

November 23, 2017

Dear Mr. Surya Deva, Ms. Dubravka Simonovic, and Ms. Kamala Chandrakirana,

I am writing in response to your letter addressed to Barrick Executive Chairman, John L. Thornton, dated 25 September 2017.

In that letter, you requested information on a number of matters, including about the historical allegations of sexual violence at the Porgera Joint Venture (PJV) in Papua New Guinea; the remedy provided to the 119 women who participated in the Porgera Remedy Framework; the functioning and accessibility of the grievance mechanism at the PJV; and the PJV's cooperation in criminal investigations of perpetrators of sexual violence with links to the PJV that have not yet been brought to justice.

These are important issues and I appreciate that in your respective capacities, you have a responsibility to clarify any matters that are brought to your attention.

There is a vast body of written information in the public domain that encompasses the information you seek. These include:

- A detailed discussion on the Porgera Remedy Framework, including regarding the historical allegations of sexual violence at the PJV and the PJV's cooperation in criminal investigations (available [here](#)).
- A summary of the changes implemented at the PJV and more generally across all of Barrick's operations following allegations of sexual violence raised by Human Rights Watch in 2010 (available [here](#), specifically on pages 2-3).
- Barrick's response to the Enodo assessment ([here](#)) and to the Legal Clinics at Harvard and Columbia Universities ([here](#)), which include detailed commentary on the remedy provided to the 119 women who participated in the Porgera Remedy Framework.
- A comprehensive discussion of the company's human rights compliance program, launched in 2011 (available [here](#), in Barrick's 2017 Human Rights Report).
- Extensive correspondence with and from civil society and human rights experts on the Porgera Remedy Framework, including from the Office of the High Commissioner on Human Rights (all publicly available on Barrick's website, [here](#)).

Mr. Deva would be familiar with these matters and about the Framework more generally. He moderated a panel session on the Framework at the 2016 UN Forum on Human Rights, in which the company, the claimants, one of the independent administrators of the Framework, and a variety of interested stakeholders participated or presented their views.

As the materials referred to above make clear, the PJV operates in a geographic area where violence against women is endemic. Numerous studies have shown high rates of violence against women in several parts of Papua New Guinea, with estimates of up to two-thirds of women in some areas having

experienced some form of violence. In a 2011 study commissioned by Barrick, 86 percent of women surveyed in the Porgera region said they had been victims of physical violence and 79 percent reported suffering some form of sexual violence. These findings are confirmed by nation-wide studies on levels of domestic and sexual violence in the country, conducted by UNDP and other independent organizations.

Circumstances leading to the creation of the Porgera Remedy Framework

In May 2010, Human Rights Watch (HRW) alerted Barrick and the PJV to a series of claims alleging violence against women, including rape, in and around the Porgera mine site, including allegations involving employees of the PJV Asset Protection Department (APD).

In response, Barrick and the PJV initiated internal and independent inquiries, which involved extensive documentary analysis and some 700 interviews. The investigation revealed evidence of multiple instances of potential criminal conduct, including sexual assaults, by former and then-current members of the APD. A number of employees who were implicated in or had knowledge of sexual assaults were terminated and/or disciplined, and the company handed over all relevant information to the police, urging (and ultimately supporting) a full criminal investigation. A Special Police Task Force conducted its own in-depth investigation, and made several arrests; they were unable to obtain convictions, however.

In addition, the company created the Porgera Remedy Framework. The Framework underwent extensive review in its design. That included reviews and comments by Professor Ruggie, Human Rights Watch, MiningWatch Canada, and many other international experts in human rights and gender-based violence, as well as multiple in-country workshops with national experts and leaders. The Framework was overseen by two prominent female national leaders – Dame Carol Kidu, the first female parliamentarian in Papua New Guinea, and Ms. Ume Wainetti, the head of the country’s leading civil society organization dedicated to gender based violence. While the identity of the claimants remained confidential at the outset, feedback was provided on the design by claimant representatives. Claimant feedback was incorporated through Framework adjustments and enhancements once it began receiving claims, including from a senior group of female claimants who provided extensive advice and commentary.

