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| ATA’s POSITION PAPER |
| IN PETITIONING THE BARRICK GOLD CORP |
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| **4/29/2019** |

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| *This position paper explains and presents the Akali Tange Association’s (ATA) position in issuing the attached Petition to the Barrick Gold Corp and its subsidiarity Barrick Niugini Limited regarding gross human rights violation issues caused and or created by these mining companies at its Porgera Gold Mine in the highlands of Papua New Guinea.* |

**Akali Tange Association’s Position Paper in Issuing the Petition to Barrick Gold Corp**

1. **Introduction**

This position paper explains and presents the Akali Tange Association’s (ATA) position in issuing the attached Petition to the Barrick Gold Corp and its subsidiarity Barrick Niugini Limited regarding gross human rights violation issues caused and or created by these mining companies at its Porgera Gold Mine in the highlands of Papua New Guinea. The purpose of this Position Paper and the Petition is to make known to these companies of the ATA’s position prior to reviewing and renegotiating of the Porgera Gold Mine Project’s Mining Development Contract (MDC) renewal come August, 2019. Supplementarily, these Position Paper and the Petition were drafted purposely to receive response from these two companies as to know whether or not these companies will process, assess and evaluate the allegations lodged within their operational grievance mechanism (OGM) at the Porgera Joint Venture (PJV) Mine Site by the ATA and when.

Further, brief background was drafted in this position paper to explain to the interested stakeholders of Porgera human rights abuse issues to know and understand the locality of the mine, its ownership and the company’s production per year as well as the mine life expectancy. Further, it also describes the background history of the Porgera Gold Mine Project Operators’ depressing human rights violations that have been caused and or created overtime since the inception of the gold mine project.

Moreover, in the third chapter of this paper, ATA intends to explain in-brief both the local and international avenues exhausted in search for remedies and justice by the ATA for the local indigenous victims from the backwaters of Porgera. It covers ranges of avenues exhausted including:

* Company created non-judicial remedy mechanism: a remedy mechanism that was created solely by the company pursuant to UN Guiding Principles on Business and Human Rights, Right to Remedies and others.
* Lodging of claims with the PNG National Government: as PNG being an adhering and member state to the UN Charter.
* Lodging of claims with the Canadian National Contact Point (NCP) pursuant to the Organizations for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises,
* And the UN Working Group on Business and Human Rights of the UN Office of High Commissioner for Human Rights (OHCHR).

This position paper also clarifies how, where and when Barrick Gold Corp as the perpetrator of gross human rights violations has ignored and neglected the allegations of human rights violation issues identified by its very owned commissioned report which was drafted by Business and Social Responsibilities (BSR) in September, 2018. This section also explains the company’s negligence in adhering to the Report’s findings, recommendations and timelines set.

And in the last chapter of this paper presents the ATA’s standings, stating the reasons as to why ATA has issued the Petition to the Barrick Gold Corp and its subsidiarity company, BNL and the Petition itself.

1. **Brief Background**

Porgera Gold Mine is located at an altitude of 2,200-2,700 meters in the Porgera Valley of Papua New Guinea’s (PNG) Enga Province. The mine is of both an open pit and underground gold mine, owned and operated by Barrick Gold’s subsidiary Barrick (Niugini) Ltd. The Porgera Mine was opened in 1990 and has produced over 20 million ounces of gold. At today’s prices, it is worth more than $28billion. Barrick took over the mine in 2006 from Placer Dome and production is expected to continue until 2050 and beyond. The Porgera gold mine is the second largest gold mine in Papua New Guinea and accounts for roughly 12 per cent of PNG’s national export earnings. Barrick acquired a legacy of environmental damage and human rights abuses that it has failed to remedy.

Each day, Barrick dumps more than 16,000 tons of waste into the Porgera River and local creeks that villagers have long relied upon for drinking water, bathing, and washing clothes and food. The mine’s ever expanding waste dumps continue to take over the land and bury the homes of the original landowners that have lived in the region for generations, long before large-scale mining came to Porgera. Surrounded on all sides, villagers have no choice but to cross the dangerous dumps to reach agricultural land, commercial areas, schools or other villages.

Many have not been compensated for the loss of their land and their homes, and Barrick has refused to relocate them. Without land to farm and sources of clean water, practically the only means of income available to some of the local indigenous communities is to scavenge for remnants of gold in the open pit or the treacherous waste dumps.

