-violence-against-local

5. Recommendations

The following recommendations recognize concerns in regard to both private and public security in use at mine sites, as exemplified by the two cases provided above of the Porgera Mine in Papua New Guinea and the North Mara mine in Tanzania. These concerns especially pertain in contexts of weak determination by governments to prosecute private or public mine security for criminal acts and human rights abuses, and of companies that do not take action to curtail these abuses, even when they are repeatedly made aware of them.

1. Companies and governments should not contract police to serve as an ongoing component of mine security.

- As the two cases presented here demonstrate there is a blurring of lines between private and public roles for police who serve to guard mine sites, particularly given the fact that the mines provide remuneration and other material and logistical supports that may include uniforms, vehicles, fuel, food and housing.
- This blurring of lines extends to lines of command. While the agreements that allow the use of police as guards at mine sites may indicate they will follow orders through usual police lines of command, in practice these cases indicate that police have taken orders from mine security managers.
- A further concern highlighted by these cases is that police guarding mines maintain their weapons and their powers of arrest. This leads to cases of excess use of force with lethal outcomes through the use of live ammunition, and to the potential abuse of threats of arrest as a means to secure bribes or to demand sexual favours.
- Mines may be reluctant to refer police who guard the mine, and are accused of excess use of force or human rights abuses, to the police.
- Furthermore, through agreements with mines regarding mine security the governments discussed here find themselves in a position of conflict of interest that may contribute to the lack of investigations and prosecutions of either public or private mine security accused of criminal acts and human rights abuses.
- Additionally, as the remedy mechanism designed for the Porgera mine demonstrates – it only provided remedy for sexual violence by the mine's private security - companies may determine that they are not responsible for the human rights abuses perpetrated by police who are guarding their mine, even those who are contracted under agreements with the mine and are financially and materially supported by the company.

2. Companies need to take all necessary steps to ensure that mine security who are accused of serious human rights abuses are turned over to the police for investigation and possible prosecution.

- In order to provide greater assurance that human rights are protected, companies need to record and report regularly on the number of cases of human rights abuses by mine security that have been reported, or otherwise recorded by the mine, and of these how many have been referred to police. Regular public reporting needs to include: the nature of the harm that was alleged; the means by which the alleged harm was endured; the actions taken by the company to respond to the allegations, and the outcomes in each case. In cases where a company contracts both private and public security the company should also report whether the alleged harm was perpetrated by police or private security.

3. Companies and Governments should make public any existing agreements that authorize the use of police as a component of mine security.

4. Governments, such as the Canada government, need to exercise their duty to protect by holding their multinationals to account at home for abuses perpetrated overseas.

- International soft law guidance on the issues raised in this submission (e.g. the Voluntary Principles on Security and Human Rights; the Global Compact (principle 2); the IFC Performance Standards (standard 4)) have proven insufficient to stop these abuses as Barrick Gold is a member of the Voluntary Principles and the Global Compact and says it adheres to the IFC Performance Standards.
- The Government of Canada needs to legislate mandatory human rights due diligence with a possible cause of action for victims in Canadian courts against companies that are found to have violated the provisions of the legislation.