

## “We Want What the Ok Tedi Women Have!”

### *Guidance from Papua New Guinea on Women’s Engagement in Mining Deals*

by *Nicholas Menzies and Georgia Harley*<sup>1</sup>



View of the Star Mountains, Western Province, PNG.

### Introduction

Despite global gender equality gains in education, life expectancy, and labor force participation, two areas of persistent inequality remain: asset gaps and women’s agency.<sup>2</sup> In many developing countries, including Papua New Guinea (PNG), land and natural resources are citizens’ key assets. Women’s agency over these assets—that is, their ability to make choices and transform those choices into actions and outcomes (or more simply, the ability to define goals and act on them)—is commonly weak. This is especially so when the resources are accessed for capital-intensive development. Empowering women to exercise agency and control over natural resources and the revenues that flow from them is thus an important contemporary focus for gender equality and economic development.

The mining regulatory regime in PNG provides a strong position for host communities relative to many countries.

Agreements between the state, companies, and impacted communities commonly include significant benefit streams for communities, such as a share of royalties and an equity stake in the mine. However, significant gender inequality, both locally and at the national level, means that women’s voices are rarely represented when these agreements are being negotiated.<sup>3</sup> As a result, women end up with control of few, if any, benefits, even while bearing more of the social and environmental costs of mining.<sup>4</sup>

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<sup>2</sup>World Bank, *World Development Report 2012: Gender Equality and Development* (Washington, DC: World Bank, 2011). Strengthening the role of women in household and community decision making has been shown to have positive development impacts, as women tend to prioritize productive expenditures for their families and communities (including on food, health, and education) over unproductive consumption (such as alcohol, cigarettes, and gambling).

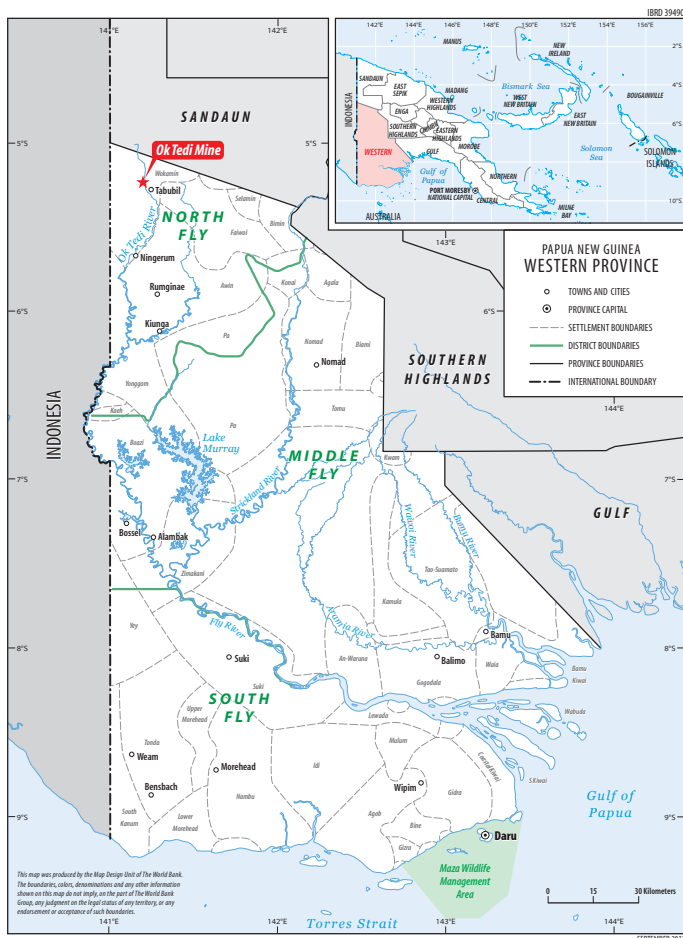
<sup>3</sup>Until the 2012 election when three women were elected at once, in the history of PNG’s Parliament only three women had ever been elected. Moreover, roughly two-thirds of women experience gender-based violence in their lifetimes, and maternal mortality rates are some of the highest in the region.

<sup>4</sup>See, for example, M. Macintyre, “Modernity, Gender and Mining: Experiences from Papua New Guinea,” in *Gendering the Field: Towards Sustainable Livelihoods for Mining Communities*, ed. Kuntala Lahiri-Dutt (Canberra: ANU E-Press, 2011). See also, M. Macintyre, “Petzorme Women: Responding to Change in Lihir, Papua New Guinea, Women’s Groups and Everyday Modernity in Melanesia,” *Oceania* (Special Issue) 74, no. 1&2 (2003): 120–33. The experience of some indigenous communities in Australia and Canada provides examples of women playing key roles. See C. O’Faircheallaigh, “Women’s Absence, Women’s Power: Indigenous Women and Negotiations with Mining Companies in Australia and Canada,” *Ethnic and Racial Studies* (2012): 1–19.

The Ok Tedi mine, located in the northern corner of PNG's Western province, is an exception, albeit qualified, to this general state of affairs. The province receives a significant share of mining revenues yet service delivery in the area remains weak. On top of provincial government revenues, impacted communities have received benefits totaling more than K 2 billion (US\$980 million) over the past decade.<sup>5</sup> Revised compensation agreements at the Ok Tedi mine, called Community Mine Continuation Agreements (CMCAs), concluded in 2007 are an encouraging innovation.<sup>6</sup> In these revised CMCAs, women had a seat at the negotiating table and secured an agreement giving them 10 percent of all compensation, 50 percent of all scholarships, cash payments into family bank accounts (to which many women are cosignatories), and mandated seats on the governing bodies implementing the agreement (including future reviews of the agreement). What is more, women's entitlements became legally enforceable rights in agreements signed by the state and the developer. Such an arrangement was—and remains—unprecedented anywhere in the world.

