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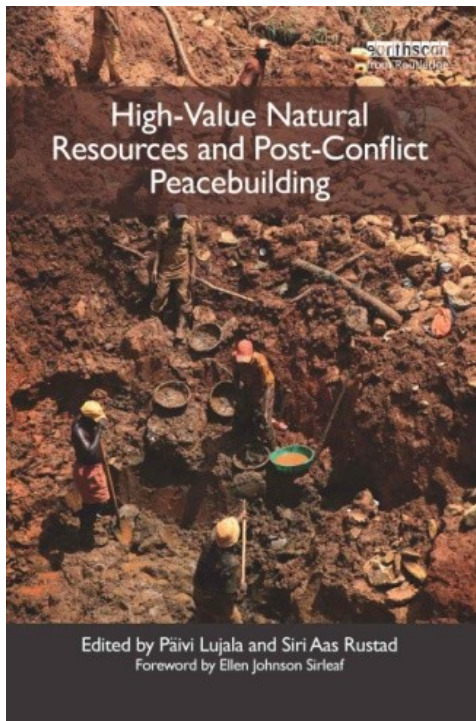
Reopening and developing mines in post-conflict settings: The challenge of company-community relations
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Reopening and developing mines in post-conflict settings: The challenge of company-community relations

Volker Boege and Daniel M. Franks

Every mine that is reopened or developed in a fragile post-conflict setting becomes a part of that setting; as such, it can either intensify that fragility, and perhaps even trigger a recurrence of conflict, or help stabilize the situation and thereby contribute to peacebuilding.[1] Drawing from case studies in Papua New Guinea and Guatemala, this chapter explores the conditions that are essential for avoiding renewed conflict and for supporting peacebuilding and development, with particular emphasis on the role of community relations practice. In addition to presenting the case studies, the chapter describes problems typically associated with mining in a post-conflict environment; discusses fragility and hybridity, two aspects of the sociopolitical context that have significant influence on mining ventures; explores the interaction between companies, communities, and the state in post-conflict environments; considers the goals and limitations of community relations practice; and discusses lessons learned.

Any attempt to reopen or develop mines in a post-conflict environment not only confronts financial, logistical, and technical difficulties, but—even more important—tremendous social and political challenges. A range of specific, highly sensitive issues that originate from the violent conflict, from its aftereffects, and from post-conflict peacebuilding must be addressed. Specifically, the development or reopening of a mine in a post-conflict situation must be *conflict sensitive* (that is, must minimize the potential of the project to provoke or intensify conflict) and *conflict relevant* (that is, must directly contribute to peacebuilding and to

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[1] Although there is considerable scholarly debate about the definition of *fragile states*, there is general agreement that they lack the capacity or the will (or both) to do the following: uphold law and order and control violence throughout the state's territory; ensure adequate provision of basic goods and services; and adequately generate, control, and allocate resources.

the prevention of new conflict) (Bagwitz et al. 2008).[2] In practical terms, this means

- Reconstructing infrastructure destroyed by prior violent conflict.
- Establishing mutually beneficial relations between all stakeholders.
- Securing positive and sustainable outcomes that reflect the interests of companies, communities, and host governments.

    Thus, beyond solving the practical problems associated with reopening old or developing new mines, companies must obtain or reestablish a *social license* to operate. Community relations practice, which focuses on shaping companies' actions so that they are responsive to the people and places that may be affected by a project, is central to obtaining a social license.

MINING IN A POST-CONFLICT ENVIRONMENT

Many states in the Global South are facing the challenges of post-conflict peace-building in the wake of protracted internal violent conflicts.[3] Such conflicts have devastating consequences, and it is civilians who suffer most. Civilian casualties are much higher than combatant casualties, and civilians may be subject to human-rights violations as well as to loss of housing, property, basic services, and social and physical infrastructure. Forced from their homes, many civilians may have been internally displaced or forced to flee into neighboring countries. After the cessation of hostilities, survivors are typically impoverished, traumatized, and in bad health.