1. **Avenues exhausted thus far in pursuit of remedy and justice for indigenous victims of the Porgera Valley**

Soon after the incorporation of the ATA in 2004[[1]](#footnote-1) and the publication of its first [Report](http://www.akalitange,org/Reports)[[2]](#footnote-2), the ATA, with the assistance of an International Non-Government Organization (NGO), the MiningWatch Canada have been very vocal in raising these human and environmental rights issues at the national and international arenas.

In 2006, the National Government of Papua New Guinea through its National Executive Council (NEC) resolved to set up a committee, “Porgera Investigation Committee” (PIC), to investigate the allegations of gross human rights violations[[3]](#footnote-3) raised by the ATA. The PIC members did a thorough investigation and had completed their investigation report, however; this report and its findings and their recommendations were never publicised despite several attempts have been made by the ATA to have this report publicised.

Despite negligence and denials from the home State and the Barrick Gold Corporation, the ATA has used the international Medias as its advocacy tools to name and shame the company for their gross human rights violations. Having informed of the allegations of gross human and environmental rights abuse issues by the grassroots organization from the backwaters of Porgera, Norwegian Pension Fund’s Council on Ethics for the Government Pension Fund – Global, Ministry of Finance has excluded the Canadian mining company Barrick Gold Corporation from the Fund in 2009.[[4]](#footnote-4)

Notwithstanding continuous advocacy resistances from the ATA and the international NGOs[[5]](#footnote-5), the company ignored and or denied the allegations of gross human rights violations and continued to go on a killing and shootings spree, raping and or gang-raping local indigenous young women and girls, does unlawful and illegal arresting and or arbitrary arrests in the pretext of trespassing, does executes continuous force evictions, and unremittingly dumps untreated chemicals and other mine wastes directly into the Porgera Valley’s only riverine system.

In 2008, the [Human Rights Watch](http://www.HumanRightsWatchhumanrightswatch.org), an International Non-government Organization specialized in Business and Human Rights was engaged to investigate into the allegations raised by the ATA and the International NGOs.[[6]](#footnote-6) This report’s findings and recommendations, together with the ATA’s complaint filed with the [Canadian National Contact Point](http://www.CanadianNationalContactPoint.org) pursuant to the [Organization for Economic Co-operations and Development’s Guidelines for Multinational Enterprises](http://www.OrganizationforEconomicCo-operationsandDevelopment'sGuidelinesforMultinationalEnterprises)’ (in 2011) lead to the creation of a non-judicial project-level operational grievance mechanism, which is in-line to the United Nations Guiding Principles on Business and Human Rights.[[7]](#footnote-7) The [“*Olgeta Meri Igat Raits*](http://www.)*”* Framework or the [Porgera Remedial Framework](http://www/PorgeraRemedialFrameworkAssociation) which was created as a remedy mechanism was supplementary to the company’s existing grievance mechanism at the Porgera Joint Venture (PJV) Mine site. The designing, planning, and implementation of this [program](http://www.) were done without consultation with key stakeholders and right-holders as well as the victims themselves. As such, the [program](http://www.) was described by ATA and international NGOs as a failed and flawed remedy mechanism that cannot be replicated wholesale by other companies but can be used as a lesson learned.[[8]](#footnote-8)

More than two hundred women sexual victims have undergone this [program](http://www.), however; only 119 were provided with remedies that are believed to be far less than other 11 women who had rejected the remedies offered by the [program](http://www.).[[9]](#footnote-9)

The [program](http://www.) has also further victimised the 119 women sexual victims who had underwent it, and these women victims have lodged their dissatisfactions with the UN Working Group on Business and Human Rights in 2016.[[10]](#footnote-10)

Additionally, in 2015, the Barrick Gold Corp has engaged an independent assessor, [EnodoRights](http://www.EnodoRights.org) to assess the overall operations of the [program](http://www.) from its initial stages of planning and designing and eventually into the implementation stages of the [program](http://www.).[[11]](#footnote-11) The independent assessor was paid by the company, thus; most of its report’s recommendation and findings were biased and misleading. On the contrary, a few of its recommendations were acceptable to human rights norms and principles.[[12]](#footnote-12)

Soon after the completion of the [Pillar III: On the Ground](https://www.enodorights.com/assets/pdf/pillar-III-on-the-ground.pdf) [[13]](#footnote-13), the ATA has used the existing operational grievance mechanism (OGM) at the PJV Mine Site to lodge other unsettled allegations of human rights abuse allegations together with some missed out women sexual victims’ allegations. Upon receipt of the ATA’s allegations, the company has issued the ATA with a grievance acknowledgement number.[[14]](#footnote-14) Within a week, the Barrick and the BNL wrote to ATA to submit the claimants or the victims consents verifying whether or not ATA was bestowed the powers to act for and on behalf of the victims to pursue the claims on their behalf. ATA then submitted the victims’ and their custodians’ consent through a signed and sealed Delegation of Authority pursuant to the 1968 Statutory Declarations Acts of the Independent State of Papua New Guinea. Since then, the company had become too ignorant despite several attempts been made to get response from their end.