At the 2010 “Women in Mining” conference in the town of Madang,<sup>7</sup> women from mining communities across PNG

**Figure 1: Map of Western Province, PNG**



exclaimed: “We want what the Ok Tedi women have!” This briefing note, centered on field research in North Fly district (one of three impacted areas),<sup>8</sup> explores the *process of negotiation* and the *progress in implementation* of the CMCAs. The purpose of the research and the resulting brief is to understand how the CMCAs came about, assess whether their promise is being realized in practice, and provide guidance for mining and gender practitioners looking to use mining agreements to improve development outcomes for women, both in PNG and further afield.

Underpinning the note's approach to assessing the implementation of the CMCAs are two widely held tenets of contemporary development practice:

- *Community-driven development (CDD)*: CDD has played an increasingly important role in fragile institutional contexts. Rather than treating poor and marginalized people as the target of poverty reduction efforts, CDD is an approach that gives control over planning decisions and investment of resources to community groups and local governments. It operates on principles of empowerment, community ownership, participatory governance, greater downward accountability, and enhanced local capacity.<sup>9</sup> In difficult environments, complexity often undermines accountability and transparency; thus key principles, such as clear and simple rules of the game and access to information, are crucial.
- *Political economy*: A political economy approach to delivering development programs is one that is designed to mitigate some key risks (such as elite capture

<sup>5</sup> Mine operator, Ok Tedi Mining Limited (OTML) data.

<sup>6</sup> The five main benefit streams under the CMCAs are: cash (the mine operator disburses cash into a mix of family and some clan bank accounts with an annual payment per person); village projects (each village submits applications for small-scale projects and goods, such as water tanks, outboard motors, and animal husbandry); investments (the Foundation invests funds in projects to earn an ongoing return, such as passenger and cargo vessels on the Fly River, housing in Kiunga, and passenger planes); school scholarships (primary, secondary, and tertiary); and the Women and Children's Fund (10 percent of all benefits are set aside for women, to be decided upon by women's groups).

<sup>7</sup> The third in a series of national conferences focused on women in mine-impacted areas, sponsored by the government of PNG and the World Bank as part of the ongoing sectoral program of technical assistance financed by the World Bank in PNG.

<sup>8</sup> The villages visited as part of research for this note were: mine villages (Finalbin); river villages (Atkamba, Moian, and Yogi), and road villages (Ningerum, where people came from other road villages to participate in focus group discussions). All villages were in North Fly district (except for Moian, which is in Middle Fly). Impacts and conditions in Middle and South Fly districts are known to be different, and are not covered in this study.

<sup>9</sup> Experience has shown that given clear rules of the game, access to information, and appropriate capacity and financial support, poor men and women can effectively organize in order to address local problems by working in partnership with other development actors, both state and nonstate.

and leakage) through better understanding of existing power structures and patronage systems, and works to overcome some of these constraints. Implementation is an ongoing process of measuring progress against articulated development objectives and adjusting delivery of programs accordingly.

## Background to the Ok Tedi Mining Negotiations

The history, ownership structure, and importance of Ok Tedi to PNG's economy have been critical in shaping the negotiation process and its outcomes.

The mine and affected communities have been engaged in long-running disputes, primarily concerning significant environmental damage from the disposal of tailings and mine waste into the Ok Tedi and Fly River systems.<sup>10</sup> The disputes have taken place in the historical context of tension over the impacts of the Panguna mine on the island of Bougainville, which led to conflict and the creation of an autonomous region whose governing structure includes a path to independence from PNG. More positively, the Panguna conflict also contributed to changes in government policy and law that mandate the inclusion of impacted communities in consultations prior to the issuance of mining rights, which helped shape the CMCA that eventually emerged at Ok Tedi.

The impacts of the Ok Tedi mine that are of particular concern include loss of fish stocks and water sources, increased flooding leading to the destruction of forests and

food gardens, and increased mosquito-borne diseases. Residents along the road between the mine and the river port in Kiunga also complain about dust from passing convoys. According to an independent environment expert, the riverine impacts are likely to be felt for "several hundred years," and are borne more heavily by women, who are traditionally responsible for crop production.<sup>11</sup> In 1994, impacted communities mounted a class action lawsuit against the mine's then major shareholder, BHP Pty Ltd, in the Supreme Court of Victoria, Australia (where BHP is registered). The case was settled with a US\$500 million payout (much of which never reached impacted residents) and a commitment to contain tailings and mine waste disposal.<sup>12</sup> The case drew international interest at the time for its use of tort law to secure the accountability of a multinational company for environmental damages.<sup>13</sup>

In 2000, due to complaints about the mine's continued use of riverine tailings disposal and the mine's concern about ongoing environmental liability, BHP raised the issue of whether the mine should close.<sup>14</sup> This mine is the single largest contributor to the national PNG economy,<sup>15</sup> however, and thus the state had, and still has, a strong interest in its continued operation.

<sup>10</sup> For more information, see the Ok Tedi website at <http://www.oktedi.com/community-and-environment/the-environment/impacts-of-mining>. The original project design included a tailings dam, but the dam's foundations were washed away in a landslide early in construction in 1984 and were not rebuilt. The national government and OTML agreed to allow the tailings to discharge directly into the river.

<sup>11</sup> A. Tingay, "Letter of Endorsement from the Independent Scientist Appointed to the CMCA 2006/7 Review Process," April 16, 2007 (Attachment B to CMCA).

<sup>12</sup> G. Banks and C. Ballard, eds., *The Ok Tedi Settlement: Issues, Outcomes, and Implications* (Canberra: Asia Pacific Press, 1997).