    Companies that wish to develop or reopen mining projects in a post-conflict setting face a host of difficulties. First, conditions often remain insecure, putting staff and assets at risk. Second, infrastructure (roads, transport, communication,

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[2] Conflict sensitivity and peacebuilding are not the same thing: conflict sensitivity works *in the context of conflict* "to minimize negative and maximize positive impacts of programming," whereas peacebuilding works *on conflict,* "seeking to reduce key drivers of violent conflict and to contribute to Peace Writ Large (the broader societal-level peace)" (Chigas and Woodrow 2009, 10). This chapter focuses primarily on conflict-sensitive activities that can contribute to peacebuilding without being targeted directly toward peacebuilding. The chapter also addresses conflict prevention, which is similarly distinct from peacebuilding. In the context of this chapter, the goal of conflict prevention is to avoid relapse into violent conflict stemming from the reopening or development of new mining projects.

[3] *Global South* and *Global North* are geopolitical terms that refer to the economic and development disparities between the industrialized states of Europe, North America, and parts of Asia (the Global North), and the postcolonial states of Africa, South and Central America, and Asia (the Global South). The terms are an alternative to the distinctions made by Alfred Sauvy between the First (capitalist), Second (aligned with the Soviet Union) and Third (nonaligned) worlds, and to the description of states as either "developed" or "developing."

etc.) is usually in disrepair, and the technical and engineering problems involved in reconstruction are often immense. Third, government institutions are likely to be lacking in capacity, competence, and reliability. Finally, and most important, relations with communities in the project area have to be established. Community residents are still in the process of rebuilding their lives, not only in material but in social and psychological terms, and the prospect of having to deal with the opening or reopening of a resource project can be a significant additional strain. Because communities are at once particularly vulnerable and particularly suspicious of outsiders, companies must find ways to build or rebuild trust.

Where the previous conflict was not related to mining, it will still be difficult to develop new projects simply because of security issues, damaged infrastructure, limited state capacity, and traumatic community history. Nevertheless, not having contributed to violent conflict may create something of an advantage. The chapter therefore differentiates between two scenarios:

- Post-conflict development of new mines or reopening of old mines where mining was a factor in prior violent conflict.[4]
- Post-conflict development of new mines where mining was not a cause of the violent conflict, or where there was no pre-conflict mining.

FRAGILITY AND HYBRIDITY

To understand the problems of company-community relations in a post-conflict environment, it is first necessary to understand the larger context. This section outlines the general sociopolitical conditions likely to be encountered by companies that are developing or reopening mining projects in post-conflict regions of the Global South.

Fragility and hybridity are significant features of the post-conflict environment.[5] In fragile states, the governmental institutions are usually relatively weak, with inadequate capacity to uphold law and order; provide basic goods and services; and generate, allocate, and control resources. In addition, avenues for political representation and citizen participation are generally insufficient. As a consequence of these deficiencies, state institutions typically suffer from a lack of legitimacy in the eyes of the people.[6] Fragility weighs heavily on company-community relations in the post-conflict environment—and in some cases, the state's lack of capacity,

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4 This type can be further divided into newcomers and companies that were already in operation before the conflict.

5 In addition to Papua New Guinea and Guatemala, the subjects of the case studies, other states characterized by post-conflict fragility and hybridity include Cambodia, Timor-Leste, Indonesia, Liberia, Sierra Leone, and the Solomon Islands.

6 There is a vast literature on fragile post-conflict states. For more recent overviews, see Andersen, Moeller, and Stepputat (2007); Anten (2009); Brinkerhoff (2007); Call (2008); Ghani and Lockhart (2008); OECD/DAC (2008); and Woodward (2006).

effectiveness, and legitimacy may push company-community relations to center stage.

