

A SUBMISSION FOR THE UNIVERSAL PERIODIC REVIEW ON HUMAN RIGHTS IN PAPUA NEW GUINEA

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UPR Recommendations for Business, Environment & Indigenous Groups

Summary

This submission focuses on Business, Environment and Indigenous Peoples' issue because when it comes to profit-making by corporations, in Papua New Guinea, it seems local people are segregated strategically into small factions so they become weak, voiceless and simultaneously create conflict amongst themselves and eventually get nowhere, while those in authority (PNG government) or the powerful (companies/investors) just carry on with their businesses without paying much attention to the issues that concern the local people. Local people (those in and outside impact areas), non-governmental organizations and minority (Indigenous) groups have for so long been treated in this way for as long as companies were involved in the extractive industry business in Papua New Guinea. That includes their participation in the planning stage to project closure.

The submission is cover mining in general based on my experience encountered while working as an NGO staff from 2000 - Present with NGO Environmental Watch Group (NEWG) and then with the Centre for Environmental Research & Development (CERD) which is an Environmental Advocacy NGO that focuses its activities on environment protection and justice for communities affected by mining, oil and gas companies and has been in operation since 2005. CERD has contributed enormously in many policies changes and other related reviews in extractive industries and particularly mining and environmental sector and has been influential in causing the establishment of the Extractive Industries Transparency Initiative in Papua New Guinea.

Recommendations

- 1. The PNG government should ensure that a condition of granting Mining Licenses is that the prospective company have consulted local inhabitants of the potential of impact areas and that they have given Free, Prior and Informed Consent both for exploration of the land and for the lease of the area.***

Issue

There are processes in place in place for what is known as a "Mine Warden Hearing" when it comes to exploration and a "Public Hearing" to "presentation of Environmental Plans" prior to issue of Environmental Permits and the granting of a Mining License for the operation of mines.

- a. Exploration Phase

It has been normal for helicopters to land in some remote rural areas and mention to a few people that get to site (out of curiosity), that they are only looking around for minerals and if they do find some then

will they let all local people know. These few local people at this specific location, regardless of their status in their community, would normally nod heads in agreement for the Explorers to go ahead and explore, thus endorsing an Exploration License without realizing that they have actually authorized exploration over a large portion of land which belongs to many others and without consent from their Elders and the community at large. In the past some areas have had conflicts among themselves as a result. Once the exploration is complete and adequate mineable resources are found, the next step for mine development is endorsed by the government. So in this case, perhaps only 5-10 or even only 2 out of a thousand/s people gave verbal consent for an exploration to go ahead. There is a need for some clear indication to show that there has been fair hearing and a consent given is on good representation of the local people. This has been an experience in communities in the vicinity of Tolukuma Gold Mine in Central Province of Papua New Guinea.

b. Project Development Phase

When feasibility studies indicate adequate mineable resources, a couple of other considerations including an "Environmental Permit" is granted in order for the Mining License to be granted to allow the project to operate. In the process of conducting public hearing some vital areas such as potential impact areas especially those downstream of the waste discharge points (river corridors) are normally not given the opportunity to be part of the discussions during the project planning to eventual implementation of the project. The one thing these companies did/do not realize is that that river that they were/are polluting has been over generations, being the lifeline of the local inhabitants in terms of (i) holding their food source in quantity and quality, (ii) a recreational ground enjoyed for as long as their lifespan was/is, (iii) the main source for drinking, cooking and bathing as a daily routine, (iv) source for economical activity as well as (v) providing significant sacred sites for traditional and customary duties that are important to the people of that locality. Any damage to the natural environment and especially the river systems is like torture/murder for the rural community that depend on nature for survival. All people to be affected by the project should therefore be given all opportunities to have their say and their positions be addressed...one such project is the proposed Freda Mine that will be discharging mine waste into the Sepik River in Papua New Guinea.

Compensation Agreements are seen to be the solution to environmental concerns but it has never been easy...some communities have refused to get compensated as in the Porgera case where the people feel the rate is too low, others don't press for it and so just live with the issue because they are either not aware of what process to follow or it is too cumbersome and expensive to deal with the issue from their humble level. People are normally expected to show scientific evidence to qualify their position on pollution. As rural people with very limited or no financial resources at all, affected communities are usually on the losing end of the story even though their (i) pristine water sources is now discolored and unfit for consumption or recreational uses, (ii) their daily catches for the day is now very low or prolonged high unhealthy (iv) economical crops along the river banks have died out or been destroyed by flooding and prolonged high water as in the case of Ok Tedi Mine and the Fly River community and (v) the trauma experienced by the disrespect of sacred sites of local communities. Some consequences faced from ignoring Indigenous People's concerns have triggered crises such as (i) Bougainville's Panguna Mine – Bougainville crisis, (ii) Ok Tedi Mine – Class court case, the Exit of BHP and shareholders and (iii) Porgera Mine – refusal to accept compensation for environment and its continuous social unrest.

2. That the PNG Government ensure that “Mine Closure Plans” are required by investors in Extractive Industries during the project planning stage prior to the issue of Mining Licenses and Environmental Permits..

Issue

In Papua New Guinea, Misima, Panguna, Mt. Victor and Tolukuma Gold Mines are examples of closed mines. Misima and Mt Victor removed all erected structures (buildings/machinery) except the tailings (waste) ponds while Panguna and Tolukuma had/have all structures including tailings treatment structures in tact at closure. It seems Mt. Victor continued to oversee and monitor the pond to its detoxification and decommissioning prior to the Yonki Hydropower dam project. Misima is currently left there with a deep pit and a shattered Misima town with a rundown airstrip that is no longer safe for airplanes to land. Panguna mine was forced to shut down unexpectedly and all its infrastructure deteriorating away by the long term crisis and thereafter, with environment and social issues yet to be treated. Tolukuma mine also came to standstill unexpectedly in 2017 leaving on site just security guards and all structures.

Many, perhaps all of these mines did not have closure plans in advance to their closure and it seems the aftermath of these mines are yet to be known...not only environmental concerns but the social and economic response after closure is a nightmare. How well off or worse off are the people of these areas after the mine had closed or how safe is the environment after leaving behind toxic chemicals or areas prone to develop toxics unacceptable to health and the natural environment? How often those are responsible, monitoring and assisting in rehabilitation work on the environment and the people? Mine closure plans are inevitably crucial for any extractive industry development project and should be provided together with all its development plans prior to project operations.

3. That the PNG Government ensures the fair selection and participation of Civil Society Organizations (CSO) in major stakeholder meeting and bodies and disallow intimidation when NGOs are conducting their findings on major concerns.

Issue

Civil society participation in many EI meetings have most of the time been disproportionate and even the representation of CSOs on the Multi-stakeholder Group (MSG) of the Extractive Industries Transparency Initiative (EITI) is not based on a fair selection. This experiences have been noted in mining conferences, discussions on major issues affecting specific mines where only 2 or 3 organizations are represented among 200-300 in conferences. For conferences/major stakeholder, CSOs usually do not have the funds to sponsor themselves to attend and as a result their voices are not solid and all issues are not aired/expressed and hence dealt with. Nowadays it is even harder because Mining and EI conferences are held overseas where local and genuine CSO are not able to attend to express their concerns to the international community at large. As a result, the multi-national foreign companies take the upper hand in convincing decision-makers and Investors to hear only one side of the story on EI in PNG. Local issues and concerns are not usually expressed so to ensure all informed decisions and proper strategies on how to mitigate /deal with issues and concerns of local people in the sector.