<sup>13</sup> Since the Ok Tedi case, class actions have become increasingly prevalent, including actions taken against Freeport-McMoRan's Grasberg mine in West Papua, Indonesia, Exxon-Mobil's natural gas installation in Aceh, Indonesia, Unocal's oil pipeline in Burma, Shell's petroleum operations in the Nigerian delta, Rio Tinto's copper mine on Bougainville, Texaco's petroleum operations in the Ecuadorian Amazon, and Thor Chemicals' use of mercury-based chemicals in South Africa. See Banks and Ballard, *The Ok Tedi Settlement*; Peter Newell, "Access to Environmental Justice? Litigation against TNCs in the South," *IDS Bulletin* 32, no. 1 (2001): 83–93; and Halina Ward, "Securing Transnational Corporate Accountability through National Courts: Implications and Policy Options," *Hastings International and Comparative Law Review* 24 (2001): 451–74.

<sup>14</sup> BHP reported that even if mining stopped immediately, downstream environmental impacts would continue to increase and would likely persist for at least 50 years. Parametrix, Inc. and URS Greiner Woodward Clyde, *Draft Executive Summary: Assessment of Human Health and Ecological Risks for Proposed Mine Waste Mitigation Options at the Ok Tedi Mine, Papua New Guinea. Screening Level Risk Assessment* (paper prepared for Ok Tedi Mining, Ltd, Papua New Guinea, 1999): 1–13, available at: [http://www.oktedi.com/attachments/242\\_HERA%20-%20Screening%20Level%20Risk%20Assessment.pdf](http://www.oktedi.com/attachments/242_HERA%20-%20Screening%20Level%20Risk%20Assessment.pdf).

<sup>15</sup> In 2010, export earnings represented 18 percent of the country's GDP, and taxes and dividends to the national government represented 18 percent of tax revenue and 17 percent of government domestic revenue.

### CMCA Negotiations: an Innovation

Independent international (The Keystone Center) and local (The Tanorama Network) facilitators were selected jointly by the mine and CMCA community leaders to design, support, and guide the process. Independent legal, environmental, and accounting advice was engaged on behalf of communities, at no cost to them. Prominent former Chief Justice of the PNG Supreme Court, Sir Arnold Amet, was appointed as the independent legal observer, and during the meeting, became an adviser to the communities. The top-level negotiations were held in Tabubil, the township at the base of the mine. Regional-level meetings were held in each of three impacted subregions, and village meetings in almost all of the impacted villages. Delegates to regional meetings were directly elected by their village constituencies, and the representatives at the top-level negotiating table in Tabubil were elected from the regional meetings.



Dieback along on the Ok Tedi River.

To allow operations to continue, the mine's majority shareholding was divested to a trust, the PNG Sustainable Development Program Limited (PNGSDP), registered in Singapore to ensure relative independence from day-to-day politics.<sup>16</sup> PNGSDP invests income from the mine in development projects across PNG, including in the CMCA communities. These projects, together with other mine-related and government sources, represent a complex web of benefits, real and potential, for the local communities.<sup>17</sup> The mine was also required under law to enter into legally enforceable consent agreements with affected land owners and users—the CMCAs. The first CMCAs were signed in 2001, and in accordance with a five-year review period, a revised set of CMCAs was negotiated through 2006 and 2007. The revised set of CMCAs now covers more than 90,000 people in 156 villages, stretching from villages in the highlands around the mine site near Tabubil, along the Ok Tedi and Fly River to the mouth of the Fly, and the highway from Tabubil to Kiunga.<sup>18</sup>

## Negotiation of the Agreement

Globally, negotiations between mining companies, states, and landowners are often subject to considerable asymmetries of information and power. These characteristics reduce the likelihood of equitable agreements and limit the potential of mining investment to contribute to development outcomes. Over time, entrenched asymmetries can build tension between the parties and undermine the durability of mining investment. The CMCA review process at the Ok Tedi mine addressed these challenges to some extent.

The experience with Bougainville's Panguna mine, the long history of dispute, litigation, and engagement around Ok Tedi, the Ok Tedi mine's beneficial ownership, and the advanced stage of the mine's life were key factors resulting in the establishment of a more positive consultation process. For

the 2006–07 CMCA review, with over 20 years of experience in the area and production ongoing during negotiations, the mine was subject to fewer of the time pressures that companies often face when negotiating agreements prior to the commencement of operations. Mine management also responded to the international pressure from nongovernmental and multilateral organizations triggered by the environmental damage and ensuing litigation, hoping to leave an improved legacy.

While not without its challenges, the 2006–07 CMCA review process was in many ways a model for other such negotiation efforts, and the quality of the overall process was important to the local women's ability to secure the deal they did. The broadly consultative process established, significant time taken, and independent facilitation and advice provided all helped to ameliorate asymmetries and build trust.<sup>19</sup> The review process lasted 18 months and cost K 7 million (US\$3.4 million), paid by the mine.

## Women's Engagement in the Negotiations

The quality of the overall process provided a positive enabling environment for women to exercise agency. Yet initially, women were not even included, as in the negotiation's early stages, all the community representatives were men. In deference to their understanding of local custom, the independent facilitators did not challenge this. As one international facilitator noted, "we had to be very careful not to be perceived as undermining local authority or customs." Instead, facilitators asked the male representatives to ensure that they represented the views of their entire group, including women and children. The "on-site" nature of the discussions meant that, at least for

<sup>16</sup> PNGSDP comprises a Long Term Fund and a Development Fund. The Long Term Fund invests two-thirds of the net income received from OTML in low-risk investments for the future benefit of the people of PNG following mine closure. It currently has a balance of over US\$1.2 billion. The Development Fund invests one-third of net income received from OTML in sustainable development projects. Two-thirds of those projects are national and one-third are focused in Western province. For a fuller description of BHP's exit strategy and the novel PNGSDP, see [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/06/14/000333037\\_20110614052552/Rendered/PDF/624980NWP0P1160ns00trusts0and0funds.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/06/14/000333037_20110614052552/Rendered/PDF/624980NWP0P1160ns00trusts0and0funds.pdf).

<sup>17</sup> In addition to five main sources under the CMCAs, other sources of local projects include the Alice River Trust (set up after the class action), mine charitable projects, mine-implemented tax credit projects, member of parliament-controlled constituency development fund projects, and local government projects.