A hybrid political order combines traditional societal structures;[7] elements of the Western model of the state; and contemporary institutions, movements, and groups that have their origins in the effects of, and reactions to, globalization (and, in the case of post-conflict societies, the preceding conflict) (Boege et al. 2008a, 2008b; Boege, Brown, and Clements 2009). In fragile post-conflict situations, the state is only one actor among others, and state order is only one of a number of political orders claiming to provide security, social services, and frameworks for the nonviolent conduct of conflict. Although state institutions may claim authority within the boundaries of a given territory, in large parts of that territory, only outposts of the state can be found; the sociopolitical environment is, to a large extent, stateless. Statelessness, however, does not imply the sort of disorder envisioned by Hobbes, with *bellum omnium contra omnes* (war of all against all). Instead, customary and communal institutions are often central to everyday life.[8]

Particularly in rural or remote areas, which often happen to be the sites of mining projects, customary actors and institutions have maintained their significance, showing remarkable resilience despite colonialism and postcolonial state building. They coexist alongside of, and intertwine with, state institutions; and they often shape local resource use (Schlichte and Wilke 2000; Schlichte 2005; Boege et al. 2006; Buur and Kyed 2007). Governance in post-conflict contexts is further complicated by the aforementioned institutions, movements and formations that have their origins in the effects of and reactions to the conflict, and in globalization more generally. Warlords and their militias in outlying regions, gangs in townships and squatter settlements, vigilante organizations, ethnically based protection rackets, millenarian religious movements, transnational networks of extended family relations, organized crime, and new forms of tribalism may all thrive in the fragile post-conflict context. Occasionally, these new formations succeed in seizing power in certain regions of a given state's territory, be it a remote mountain location or a squatter settlement in the capital city (Schetter 2007; von Trotha 2000, 2005).

In sum, post-conflict environments are generally places in which diverse and competing sets of rules, claims to power, types of behavior, and understandings of order coexist, overlap, and intertwine. Mining companies, however, are generally unaware of the hybridity that shapes post-conflict environments—or, to the extent that they are aware of hybridity, they regard it as an impediment to development and to the good governance of resources.

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[7] In this context, "traditional" structures have precolonial roots but may have been shaped, through historical change, to achieve their current, postcolonial form.

[8] The phrase *customary and communal institutions* refers, for example, to traditional social structures (e.g., extended families, clans, and villages) and to traditional authorities (e.g., elders, healers, and religious leaders) that exist within the postcolonial context.

COMPANIES, COMMUNITIES, AND THE STATE IN HYBRID POLITICAL ORDERS

Following independence, newly created postcolonial states followed the example of the former colonial establishment and institutionalized modern, Western European legal systems—including, for example, mining laws. The new political elite regarded customary law as anachronistic; in fact, many states in the Global South fail to acknowledge customary law, despite the legal pluralism that, in practice, regulates access to land, water, and other natural resources (Kyed and Buur 2006; Buur and Kyed 2007).

Whereas statutory law governs the deals between companies and governments, customary law still plays a crucial role at the community level. Local populations often perceive the state as an alien external force that is not only physically distant (in the capital city) but removed from their everyday reality. In the eyes of community members, state authorities do not necessarily have the legitimacy to negotiate with external parties on behalf of local residents. In explaining this perspective, people refer to the customary laws of their communities (Buur and Kyed 2007). Hence, a license to operate—granted to a company by state authorities and based on modern statutory law—is not necessarily meaningful in the eyes of local residents who adhere to customary law.

None of this is to suggest, however, that state institutions are irrelevant. In principle, the host state sets the conditions for the resource extraction—and, for better or for worse, local, provincial, and central government agencies have significant influence on resource extraction projects. The extent to which the state maintains a presence in the area, the rules it sets, and its ability to enforce those rules shape company-community relations and affect the ways in which companies pursue their projects.[9]

Thus, company-community relations occur in the context of state structures and institutions, however fragile these may be. At the same time, the companies themselves figure prominently in the post-conflict setting. Often, they are better equipped, better organized, and more capable than state authorities. In post-conflict areas, state agencies may barely function—and may therefore deliver few, if any, services in areas such as education, health, and security—whereas the company may be all too present. Under such conditions, residents may not only expect the company to step in for the state, but may transfer their grievances against the state to the company (Switzer 2001; Zandvliet 2004; Boege et al. 2006).

