

**AMNESTY  
INTERNATIONAL**



Ref: TC ASA 34/2009.001

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29 June 2009

Dear Mr Garver

**PORGERA MINE – AMNESTY PUBLIC STATEMENT DATED 11 MAY 2009**

Thank you for your letter dated 22 May 2009 addressed to the Secretary General of Amnesty International, Ms Irene Khan. The Secretary General has asked me to respond on her behalf. I understand that you have – in the interim – had a phone conversation with my colleagues in Amnesty International Canada to discuss some of the issues you raise in your letter. I will also respond to your letter to the Business and Human Rights Resource Centre, published on their web site, in which you refer to Amnesty International.

Amnesty International issued a Public Statement on 11 May 2009 as a result of our concerns for the human rights of people living in and around the Porgera mine, specifically within the Special Mine Lease area. In early May 2009, our researchers received reports that the police had forcibly evicted people living within the mine lease area and burnt down their properties. Our researchers made enquiries with a number of sources, including some of those affected by the evictions and destruction of property in Porgera, as well as witnesses to the event and its aftermath, including landowners in the area.

On the basis of these enquiries, we discovered that police had destroyed approximately 50 homes on 27 April 2009, and that this activity occurred within the area covered by the Porgera mine's Special Mine Lease. We also received reports that a further 300 homes had been targeted in Ungima and Kulapi villages. Women, men and children living in these villages were left homeless and traumatised by the actions of the police.

Our concerns for the rights of those affected by these operations were heightened by the publication of media reports in the days prior to 11 May 2009 in which the Papua New

Guinea police commissioner, Mr Gari Baki, was reported to have said that “sometimes the use of force is the only way to effect positive change”.<sup>1</sup>

After weighing up the evidence available, and the potential for further forced evictions and damage to property by the authorities, Amnesty International issued a Public Statement calling for immediate action to protect those whose rights were violated when police officials destroyed people’s homes.

Your letter to the Secretary General raises a number of concerns, which I would like to address.

You state that Amnesty International’s Public Statement alleges that Barrick Gold Corporation (Barrick) or its subsidiaries carried out the forced evictions and destruction of property. However, Amnesty International’s statement is completely clear on this point. The forced evictions were carried out by the police.

Nonetheless, the evictions were carried out within the Porgera Mine Lease Area, operated by the Porgera Joint Venture (PJV) mining operation. Subsidiaries of Barrick own 95 per cent interest in the Joint Venture. PJV provided some logistical support to the police operation, including food and lodging for the police involved in the operation. Amnesty International believes that Barrick has responsibilities in relation to how public or private security operates across the PJV Mine Lease Area, a principle widely accepted amongst extractive companies. Addressing the impact of public and private security in and around mining sites – including those operated as joint ventures or under other partnership agreements – was a catalyst for the establishment of the Voluntary Principles on Security and Human Rights (Voluntary Principles), of which Amnesty International is a founding member.

On the issue of forced evictions, we disagree with Barrick’s characterization of both the evictions and the use of force in this case. The structures that were razed and burned may have been very basic, but this is not the issue. They were homes to people, many of whom were local landowners. It is true that some of those evicted were from areas far from Porgera, but being migrants does not limit the human rights protection to which they are entitled. In fact, when one is poor the destruction of even a small possession can have serious negative impacts on human rights.

We also note your concern with Amnesty International’s use of the term “gross violation of human rights”. The United Nations (UN) Committee on Economic, Social and Cultural Rights, the expert organ of the UN system on the issue of economic, social and cultural rights, has stated in its General Comment on Forced Evictions: “The international community has long recognized that the issue of forced evictions is a serious one. [...] The Commission on Human Rights has also indicated that “forced evictions are a gross violation of human rights.” The Committee also makes clear that prior to carrying out any evictions all feasible alternatives should be explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.

With regard to ‘the facts as Barrick understands them’: we appreciate receiving your data on the number of structures destroyed and people affected during the police operation. Our information is, however, different from the information you have presented in your letter. As noted above, our information is based on contact with witnesses and those affected. Your assertion on Amnesty International’s sourcing of information is not correct.