<sup>18</sup> The number of villages has increased over time, as some communities that were originally opposed to the agreements have since joined.

<sup>19</sup> For a detailed description of the review process and the principles underlying it, see B. Sharp and T. Offor, "Renegotiating a Papua New Guinea Compensation Agreement: Applying an Informed Consensus Approach," Resource Management in the Asia Pacific Working Paper 69 (Canberra: ANU College of Asia and the Pacific, 2008); and P. Adler, J. Brewer, and C. McGee, "The Ok Tedi Negotiations: Rebalancing the Equation in a Chronic Sustainability Dilemma" (Keystone, CO: The Keystone Center, 2007).

the regional meetings, some women were able to sit outside the negotiations and listen, even if they were not at the table.

As negotiations continued, it became apparent that women's views were not being put forward. The mining company's management implicitly understood that the significant resources under the CMCA's were more likely to achieve development outcomes if women were involved. One senior company representative reflected that "there would be a payout at the end, and there was some concern that the men may drink that away, or buy jeeps, cigarettes, etc." A delegate noted that "the women were so involved in health and education, they would end up being responsible for implementing social projects in the region." Because improved development outcomes could also build community support in favor of the mine and reduce the chances of mining-related complaints, it was soon recognized that women's voices should be heard in the negotiation. The combined support of the mining company and independent facilitators was critical in convincing the male beneficiaries and the state that women should have a seat at the main negotiating table. With negotiations at a mid-point, a women's delegation was established. As one international facilitator noted "the women were so happy that they had a seat at the table—they felt they had won something already."

Women's involvement was structured around a single delegate at the central negotiating table and a separate women's caucus that gathered outside of the main meeting to formulate negotiating positions. There were also consultations with women in impacted villages. The facilitators worked closely with the mine's gender desk, which had received prior support from a national-level Women in Mining project,<sup>20</sup> and which had assessed women's development needs.

Ume Wainetti was identified as the women's delegate. Mrs. Wainetti is from the impacted region, yet also has a national profile as former chair of the National Council of Women and current convener of the national Family and Sexual Violence Action Committee. In negotiations, Mrs. Wainetti used cultural cues and tactics describing herself to other delegates as a "sister and aunty." Coming from the impacted area, Mrs. Wainetti felt she could both be more assertive and employ a range of emotions with the male village representatives more freely than an outsider. She also was careful to sit next to the mining company Managing Director at key moments. Presentations of health statistics for women and children, combined with emotive personal stories, helped to influence the men at the table. One international facilitator observed that Mrs. Wainetti was "one of the best negotiators at the table." Her competence in this regard likely stemmed from a combination of tertiary education (when most of the other delegates had only primary level), a combination of national

status and local roots, and substantial leadership and negotiation skills acquired in national and international settings.

In support of Mrs. Wainetti as the women's delegate, the women's caucus of about 20 women constituted an important forum for both educating women and developing an informed negotiating position for Mrs. Wainetti to take to the main negotiating table. The caucus brought together at least two women from each of the nine impacted areas, along with the Provincial Women's Officer and female facilitators. A side workshop held over several days included information sessions from mine staff and independent experts on the overall mining operation, environmental impacts, and the likely benefit envelope. Mrs. Wainetti, the facilitators, and the mine community relations team also visited women in mine-affected villages, exchanging views and developing a shared negotiating position. As one international facilitator put it, "they [the women's caucus] were great because they were great leaders, great negotiators, not just because they were women."

### ***How the Proposal was Reached and Received***

Initially, the women's key proposal was that a minimum of 5 percent of all funds be ring-fenced for the benefit of women and children. As Mrs. Wainetti put it, women "wanted a separate pot to make sure that women and kids were not forgotten as usual." The proposal was not intended to exclude women from the remainder of the benefits, or to be a maximum amount that women would receive; rather, it was to be a separate minimum amount prioritized for specific initiatives for women and children. Drawing on personal relationships and networks, the women's caucus approached influential participants out of session to seek their support for the proposal. One such participant was Sir Arnold Amet, a well-respected national statesman, who was supportive and suggested that they raise the figure. The delegation also secured the behind-the-scenes support of the mine's senior management. The figure of 10 percent was ultimately chosen on the basis that the male beneficiaries would be unlikely to accept more and that 10 percent might fly "under the radar" at the negotiating table.

In tabling the proposal at the main negotiating session, Mrs. Wainetti emphasized the complementary roles of women to men in the community, and stressed that "we are not asking for much, only 10 percent." After a silence,

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<sup>20</sup> Launched in 2003, the Women in Mining and Petroleum project (funded by the World Bank-managed Japan Social Development Fund) has included the drafting of Women in Mining action plans for impacted communities, three national conferences leading to a Cabinet-endorsed five-year National Action Plan, and capacity building (including basic literacy, numeracy, and economic skills development) to allow women to manage and fully benefit from the resources that accrue as a result of extractives industries.

Sir Amet spoke in support of the proposal, followed by the mining company representative. One international facilitator described how “the backing of prestigious people was critical to the proposal being supported in the room.” No questions or concerns were raised, and the proposal was adopted unanimously.

The women secured additional provisions on an *ad hoc* basis throughout the negotiation, including:

- Cash compensation payments to be made into family bank accounts, to which women were encouraged by the mine to be signatories. (Previously, cash was transferred to clan accounts, which were controlled by men and subject to persistent concerns regarding misuse and leakage.)
- Fifty percent of all educational scholarships to be awarded to women and girls, and women would comprise 50 percent of the scholarship selection panels.
- Women to be represented in the CMCAs’ key local governance bodies, called village planning committees.<sup>21</sup> Each committee would include two women representatives out of the five members (or three women representatives out of a maximum of eight members).
- Women to be represented on each of nine regional trusts and on the Board of Directors of the Ok Tedi Fly River Development Program, the overarching Foundation responsible for implementation of the CMCAs.