Finally, company-community relations in the post-conflict environment are subject to the influence of civil society. Although many civil society organizations (such as nongovernmental organizations [NGOs], trade unions, chambers of commerce, women's associations, and youth associations) are relatively weak under conditions of hybridity, they must nevertheless be reckoned with. Organizations

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[9] It also matters whether communities perceive state institutions as siding with outside companies or as defending local interests.

that are rooted in the local context—religious institutions, for example—often have a more visible presence than state institutions, as do community-based organizations that are allied to international NGOs. In the era of the Internet, there are no "faraway places": big international NGOs can influence events and public opinion, both in host countries and in the companies' home countries, and local organizations and activists in remote areas can link up with international NGOs and with the outside world in general. Both local and international civil society groups can therefore be expected to play a role in company-community relations, particularly during the first stages of peacebuilding, when two things are likely to occur: (1) a great deal of international attention may be focused on humanitarian assistance, reconstruction, and reconciliation, and (2) a broad spectrum of external actors—including donor agencies, United Nations agencies, and international NGOs—may make their presence felt.

COMMUNITY RELATIONS PRACTICE: GOALS AND LIMITATIONS

Because of controversy about the relationship between extractive industries and sustainable development, the mining industry has assigned increasing prominence—and resources—to the practice of community relations. Companies have begun to employ community relations specialists (including sociologists, communications experts, and anthropologists) and have developed procedures and initiatives to respond to environmental and community concerns. Voluntary standards and policies—and to a lesser extent, the procedures, practices, and internal management systems of mining companies—have come to reflect a community relations perspective.

The goal of community relations is to shape companies' actions to be socially, culturally, and environmentally responsive to the people and places that may be affected by development.[10] Community relations practitioners attempt to resolve real and perceived community concerns, impacts, and risks; their work emphasizes increased communication, improved understanding, and stronger relationships with stakeholders. By resolving disputes between local populations and mining companies, the practice of community relations reduces the risk of actions such as blockades, protests, campaigns, legal suits, and sabotage, which might otherwise be the only forms of influence stakeholders can exert, and can destabilize the peace process.

In this chapter, community relations is conceived as having three dimensions (Kemp 2009):

• Assisting mining companies to understand the community's perspective.
• Fostering dialogue and cooperation between the community and the company.
• Driving organizational change in order to improve practice within mining companies.

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[10]   This is in contrast to public relations, where the primary motive is for the company to communicate its perspective to the public—and, ultimately, persuade the public to adopt the company's perspective.

In practical terms, company-community relations can be improved through the following means (Kemp 2009; Franks et al. 2009):

- Formal and informal opportunities for consultation, engagement, and participation (e.g., community panels and boards, and community monitoring programs).
- Initiatives that foster an understanding of the community (e.g., stakeholder analysis and impact assessment).
- The establishment of procedures for responding to complaints and resolving disputes.[11]
- Community- and enterprise-development initiatives designed to improve the balance between the costs and benefits of mining (e.g., community development funds).
- Procedures for seeking consent from affected communities and customary landowners who hold sovereignty over land.

There are, of course, limits to community relations practice. On the company side, community relations are constrained by the imperatives of commerce and production, and by the governance structures under which companies operate. Mining companies' economic orientation is global; their interest in a given locality is based merely on the existence of an ore deposit that can be extracted and marketed for profit. Thus, within the constraints of the political and geographical context, the management strategies of each mining operation are shaped primarily by the demands of the market and the internal economics of the company as a whole. Because the goal of a mining operation is to extract a single, high-value resource (ore), the company does not depend on the broader environmental and social conditions of a locality, beyond what is needed for the immediate support of the operation (e.g., labor, water, energy). Thus, when companies undertake corporate social responsibility initiatives—by, for example, adhering to voluntary standards—their actions have value only to the extent that they support the primary objective: to provide shareholders with a return on their investment through the mining, extraction, and processing of resources (Franks 2007).

On the community side, company-community relations depend on the community's acceptance of the mining activity, either in its current or in some less intrusive form. But where developers are extracting resources without consent—regardless of whether the land is held by indigenous peoples who hold sovereign rights, or even by communities that do not hold recognized sovereign rights—the very presence of the operation may be in dispute. In other words, what the community may want is the *absence* of any company-community relationship.

