

Operationalising the United Nations' 'Protect, Respect and Remedy' Framework at the Porgera Gold Mine, Papua New Guinea



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Over the past decade, a plethora of corporate guidelines, principles and codes of conduct have emerged with the aim of defining the social and environmental responsibilities of transnational corporations. In 2008, an initiative known as the '[Protect, Respect and Remedy](#)' Framework (UN Framework) was proposed in an effort to delineate the human rights obligations of corporations. The UN Framework, proposed by the United Nations' Secretary-General's Special Representative for Business and Human Rights, John Ruggie, comprises three pillars:

- 1) states have a duty to *protect* against human rights abuse by third parties, including business, through appropriate policies, regulation and adjudication
- 2) corporations have a responsibility to *respect* human rights, which means to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur
- 3) greater access by victims to effective *remedy*, both judicial and non-judicial.

One company seeking to operationalise the UN Framework is Barrick Gold Corporation. Barrick is the operator of the [Porgera gold mine](#) in Enga Province, Papua New Guinea. The authors of this *In Brief* recently returned from a short preliminary visit to Papua New Guinea, where we are seeking to undertake research on Barrick's responses to documented human rights abuses and its broader contribution to security and safety in the Porgera Valley.

While our research is in its infancy and preliminary interviews mainly included the implementers of these initiatives, the data provide early insights into the opportunities and challenges that arise when extractive companies seek to implement international human rights standards in Papua New Guinea.

In 2010, Barrick came under intense scrutiny for its operations at Porgera following the publication of a [Human Rights Watch report](#).

The report identified failures on the part of the company to recognise the risk of abuses, and inadequate responses to allegations of rights abuses. In particular, Human Rights Watch uncovered a pattern of rape carried out by the mine's security force in 2009 and 2010, as well as violence directed at 'illegal miners' operating in the Special Mining Lease Area. Following its own investigations, Barrick acknowledged that at least some of these allegations were true and that a remediation process for victims would be required.

With John Ruggie as a special consultant on [Barrick's Corporate Social Responsibility Advisory Board](#), the company has in part drawn on the UN Framework to guide its response to these allegations. Two key initiatives that fall under the rhetoric of the UN Framework are the [Restoring Justice Initiative](#) (RJI) and the [Porgera Remediation Framework](#) (PRF).

The first of these, the RJI, was borne out of recognition that successive national governments were not fulfilling their responsibility to provide adequate law and justice services in Porgera. This was coupled with an appreciation that without effective ways of dealing with crime and conflict, it is difficult for the company to contribute to tangible community development results. The RJI works closely with the police and other justice agencies (including village courts and the district court) present in the valley, as well as with various community organisations, around a range of local priority issues, notably family and sexual violence.

The second initiative, the PRF, offers compensation and livelihood opportunities to women and men who have been identified as victims of assault by Barrick employees. Uncertain as to how to translate international human rights standards into an effective remediation package in Porgera's complex social environment, Barrick drew upon the knowledge of leading figures in Papua New Guinea, including Ume Wainetti and Dame Carol Kidu. The PRF has been criticised

by organisations such as [MiningWatch Canada](#) for clauses which obstruct PRF beneficiaries from taking further legal action against Barrick. However, informants involved in the delivery of the PRF defended it on the basis that it offers opportunities that might not otherwise be available through formal judicial mechanisms.

An important opportunity created by the UN Framework is that in regions of limited statehood, 'corporate responsibility to respect' human rights may drive creative problem-solving approaches in areas once considered the exclusive domain of states. For example, development practitioners in Port Moresby informed us that the RJI is potentially the first public-private partnership on law and justice in Papua New Guinea. A reported achievement of the RJI is that approximately 400 complaints have been lodged at the Family and Sexual Violence Unit in Porgera. This appears to represent a notable shift in confidence among women in particular to report incidents of family and sexual violence to the police.

While the UN Framework might rightly be criticised in some contexts for being too accommodating of corporations in contrast to states, in other settings it may open spaces for innovative approaches. For example, it was noted by some informants that Barrick has a comparative advantage over the Papua New Guinea Government in regard to addressing law and justice challenges in Porgera. In part, this was attributed to the profit motive of extractive companies. If an initiative is deemed unsuccessful and fails to mitigate risks to the company's operations, it will be changed quickly. This was contrasted to national government initiatives that are less likely to be retracted once implemented. An additional limitation of state-based frameworks is that they are designed to be rolled out across the entire nation and then need to be amended to meet specific circumstances. Similar points might be made in relation to donor programs, which seek to align with recipient government policies and may be similarly difficult to adjust to specific local circumstances.

While this can also be said of corporations seeking to implement international human rights

standards, extractive companies may have greater presence than the state in remote areas and, over time, develop strong local networks. This embeddedness may render extractive companies more able to engage thoughtful leaders in the translation of new frameworks to suit local conditions, such as through the RJI's work with local women and business leaders and nurturing of new civil society groups.

This is not to say, however, that approaches that seek to foster corporate engagement in law and justice are without limitation and considerable risk. For example, instead of leveraging extractive projects to 'pull the state' back into fulfilling its responsibilities in remote areas, the state may further demarcate this space as one of 'corporate responsibility'. There are also challenges associated with sustaining such endeavours against the backdrop of a mining operation that has a finite lifespan.

In spite of these risks, the UN Framework appears to be offering Barrick opportunities to 'reach up' to assist the state in the delivery of law and order in Porgera. Yet a potentially more intriguing feature of the approach is that Barrick has simultaneously sought to 'reach down' to the grassroots through the provision of access to remedy for past harms and support for civil society. The long-term benefit of this two-pronged approach is that it may serve to strengthen the justice sector to better deal with future harms.

While it would be unwise to draw too many conclusions on Barrick's approach without hearing more from the local 'beneficiaries' of the RJI and PRF, further analysis may offer important insight for the extractives sector in Papua New Guinea, where unresolved disputes can quickly escalate into violence, as well as for government agencies and donors working, or wishing to work, in such areas.

Author Notes

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