To address what was seen by the people affected as poor implementation up to that point, key tenets of the revised CMCAs set up new structures to ensure “a high level of ownership and decision-making power over resources, programs and projects” by the impacted communities.

The revised CMCAs provide more explicit entitlements for women than any other mining agreement in PNG and, as far as can be discerned, globally. They thus represent an innovation in efforts to empower women to exercise agency over natural resources. However, the deal is not entirely a success for women, since ring-fencing can be seen as “both a victory for women and a failure.”<sup>22</sup> On the one hand, it promises to improve the status of women by offering control over a specific allocation of funds. Indeed, benefits could be even greater if the women taking up decision-making roles over those funds were able to generate positive spillover effects in other areas, such as stronger household decision making, greater participation in political life, and economic empowerment.<sup>23</sup> On the other hand, it is hard to argue on its face that control over 10 percent of all benefits for over two-thirds of the population (once children are included) is fair. Further, if it entrenches norms that women are somehow undeserving of

equal participation and equal benefit-sharing, and excludes women from the remaining 90 percent of benefits, its effectiveness should be seriously questioned. Some of these arguments can only be assessed by analyzing implementation.

## Implementation of the Agreement

The novelty of the deal secured for women in 2007 raised high expectations, yet experience during implementation has been mixed.

*Informed awareness of the women’s deal is low.* Research reveals that in many villages, a wide cross-section of women and men had heard about “the women’s 10 percent” but no beneficiaries were able to explain even roughly how much money was available, the process by which projects were selected, or what had been approved to date. Several women complained that they had not received guidance or training on how to access the benefits. “How do we get the money? ... It is very hard. ... Since the launching, nobody knows what has happened with the 10 percent. There are no courses on how to apply for the money. Mothers are in a complete blackout.” More positively, male residents did not express any resentment or complaints about the women’s 10 percent, other than a critique that the women were not using their money. This may suggest a “normalization” of women having control over some portion of resources.

This lack of understanding of the women’s 10 percent echoes broader confusion among communities about the CMCAs in general, with “*mipela no klia*” (“we don’t understand” or “we’re not clear”) the most common refrain. Few people (beyond those actually serving on the village planning committees) could explain the process of CMCA project approval, and even those on the committees did not appear to understand how much money was available for CMCA projects in their village or region. Beneficiaries repeatedly expressed a desire for written information — “in black and white” — to dispel misinformation, build awareness, and foster accountability.

Representatives of the Foundation note the information problem, but state that “we can’t get information to 90,000

<sup>21</sup> Village planning committees, or VPCs, are tasked with engaging in a participatory process to identify, plan, and allocate village-level CMCA projects. VPC members are elected every three years, in a process supervised by the Foundation.

<sup>22</sup> See Sharp and Offor, “Renegotiating a Papua New Guinea Compensation Agreement,” 23.

<sup>23</sup> See, for example, the impact of reserved seats for women in Indian village councils on attitudes towards women, investment priorities, and reporting of crimes against women. A summary of the evidence literature is available at: <http://blogs.worldbank.org/impacfevaluations/when-women-are-in-charge>.



Consultations at Atkamba Village, Lower Ok Tedi.

people,” and indeed the geographical challenges are considerable. The Foundation relies primarily on village planning committee chairs as conduits to the rest of their committee and the village at large. Minutes of meetings, notices, and verbal updates are sent to the chairs for dissemination. One mine representative explained low levels of beneficiary awareness as a function of community “backwardness,” perhaps reflecting an assumption that communities with little exposure to sophisticated financial topics are not able to understand the arrangements. This conclusion—that awareness is inherently and permanently constrained by the exotic novelty of trust funds and financial flows—is not uncommon on the part of community development technocrats and resource company staff, but global experience shows that targeted and skillful discussions at the community level can indeed empower village people to understand and engage effectively quite quickly.

*The ring-fenced women’s fund is operational, but its impacts are not widely felt.* In accordance with the terms of the CMCA, a separate process has been established to make decisions about the women’s ring-fenced benefits, governed by all-women groups elected by women from beneficiary villages. From 2007 to 2010, K 69.8 million (US\$34 million) was set aside for the women and children’s fund.<sup>24</sup> To date, the chief spending decision has been to invest in three learning centers. This is in line with the intent of the CMCA, which foreshadowed initial investments in capacity building to allow women to actively engage in development processes, including the informed use of their funds. One learning center is open but construction of the remaining two is yet to commence. Of the money that has been allocated, much remains unspent. In one region (covering 18 villages), approximately US\$20 million of general funds (in other words, *not* the 10 percent women and children’s fund) remain unspent as of September 2011, and available figures show that up to half of individual village funds were also unspent. One trustee

explained the underspend as due to the failure of villagers to submit project proposals; however, underspending seems unlikely to stem from a lack of need for community improvements in the face of basic service failures and profound development challenges, and thus a targeted effort to make the proposal process work better could yield important results.

In the villages, very few women had heard of the training centers, and neither women nor men reported feeling any benefits from the 10 percent deal. Women in the villages visited also often expressed concerns that they are not being faithfully represented in the women’s bodies to decide on use of that 10 percent. Many of the women on those groups are the wives of local ward councilors or village planning committee chairmen, suggesting elite divides may compound gender inequalities. In one village, women complained that their representative on the regional women’s group had moved and was no longer resident in the village, and thus did not provide feedback from meetings. This is reflected more broadly in the functioning of village planning committees, which appear beset by challenges related to information, coordination, and representation. Communities report that committees do not faithfully represent community interests, “hoarding information and keeping benefits” for their personal or family gain. Committee chairs were frequently reported to no longer reside in the village they represent (having moved into towns), which limited their ability to identify community needs, convey information, and be held accountable for decisions made.