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[11] The Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises has stressed the importance of mechanisms to address complaints and grievances early, before they escalate (Ruggie 2008). The mining industry is beginning to implement such mechanisms more widely (Kemp and Gotzmann 2008).

Under such conditions, it is not always possible to negotiate a mutually beneficial arrangement. Even when mining reflects best practice, resource extraction may simply be incompatible with community life. The attitudes of local communities toward development and the environment often differ substantially from those of mining companies that enter the local context for the sole purpose of resource extraction. This is particularly the case where communities depend on subsistence agriculture, and local, market-related economic activities play only a minor role. Because resource extraction has the potential to undermine functioning ecosystems, it may be perceived as incompatible with the sustainability of both livelihoods and culture.

The wide-ranging effects of mining, which commonly extend well beyond the mining lease, can pose exceptional challenges for community relations efforts. Mining can trigger inflation; induce migration (because of the availability of employment opportunities); place pressure on (but also support) social services; affect the cost and availability of housing; and lead to ecological and cultural change. Tailings discharged into a river, for example, may transform ecosystems hundreds of kilometers downstream; the demands of mining employment may cause shifts in traditional family roles; the introduction of a cash economy may break down customary patterns of exchange; and, where cultural and religious practices are tied to specific features of the landscape, the transformation of that landscape may have cultural repercussions.

Company-community relations are also shaped by the history of an operation —in particular, by the exploration and feasibility phases of projects. Whereas multinational mining companies may have competent community relations teams (including anthropologists and other culturally sensitive experts), the junior companies that conduct much of the exploration work rarely do. Junior companies are intently focused on generating a return on investment by rapidly finding and demonstrating the feasibility of ore bodies. As a consequence, they often give short shrift to community relations and local decision making, and are thus more likely to spark conflicts. When larger companies punchase prospective mines from the juniors, they also inherit any tensions and conflicts that were created during exploration (Bebbington et al. 2008).

In post-conflict situations, fragility and hybridity intensify the constraints on community relations practice. Communities in post-conflict settings are typically fragmented, complex, and host people that have been internally displaced. They may harbor distrust of institutions and particular social groups and lack the time or capacity to engage with the mining project. They may also include groups, such as militias, that were associated with the conflict. Under these conditions, the issue of consent poses particular problems: Who makes up the "relevant" community? Who is entitled to speak for it? What constitutes community consent (Laplante and Spears 2008)? In hybrid political orders, companies are well-advised to seek the participation of nonstate (customary) actors, but the practicalities of obtaining consent in such situations are far from straightforward.

In sum, the techniques that are designed to foster mutual understanding, encourage participation, and avoid conflict may be severely hampered in fragile

post-conflict settings or where there is a history of conflict between the community and the mining company. Efforts to prevent conflict—through improved communication, understanding, and engagement—can be undermined by distrust, unresolved grievances, and the residual effects of past trauma. Acknowledging the limits of community relations practice and the unique challenges of post-conflict settings will help companies make more relevant, responsive, and focused decisions.

CASE STUDY: BOUGAINVILLE, PAPUA NEW GUINEA

The Panguna gold and copper mine, on the island of Bougainville, in Papua New Guinea (PNG), was a decisive contributing factor in a protracted violent conflict that began in 1988 and ended in 1998. This case study considers the history of the previous project, the post-conflict situation, the current efforts to recommence mining, and the associated difficulties.

Mining and violent conflict on Bougainville

In the 1970s and 1980s, the Panguna mine was one of the largest open-pit mines in the world. It was operated by Bougainville Copper Limited (BCL), a subsidiary of Conzinc Rio Tinto of Australia, one of the world's leading mining companies.[12] The Panguna project brought enormous profits to the British-Australian company, as well as considerable revenues to the central government of PNG, in the faraway capital city of Port Moresby, on mainland New Guinea. In fact, the mine was the largest single source of income for the government and the backbone of PNG's economy. As such, it enjoyed unwavering support from the Australian government, which viewed Panguna as essential for the economic stability of the young nation-state. (PNG gained its independence from Australia in 1975.)