Knowing that company will once again be negligent to respond to the ATA’s claims and allegations lodged, the ATA has staged a peaceful protest where the news of this peaceful protest heated headlines in international Medias.[[15]](#footnote-15) The Barrick than responded and admitted that its existing OGM at the PJV Mine Site does not have the capacity to process, assess and evaluate such gross human rights violation issues.[[16]](#footnote-16) As such, the company has also assured the ATA that it will engage an independent consultant firm to find ways to provide remedies to the victims of the operations of the Porgera Gold Mine Project.

In September 2017, the Business and Social Responsibilities, (BSR) an NGO based in the US which is specialized in providing expert advises to multinational corporation in relations to business and human rights was engaged by Barrick to find possible pathways for Barrick to provide remedies to its victims. After lengthy discussions and fact-finding investigations by the Team BSR, they had published their [Report](http://www.insearReport), titled [In Search of Justice – Pathways to Remedy at the Porgera Gold Mine](http://www.insearReport) in September, 2018.[[17]](#footnote-17) In their [Report](http://www.insearReport), the Team BSR has identified 940 backlogged cases from the company’s **black-hole** OGM.

According to the BSR [Report](http://www.insearReport)’s recommendations, Barrick was given a month to draft its Company Action Plan (CAP). It was also recommended that the company shall submit its CAP to the ATA for ATA to review prior to implementation of the CAP. In adhering to the [Report](http://www.insearReport)’s recommendation, ATA was invited to meet with the Barrick at Port Moresby in November, 2018, however; that meeting was cancelled due to reasons known only to the company.[[18]](#footnote-18)

ATA has followed up requesting the Barrick to reschedule the meeting, however; it has fallen on deaf ears. To date, there has never been any response from the Barrick and the ATA is really concerned whether or not the company is going to set-up the remedy mechanism as recommended by the [**Report**](http://www.BSRInSearchofJustice:PathwaystoRemedyatthePorgeraGoldMineSeptember2018) as the Porgera Gold Mine Project’s Mine Development Contract will expire come May, 2019.

This inadvertently implies that Barrick is about to forfeit all human rights claims if it’s mining lease expires in May, 2019. This will be unbecoming of a giant Corporation who has been in the forefront in becoming a signatory and member to almost all of the international organizations which promotes, protects and fulfils the International Bill of Rights and other UN Covenants and or Conventions declared under the UN Charter.

1. **Conclusions**

Despite being a signatory to the [UN Global Compact](http://www.UNGlobalCompact.org) , the [Voluntary Principles on Security and Human Rights](http://www.VoluntaryPrinciplesonSecurityandHumanRights.org) , the [ICMM](http://www.ICMM.org) , and the [Extractive Industries Transparency Initiative](http://www.ExtractiveIndustriesTransparencyInitiative.org) , Barrick has not improved on its human and environmental rights performance since first reported in 2004 by ATA and in 2012 by other reputable international organizations.[[19]](#footnote-19) Barrick Gold has not responded to these organizations despite repeated attempts to contact the company. This has resulted in the categorization of Barrick Gold as “**The pits:** **extremely poor performer**”.[[20]](#footnote-20)

Contemporarily, ATA is recording at the most, 3 to 4 human rights violations involving alluvial miners at the Open Pit and treacherous waste dumps per month. This is in fact a humanity crises situation which warrants responsible local State, international NGOs and UN’s intervention.

Also, after knowing that Barrick is so ignorant and negligent in responding to our requests, the ATA is submitting this attached Petition to know whether or not the Barrick Gold Corp and its subsidiarity, Barrick Niugini Limited have intentions of processing, assessing and evaluating these 940 backlogged cases identified by its very own commissioned [Report](http://www.insearReport) prior to reviewing and renegotiations[[21]](#footnote-21) for the renewal of the Porgera Gold Mine Project’s MDC.