*Family bank accounts show promise.* The introduction of family bank accounts for disbursing the cash compensation component of the CMCA appears to be having a positive impact, improving access to resources by both women and youth.<sup>25</sup> Unlike the project component, there is a general understanding of the entitlements and the timing of the payments, including among women and youth. In most of the villages visited for the research, male and female beneficiaries reported that women are cosignatories on the bank accounts,<sup>26</sup> and women report much greater access to money than under the previous system of clan accounts. They also

<sup>24</sup> This comprises: K 21.2 million from OTML, K 8.6 million from PNGSDP, and K 40 million from the state. The payment from OTML has been made regularly and PNGSDP funds have been forthcoming for women’s projects. State funding has been more difficult to access.

<sup>25</sup> The compensation amount varies per village but is in the order of K 400 (US\$200) per person per year, including for children.

<sup>26</sup> The exception to this was reported by communities in and around Ningerum. Prior to 2007, most families did not have bank accounts, so the mine and Foundation undertook a process to provide bank accounts through two operators, BSP and PNG Micro-credit. Bank representatives traveled to each of the CMCA villages with the requisite paper work and opened accounts for most families. The mine and Foundation encouraged male and female cosignatories to the accounts.

claim to spend more productively than men, though this has not been independently verified. Some youth also report receiving their entitlements in cash from their parents.

Nevertheless, villagers face high transaction costs in accessing the cash compensation. Like many parts of PNG, access to banking facilities in the CMCA area is extremely limited. Beneficiaries must travel to one of only three bank locations and travel costs are high. In one example, the cost of return boat and bus travel from Atkamba village, on the lower Ok Tedi, to the nearest branch in Kiunga is K 120 (US\$57). For two parents (as account cosignatories) to access funds for a family of five, the cost of transport alone would be over 15 percent of the annual compensation payment. Initial plans to provide banking in boats along the river were shelved due to the security concerns involved in traveling with large amounts of cash. Mobile phone-facilitated payments have yet to reach the CMCA area; however, the recent rollout of mobile towers offers some promise in this regard.

Family bank accounts do not appear to have increased family savings, however. The Foundation, mine, and villagers report that beneficiaries routinely withdraw the annual cash compensation amount in full. Monthly account keeping fees of K 7 (US\$3.40) reduce the incentive of families to save money through the banking system. The full withdrawal of funds also poses administrative burdens, as this automatically closes the accounts, which then need to be reopened to receive the following year's payment.

*The implementation of the scholarship scheme has been partially successful.* The implementation process for the scholarship program has occurred in accordance with the letter of the CMCA. Women currently make up half of the selection panel. However, the selection process requires little discretion, as in practice, the money set aside for scholarships each year has been greater than the number of applications,<sup>27</sup> so the selection panel simply identifies whether an applicant is from a CMCA village. Scholarships have been awarded for primary, secondary, and tertiary education in PNG. Full scholarships are awarded to younger students; for older students, the amount is dependent on the student's scholastic achievement in the previous year. This is widely understood by beneficiaries and supported.

In practice, fewer than 50 percent of scholarships are awarded to girls because fewer girls apply. Boys are often preferred for educational opportunities, because a girl's productive capacity and eventual bride price payment often factor into the decision on whether to send her long distance for formal education.<sup>28</sup> Furthermore, few schools have boarding

facilities, and parents have expressed a reluctance to send young girls to stay with relatives for long periods in light of security and financial concerns.

More broadly, villagers expressed concern about the lack of economic opportunities in the region for scholarship recipients (and others) after graduation. Few graduates of educational facilities outside of Western province return to the CMCA area, raising local concerns about future economic development.

*Decision-making structures do not reflect women's representation mandated by the CMCA.* In all the villages visited, each village planning committee included only one woman, rather than the two (or three) required under the CMCA. In most cases, the women's representative is the wife or family member of a ward councilor, village planning committee chairman, or other male elite. No committee chairs were women. In the villages visited, few women reported being aware of what the village planning committee does, and even fewer participate in planning for CMCA village projects.

Moreover, three women have not been appointed to the board of the overarching Foundation as required by the CMCA. Indeed, there are no voting beneficiary representatives—male or female—on the board. The Foundation continues to be controlled by the mine, which holds 75 percent of the Foundation's shares. The mine is assisting the impacted communities in setting up an association, the Ok Tedi Mine Impact Area Association, to take up a shareholding in the Foundation. Yet, two out of the four seats on the Foundation's board are reserved for mine company representatives, and the mine Managing Director chairs the board. Furthermore, the CMCA requirement that the mine transfer equity in the mine to the Foundation (for the benefit of the impacted communities) has also not been implemented. These missed opportunities mean that the Foundation has not yet been able to make the transition to a "high level of community ownership" that was contemplated in the agreements.

*Lack of community ownership impacts development outcomes.* The failure to transfer ownership and control to beneficiaries has an impact on the development approach adopted by the Foundation and ultimately on development outcomes. There is a sharp divergence between the views of those implementing the agreements (primarily mine and Foundation representatives) and the beneficiaries about the success of

<sup>27</sup> For example: the Highway (Tutuwe trust) has allocated from K 1 million to K 1.5 million per year; Lower Ok Tedi region (Waitri Trust) K 500,000, and Nupmo Trust (Ningerum) K 200,000 per year. Source: Ok Tedi Fly River Development Program personal communication.

<sup>28</sup> Thanks to a peer reviewer for these insights.



implementation. This is perhaps not surprising, as it is difficult for the Foundation to visit every village regularly and hear directly from beneficiaries.<sup>29</sup> Implementation could benefit from a structured mechanism through which valuable information about community needs, implementation challenges, and grievances—direct from beneficiaries—can be fed back to the Foundation to facilitate continuous improvement. A reliance on village planning committee representatives overlooks the *intra*-community equity issues that often arise in community development.

It is also hard for mining companies to “do” community-driven development. The ethos of mining companies tends to be technocratic, linear, grounded in scientific method, and focused on engineering outputs in difficult physical environments. Community development, on the other hand, routinely revolves around political dynamics, privileging process as much as outcomes, and balancing competing interests and versions of events. While the *forms* for inclusive community development have been put in place under the CMCA, their *function* currently falls short of community-driven development.