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<sup>1</sup> For example, Radio New Zealand, *PNG Police Chief Says Sometimes Force the Only Way to Bring Positive Change*, <http://www.rnzl.com/pages/news.php?op=read&id=46354>, posted 04 May 2009.

We would also challenge some of your assertions in relation to the evictions: 24 hours verbal notice of a police operation is not notice of eviction and, even if it had been an eviction notice, would not come close to conforming to human rights standards in this regard. You suggest that razing and burning peoples homes or 'shelters' does not represent any use of force – human rights law and standards disagree with your analysis.

Your statement that Amnesty International made no effort to contact Barrick is also not accurate. Amnesty International Canada telephoned Barrick's Manager for Corporate Social Responsibility on 7 May 2009, just a few days before we issued our statement. The relevant person was not there and a voice message was left, asking that our call be returned. The call was not returned before the statement was published. Amnesty International Canada has also previously raised concerns about the Porgera mine with Barrick in September 2008 and February 2009.

Finally, Amnesty International disputes the manner in which your letter characterizes certain non-government organisations and activists as existing "solely to vilify Barrick with unsubstantiated and unaccountable claims". We do not consider this to be either fair or accurate in respect of those persons or organisations named in your letter.

Your letter indicates that there is a written agreement between Porgera Joint Venture and the police in relation to the deployment, which requires that police actions be consistent with the Voluntary Principles. We also note that your letter refers to "this action by PNG police and Barrick". We appreciate the short excerpt we have been provided from the agreement between PJV and the police. We would, however, appreciate an opportunity to review the entire agreement.

In particular, we would be interested to know whether PJV or Barrick requested the deployment, and whether the company ensured there was practical understanding by police of the Voluntary Principles and the type of action necessary to ensure respect for human rights.

In light of the fact that the security operation was on the Porgera Mine Lease Area and supported logistically by PJV, we would also like to pose the following questions, and would welcome the opportunity to discuss these further in the context of Amnesty International's ongoing work on human rights issues in the area of the Porgera mine:

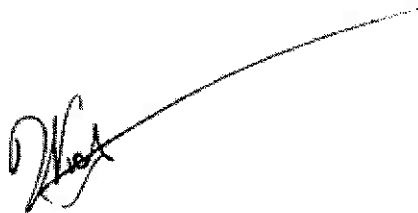
- Was Barrick/PJV aware that structures would be burnt? Was there any discussion or consultation with those affected prior to the evictions?
- During the action, did Barrick/PJV deploy any staff to monitor or observe the police action?
- Barrick/PJV made its logistical support to the police action conditional on the police acting in accordance with the Voluntary Principles. Given what transpired, including the razing and burning of structures, does Barrick/PJV believe the action did in fact conform to the Voluntary Principles? If yes, we would be interested to know the basis for that assessment. If not, has Barrick or PJV raised these concerns with government authorities in Papua New Guinea or intend to do so?
- Does Barrick/PJV consider that the razing and burning of structures in a police action within a relatively small area, where vulnerable individuals such as children were living, is consistent with human rights principles?

Finally, Amnesty International understands that police actions outside the fenced areas of the mine – but still within the PJV Mine Lease Area - in the past may have involved the use of force, including lethal force. Has Barrick/PJV followed up on these cases with the authorities (as recommended by the Voluntary Principles)? Does Barrick/PJV hold regular meetings with the community and local authorities on the issue of security and its impacts (as advised by the Voluntary Principles)?

Amnesty International researchers continue to monitor the situation in Porgera and in the course of those activities will issue further statements if required. In any future update we would, of course, reflect the views of Barrick as contained in your letter, with Amnesty International's response, where appropriate. We would also be interested to receive from you any additional information you believe to be relevant in this case.

Should you wish to discuss this further, please do not hesitate to contact Ms. Fiona Koza of Amnesty International Canada.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Widney Brown', with a long, sweeping horizontal line extending to the right across the page.

Widney Brown  
Senior Director, International Law and Policy

Cc: Mr. Alex Neve, Secretary General, Amnesty International Canada