P.O. BOX 100,

**PORGERA**

ENGA PROVINCE

PAPUA NEW GUINEA



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**ASSOCIATION INC** Mobile :( 675)70813410

Email: [akalitange\_association@yahoo.com/](mailto:akalitange_association@yahoo.com/) jameswangia@yahoo.com

***28th, April, 2019***

**PETITIONS**

**TO: BARRICK NIUGINI LIMITED**

PORGERA JOINT VENTURE

P.O.BOX 484

MT.HAGEN, WHP

Attention: Peter Sinclair and Ila Temu

**FROM: AKALI TANGE ASSOCIATION (ATA) INC**

P.O.BOX 100

PORGERA, ENGA PROVINCE

Dear Sir,

**SUBJECT: PETITION TO BARRICK NIUGINI LIMITED ON BEHALF PJV**

ATA is petitioning Barrick Niugini Limited on behalf of Porgera Joint Venture on the following very vital reasons. On the common understanding, ATA members and stakeholders would like to hear your respond after three (3) weeks from this date.

Barrick Niugini Limited must tell the custodians and stakeholders of the deceases, injured and rape or gang-rape victims that,

1. Since the Mining Development Contract of the Porgera Special Mining Lease is expiring in May, 2019, can Barrick Niugini Limited tell the Akali Tange Association (ATA) and other stakeholders of the position or the status of the outstanding and ongoing Porgera Human Rights Violations?
2. The Porgera Human Rights Violations’ remedy pathway have been fully identified by the latest and most popular BNL Commissioned BSR Report 2018, **In Search of Justice – *Pathways to Remedy at the Porgera Gold Mine.*** However, BNL, due to reasons known to itself, has ceased all progress of the recommendations and findings of the report in November, 2018. Since then, BNL has remained silent to calls to recommence work on the BSR Report by ATA. Therefore, can the BNL tell ATA and all other stakeholders as to when and how to go about the progress of the popular BSR Report’s recommendations and findings?
3. ATA is seeking redress and remedies for all forms of human rights violations and not confined to sexual violence. Therefore, can the BNL tell ATA and all other stakeholders on how and when to process, assess and evaluate all these claims and where merits provide remedies to the claimants?
4. ATA is an NGO that has strived to pursue justice and retribution for the victims of Human Rights Violation in Porgera. Since its inception in 2004, ATA has struggled and even limped financially to pursue its goals and objectives as an advocate of human rights. We do note the fact that we are a volunteer NGO and we do not intend to pursue a claim for reimbursement, anyhow, we would like you to understand the ugly fact that the victims of PJV’s Operational Impacts are victimizing ATA since 2004. We struggled to manage the grievance of Porgera Victims and Right Holders at a time when the State failed to protect and the Developer failed to respect. ATA even reached a point where the ATA were labelled as a bunch of criminals who were trying to instigate a civil unrest. Therefore, can the BNL and the National Government of Papua New Guinea collaborate to reimburse all of ATA’s cost from 2004 to 2019?
5. Currently, there are 940 backlogged cases with the BNL’s Operational Grievance Mechanism. Among these is ATA’s PJV Grievance Acknowledgement Number #: 3936. Therefore, can the Barrick and BNL tell ATA and all stakeholders of the process or the current status of these claims and cases?

Your quick respond will be highly appreciated.