Remedy provided through the Framework

Barrick believes that the remedies provided to the 119 women were appropriate, equitable and generous. This view is bolstered by an independent assessment of the Framework that we commissioned in 2015 and which was advised by Human Rights Watch and other independent experts. The assessment, conducted by the human rights consultancy Enodo Rights, found based on an analysis of precedents from international tribunals that “claimants ultimately received compensation of far higher value than [international] precedent would suggest,” and deemed that remedies were “generous ... rights-compatible and, from the perspective of compensation under human rights law, complete.”¹

We are advised that all agreed individual remediation components have been delivered, and that there are no outstanding payments or services yet to be provided.

¹ See pg. 3 of the Enodo Rights report, available here: <http://www.barrick.com/files/porgera/Enodo-Rights-Porgera-Remedy-Framework-Independent-Assessment-Executive-Summary.pdf>

Regarding the equitability of remedies received via the Framework, compared to what was received through a multi-party out-of-court settlement (including 11 claimants who did not initially accept benefits under the Framework) two years later as part of a larger threatened US class action by Earth Rights International (ERI), we have discussed this matter in considerable detail [here](#).

The object of the Framework was to create a non-judicial process, in which claims could be considered on an expedited, confidential manner. No proof was required. Claims were considered on an individual basis. Considerations of statutes of limitations and other defenses were not applied. The claims were not investigated. The remedy provided was individualized based on input from claimants.

The ERI settlement was a global settlement amount, designed to provide a remedy for the 11 women who alleged sexual assault, three other claimants who asserted wrongful death claims, and to address costs associated with the legal process and resulting mediation. As such, the settlement sum was designed to address ERI's costs associated with its legal representation of the women, including costs arising from ERI's participation in the mediation. The global sum was also intended to address costs incurred by the women relating to the mediation itself. The decision on what amount each of the 11 women received from this global settlement was made on a confidential basis by ERI, using criteria unknown to Barrick. The amounts were not determined by a court or other body designed to align with international human rights principles relating to effective remedies.

Further, the settlement contemplated that the 11 sexual assault claimants would re-enter the Framework and receive a payment of K30,000 - an amount which was agreed by Barrick and ERI to be within the range of other benefits provided under the Framework.

With such fundamentally different claims, costs, processes and frameworks underpinning the Framework and the ERI settlement, we maintain that comparing the two cannot be instructive or determinative as to whether one provided more effective remedy than the other.

Improving access to remedy

In an effort to improve access to remedy, Barrick and Barrick Niugini Ltd. (BNL)² have engaged the social non-profit organization, Business for Social Responsibility (BSR), to undertake a study in Papua New Guinea to identify possible avenues for providing effective remedy for populations who may be affected by the mine. This work will also provide recommendations on how to address the concerns of the 119 women regarding the remedy provided through the Framework. It will also address a number of other issues raised in your letter, including strengthening the effectiveness of the PJV operational level grievance mechanism and ensuring appropriate channels and cooperation with criminal investigations.

The BSR team is led by Dr. Margaret Jungk, former chair of the UN Working Group on Business and Human Rights, and Bennett Freeman, former U.S. Deputy Assistant Secretary of State for Democracy, Human Rights and Labor.

² Barrick (Niugini) Limited ("BNL") is a company incorporated in Papua New Guinea, and operates the Porgera Gold Mine in Enga Province on behalf of the Porgera Joint Venture partners. BNL is an independently managed company and is jointly owned through an equal partnership between Barrick Gold and Zijin Mining Group. The Porgera landowners and the Enga Provincial Government have a 5% interest in the Porgera Joint Venture through Mineral Resources Enga Limited and BNL has the remaining 95%.

To do this, BSR conducted in-person and remote interviews with affected persons and their representatives in Porgera, along with international human rights experts. On the basis of this research, which was conducted between June and August, BSR produced a draft report for use in a series of roundtable discussions with international and local stakeholders to be held over the coming months.

The goal of these discussions is to hear reactions to the draft report and receive constructive and practical feedback for ways to strengthen the report's recommendations. The end goal is to strengthen pathways to effective remedy for those who may be negatively impacted by the Porgera mine.

One of the roundtable discussions is planned to coincide with stakeholder attendance at the 2017 UN Forum in Geneva, and an invitation has been sent to your respective Secretariats, inviting you to join. We would welcome your participation, either through the roundtable itself or if you prefer, through a bilateral discussion.

We await your response to this invitation and do hope that you can participate in this constructive dialogue aimed at strengthening remedy pathways in Porgera.

Sincerely,



Simon Jimenez
Senior Director, Corporate Social Responsibility