This is exemplified in Moian village, where the mine arrived to install a water pump. The mine technicians selected a site easily accessible from the village health clinic, but which happened to be 15–20 meters away from the village’s customary burial grounds. Residents expressed concern that the site was too close to their burial ground and suggested an alternative location for the well farther away from the village, with a pipe to convey the water. The technicians explained to the villagers that this would be more costly and more likely to break, thus potentially limiting the villagers’ access to water. They built the pump in the originally proposed location, which was a logical technical choice. The villagers do not use the well, which is an equally logical sociocultural choice. Together, the result is an unsatisfying development outcome.

The Foundation is taking some steps to improve the participation of villagers in project implementation. A “skills census” has been undertaken of each village to identify resident capacity to assist with projects. However, a focus on local labor is unlikely to result in greater community empowerment in the absence of specific actions that embed community ownership and control. The lack of community ownership was also demonstrated by another situation in Moian, where neatly erected house poles dot the village (see photo). The poles were erected as part of a housing scheme decided upon for all villages in the Middle Fly impacted region. Each village received poles (cemented into place) and zinc roofing to connect to water tanks (also delivered to the villages).



Unused House Poles, Moian Village, Middle Fly District.

Villagers were asked to supply “local content” in the form of bush material for the floors and walls of the houses. In addition to the poles and roofing, Moian received a saw for villagers to cut the bush material. The saw reportedly soon broke, and in any event, local landowners were unwilling to allow the broader group of villagers to cut trees for timber from their land. The sets of poles remain unused, as does most of the zinc. Lopsided tanks dot the village, collecting stagnant water.

*The broader impacts of the deal have not yet accrued for anyone.* The leadership that women demonstrated during the negotiation phase has not been present during the implementation phase. The research was unable to identify a cadre of women who demonstrate a similar rigor and collective agency in implementation, which is an especial challenge given the dispersed nature of the population and the poor state of communication. There are a few positive spillovers for women from the CMCA, with representatives of the mine and Foundation reporting increased attendance and assertiveness of women in community consultations. However, village women report only minor changes in their own material circumstances, and there are few, if any, signs of greater entrepreneurship, participation in broader political life, or increased bargaining power among women. The anticipated empowerment gains do not appear to have materialized as of yet.

The absence of tangible benefits for women is reflected in the unsatisfactory impact of the CMCA as a whole. Since the original agreements were reached in 2001, more than K 1 billion (almost US\$500 million at current rates) has accrued to CMCA communities (with over another K 1 billion to the six

<sup>29</sup> The “service standard” for 2011 was one visit to each village each year, and for 2012, it is an overnight stay.

villages immediately surrounding the mine site).<sup>30</sup> Regional coordinators for the Foundation report being “treated like the MP,” given the amounts of money they oversee.<sup>31</sup> Despite the significant financial flows associated with the mine, there are few visible projects in CMCA villages, basic infrastructure and service delivery remain severely limited, rates of poverty are high, and health and education indicators are poor—with women tending to be worse off than men.<sup>32</sup> The lack of development stems in part from the slow rollout of the Foundation and underspending, intra-village politics and divisions leading to poor village-level decision making, and elite capture. There are, however, very few observable projects funded from other sources, such as local government or from MP-controlled constituency development funds. The topographical and institutional landscape make this an extremely challenging development environment. Compounding this, the largely parallel CMCA governance structures are not linked to local government; thus village planning committees do not coordinate with ward development committees, and relations between the mine, Foundation, the PNG Sustainable Development Program, and the provincial government are a topic of continuing concern.<sup>33</sup>

## Looking Forward: Guidance to Strengthen Women’s Engagement in Mining Agreements

The PNG Government is currently considering changes to policy and law to apply the basic tenets of the CMCA to mining contexts across the country. The idea of “Ok Tedi style benefits” is widely popular among women in other impacted communities, although the details and shortcomings of the CMCA are not well understood. Acknowledging the unique history and context of the mine, the CMCA process provides insights for other PNG resource projects, as well as for stakeholders in other resource-rich countries that have “wealth” in the form of resources but suffer regular elite capture of rents, severe gender inequality, collective action problems, and chronic development challenges.

With a view to informing future policy and practice in both PNG and other countries, the following broad guidance is provided to mining and gender practitioners engaging in these deals:

### *Guidance for the negotiation phase of mining agreements*

- Mine operators can be powerful allies for women vis-à-vis male beneficiaries if the **business and development case for women’s inclusion** is made.<sup>34</sup> In mining areas, stronger roles for women—including as mine employees—may be associated with reduced

risk of conflict and increased stability of production. Women should focus on highlighting how their participation increases efficiency in the use of funds and fosters greater opportunities for positive development outcomes, while also reducing the risks of complaint, conflict, and disruption of production.

- The characteristics of the individual women who participate in negotiations can make a real difference to the negotiated outcome. **Women’s representatives who combine both local ties with national or international skills** and experience can be particularly effective.
- Providing **separate caucusing sessions for women**, alongside the primary negotiating stream, allows information to be shared, capacity to be built, and a negotiating strategy to be developed.
- **Independent facilitators and advisors** (environmental, legal, and financial) help to address asymmetries in information and power, build trust, and ultimately construct more equitable and thus durable deals. This is of benefit to all stakeholders, but a transparent, open, and informed process also provides space for capable women. The PNG Mineral Resources Authority has an officer (who was involved in the CMCA negotiations) who now advises women in negotiation processes across the country. While this is a good step forward, it cannot be the only mechanism, since the state is also a party to these agreements, which raises a conflict of interest. Similar tensions can arise for staff of mine gender desks, thus highlighting the importance of independent advice (such as from nongovernmental organizations or professional services firms) in improving negotiated outcomes.
- **A complex web of benefit streams undermines accountability**, making it difficult for beneficiaries to understand their entitlements and know who is responsible for delivering what, let alone demanding performance if it is not delivered. Complexity provides space for a small elite to exploit community benefits

<sup>30</sup> During the 2012–13 period, another K 292 million is projected to be received, and a further extension of the mine’s life is being considered.