Yours Sincerely,

1. See; <https://www.ipa.gov.pg/pngassociations/viewInstance/view.html?id=8bce5eb996508d567e00585b6b5ab42d0e19824c5715638c&_timestamp=16185208954433171> [↑](#footnote-ref-1)
2. The report hereby refers to the ATA’s first Report published in 2005, the “*Shooting Fields of Porgera - Now a Case to Compensate and Justice to Prevail.”* See; <http://www.akalitange.org/Reports> [↑](#footnote-ref-2)
3. The gross human rights violations include; extra judicial killings and shootings, rapes and gang rapes, tortures and beatings, illegal or arbitrary arrests, force evictions and environmental pollutions caused and or created by the operators of the Porgera Gold Mine Project. [↑](#footnote-ref-3)
4. After conducting its own independent investigation on the allegations raised by the ATA, the Norwegian Pension Fund’s Council concluded that: “In light of the documentation at hand, the Council finds that Barrick’s operation of the Porgera mine entails an unacceptable risk of extensive and irreversible damage to the natural environment. According to the Council’s assessment, the company’s riverine disposal practice is in breach of international norms. In the Council’s view, the company’s assertions that its operations do not cause long-term and irreversible environmental damage carry little credibility. This is reinforced by the lack of openness and transparency in the company’s environmental reporting. Considering the intentions presented by the company with regard to production expansion, the Council finds reason to believe that the company’s unacceptable practice will continue in the future.” See; <https://www.regjeringen.no/en/historical-archive/Stoltenbergs-2nd-Government/Ministry-of-Finance/Nyheter-og-pressemeldinger/pressemeldinger/2009/mining-company-excluded-from-the-governm/id543107/> [↑](#footnote-ref-4)
5. International NGOs refers to; MiningWatch Canada, Harvard, New York and Colombia Law Schools, Mt. Claire State University, Amnesty International, Human Rights Watch, RAID, Earth Works, Earth Rights International and others. [↑](#footnote-ref-5)
6. See; <https://www.hrw.org/sites/default/files/reports/png0211webwcover.pdf> [↑](#footnote-ref-6)
7. UN Guiding Principles on Business and Human Rights was adopted by the UN in 2011. Soon after the adoption, the Barrick Gold Corp has created this remedy mechanism for Porgera to assess, evaluate and provide remedies to the women sexual victims. Other human rights abuse allegations such as extra-judicial killings or shootings, tortures and beatings, illegal and or arbitrary arrests, force evictions and chemically infected victims have not been covered by this program, thus; this program was described as limited in its scopes. [↑](#footnote-ref-7)
8. See; <http://www.right+wrongs.org> [↑](#footnote-ref-8)
9. Of more than 200 women sexual victims that underwent the [program](http://www.), only 119 accepted the remedies of K50, 000.00 in cash, whilst others were rejected by the [program](http://www.). However, only 11 women rejected the offer made by the [program](http://www.). These 11 women were offered free legal aids by EarthRights International to pursue their cases at a Court in US, however; Barrick later provided them with far higher amounts believed to be four times higher than the remedies offered to the 119 women by the program. [↑](#footnote-ref-9)
10. See; <https://www.ohchr.org/Documents/Forms/AllItems.aspx?RootFolder=%2fDocuments%2fIssues%2fBusiness%2f2017Survey%2fA2R&FolderCTID=0x0120008E9B9CA9834C524B9135759ABDD63BCD> [↑](#footnote-ref-10)
11. EnodoRights Assessment Report, “*Pillar III – On the Ground Report”* See; <https://www.enodorights.com/assets/pdf/pillar-III-on-the-ground.pdf> [↑](#footnote-ref-11)
12. Those that were of value to the ATA in human rights context was; “*if Barrick is really committed to human rights violation issues, than the remaining unsettled human rights violation issues and the 119 Women who have already undergone the PRFA program and their grievances must be addressed.”* Pillar III: On the Ground Report page 12. [↑](#footnote-ref-12)
13. Barrick commissioned Assessment Report of the Porgera Remedial Framework; Pillar III: On the Ground Report. See, <https://www.enodorights.com/assets/pdf/pillar-III-on-the-ground.pdf> [↑](#footnote-ref-13)
14. When a complaint is lodged with the PJV’s OGM, the officer on duty issues a grievance acknowledgement ID number to the claimant. As such, the ATA as an organization representing the victims and their custodians after lodging its allegations on behalf was given a grievance acknowledgment ID number, which is PJV Grievance Acknowledgement ID No: 3936. [↑](#footnote-ref-14)
15. See; <https://news.vice.com/en_ca/article/bjd4pm/violence-escalating-at-notorious-mine-co-owned-by-canadian-company-locals-say> [↑](#footnote-ref-15)
16. Response letter with the Author on File [↑](#footnote-ref-16)
17. See; <https://www.bsr.org/en/our-insights/report-view/porgera-gold-mine-barrick-pathways-to-remedy> [↑](#footnote-ref-17)
18. Invitation letter send via email. On file with the author. [↑](#footnote-ref-18)
19. See Facing Finance Dirty Profit 6. [www.facing-finance.org](http://www.facing-finance.org). [↑](#footnote-ref-19)
20. See Facing Finance Dirty Profit 6. [www.facing-finance.org](http://www.facing-finance.org). [↑](#footnote-ref-20)
21. Review and renegotiation of the Memorandum of Agreement (MOA) will be done between the State, Enga Provincial Government and the 24 Land Negotiating Committees (LNCs) of Porgera and the Barrick Gold Corp prior to the extension of the Mining Development Contract (MDC). [↑](#footnote-ref-21)