<sup>31</sup> As chair of a Joint District Planning and Budget Priorities Committee for each constituency, MPs have significant control over sizeable resources (K 6 million in 2008 and K 4 million in 2009) that provides the potential for strong visibility and influence of MPs at the village level.

<sup>32</sup> 2007 CMCA Census Report Appendix: *Basic Statistical Tables*. See also, D. Cammack, “Chronic Poverty in Papua New Guinea” (Manchester: Chronic Poverty Research Centre, 2009).

<sup>33</sup> There are efforts to address this through a project matrix that captures all the government, Foundation, and PNGSDP projects to guide decisions on implementation and funding.

<sup>34</sup> Rio Tinto, “Why Gender Matters: A Resource Guide for Integrating Gender Considerations into Communities Work at Rio Tinto” (London: Rio Tinto, 2010), available at: [http://www.riotinto.com/documents/ReportsPublications/Rio\\_Tinto\\_gender\\_guide.pdf](http://www.riotinto.com/documents/ReportsPublications/Rio_Tinto_gender_guide.pdf).

for personal gain, and over time, confusion and capture can breed tension and conflict. It would be more beneficial to deliver resources through a smaller number of channels that are easy for beneficiaries to understand and operate, and are transparent in their delivery process. This would strengthen accountability while also minimizing administrative overheads.

#### *Guidance for the implementation of mining agreements*

- **Family bank accounts (with women as cosignatories) enhance women’s control** of cash compensation payments. Mobile banking could further enhance accessibility of funds in remote areas and strengthen women’s control over funds. Opportunities exist to incentivize savings, for instance by lowering account-keeping fees, providing returns on investments, and instituting a “bonus” compensation payment or matching grant to those accounts that retain an operating balance. In countries like PNG that have an increasingly interested banking sector keen to exploit rapidly increasing teledensity, and a regulator focused on financial inclusion (the Central Bank), the potential for pilot programs that address the constraints outlined here would be significant.
- Setting aside scholarships for girls and having women on scholarship selection panels may not be enough to overcome cultural and logistical barriers. **Further incentives and structures need to be built in to enhance gender equality in educational opportunities**, such as a requirement that scholarships for boys are conditional on a matching number for girls, and an offer of supplementary financing for special provisions for girls’ safety and security while attending school away from home.

#### Other J4P Publications on Papua New Guinea

*How Capital Projects are Allocated in Papua New Guinean Villages: The Influence of Local Collective Action, Local-level Institutions, and Electoral Politics*, Zahid Hasnain, Philip Keefer and Nicholas Menzies, Research Report, August 2011

*The Hybrid Courts of Melanesia: A Comparative Analysis of Village Courts of Papua New Guinea, Island Courts of Vanuatu and Local Courts of Solomon Islands*, Daniel Evans, Michael Goddard with Don Paterson, Justice and Development Working Paper Series, Vol. 13, 2011

*Conflict in Melanesia: Themes and Lessons*, Doug Porter, Sinclair Dinnen, and Caroline Sage, Input Paper for 2011 World Development Report

- **Public written information underpins accountability**, even in communities with low literacy. Basic information about benefit procedures, amounts, dates, and feedback/grievance channels should be posted in public places, such as community halls, health clinics, schools, and churches, and posters and pamphlets should be distributed widely, summarizing information in lay terms. Mobile phones can also be used to convey information.
- The responsiveness and accountability of village representatives to beneficiary communities is undermined when representatives do not live in the village—often using the fruits of their newfound status to move away. Consideration should be given to instituting a **residency requirement for village representatives in the village they represent**.
- **Structured feedback and grievance procedures** can ensure that those responsible for project implementation have relevant information on activity performance and challenges and can increase accountability. These processes should allow beneficiaries to bypass their local representatives who may be the subject of complaint. One mechanism would be for beneficiaries to register their mobile phone numbers with the project implementers, who could then send periodic text messages (or make calls) asking for feedback on local issues.

## Conclusion

The 2006–07 Ok Tedi negotiation process and the resulting CMCA were internationally groundbreaking for having secured enhanced rights for women in legally enforceable mining agreements, even in a context of severe gender inequality. However, the legal rights granted have not been sufficient in and of themselves to produce better development outcomes. Implementation of the agreements has met with many of the common challenges facing other development efforts in PNG: logistical constraints, low administrative capacity, and elite capture. Nevertheless, the gender asset gaps that persist in the midst of the current global extractives boom highlight the need to engage women more proactively in mining agreements and support their ability to exercise greater agency over those resources. More attention to the principles and experiences of community-driven development, together with more local political economy analysis, will likely benefit women’s engagement and outcomes. The particular guidance laid out above for enhancing women’s agency—in both the negotiation and implementation phases—offers further opportunities to promote women’s equality and through this, achieve better development outcomes.

## Other J4P Briefing Notes

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*Vanuatu National Leasing Profile: A Preliminary Analysis*, Sue Scott, Milena Stefanova, Anna Naupa, and Karaeviti Vurobaravu, J4P Briefing Note, May 2012

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*Public Land Governance in Solomon Islands*, Shaun Williams, J4P Briefing Note, February 2011

*Leasing in Vanuatu: Findings and Community Dissemination on Epi Island*, Milena Stefanova, Raewyn Porter, and Rod Nixon, J4P Briefing Note, November 2010

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*Women, State Law and Land in Peri-Urban Settlements on Guadalcanal, Solomon Islands*, Rebecca Monson, J4P Briefing Note, April 2010

*Expanding State, Expectant Citizens: Local Perspectives on Government Responsibility in Timor-Leste*, David Butterworth, J4P Briefing Note, February 2010

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