Area residents, however, took a different view. Land had been taken from local communities on a scale that destroyed the basis of their subsistence economy, and mining wastes were discharged directly into the local river, harming downstream ecosystems. To communities near the mine site, land was important not only economically but also as the core of their social, cultural, and spiritual life.[13] Both central government authorities and the mining company management, however, largely ignored the social and cultural significance of the land.[14]

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[12]   Conzinc Rio Tinto has since become Rio Tinto.
[13]   For an overview of the various aspects of social, economic, cultural, and political conditions in Bougainville before the conflict, see Regan and Griffin (2005).
[14]   For a comprehensive account of the construction, operation, legal context, and impact of the Panguna mine, see Wesley-Smith (1988) and Denoon (2000). For BCL's perspective, see Quodling (1991). For a brief overview of the mine's operation and associated problems, see Vernon (2005). For the environmental degradation caused by the mine, see the early assessment by Brown (1974); also see Wesley-Smith (1988) and Connell (1991).
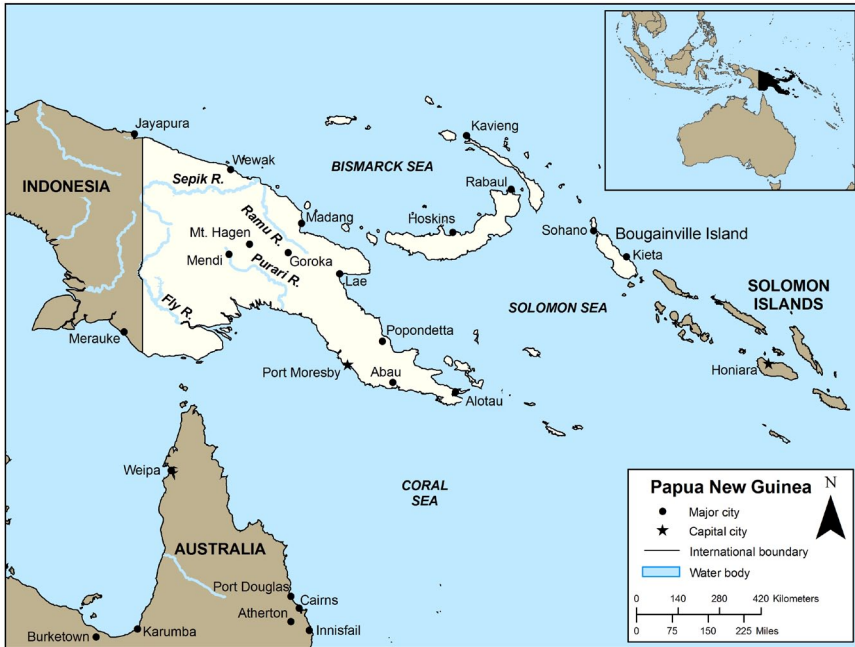
A substantial influx of workers from outside Bougainville, along with large amounts of cash, added even more pressure to local social structures. Local people blamed outsiders—workers, expatriate Australian company managers, and the agents of the central government—for failing to respect indigenous culture and the rights of community members as the original owners of the land.[15] Moreover, many residents felt that the costs and benefits of mining were distributed unevenly: the bulk of the mining revenues flowed to outsiders, while the residents were left with the negative environmental and social effects. Islanders demanded meaningful environmental protection measures, compensation for past environmental damage, and a larger share of the revenues.[16] The mining company and the PNG government, backed by the Australian government, rejected the demands, triggering the longest and bloodiest conflict in the South Pacific since the end of World War II. Out of a total population of 200,000 in Bougainville, nearly 20,000 were killed.

In late 1988, clan members from the mine area sabotaged the mine, bringing operations to a standstill, and established a guerrilla force, the Bougainville Revolutionary Army (BRA). Fighting between the BRA and the government's

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[15]   On the damaging social effects of the Panguna mine in particular and of mining in a Melanesian context in general, see Filer (1990, 1992); Wesley-Smith and Ogan (1992); and Denoon (2000).

[16]   For the politico-economic context of the mining project, see Regan (2003).
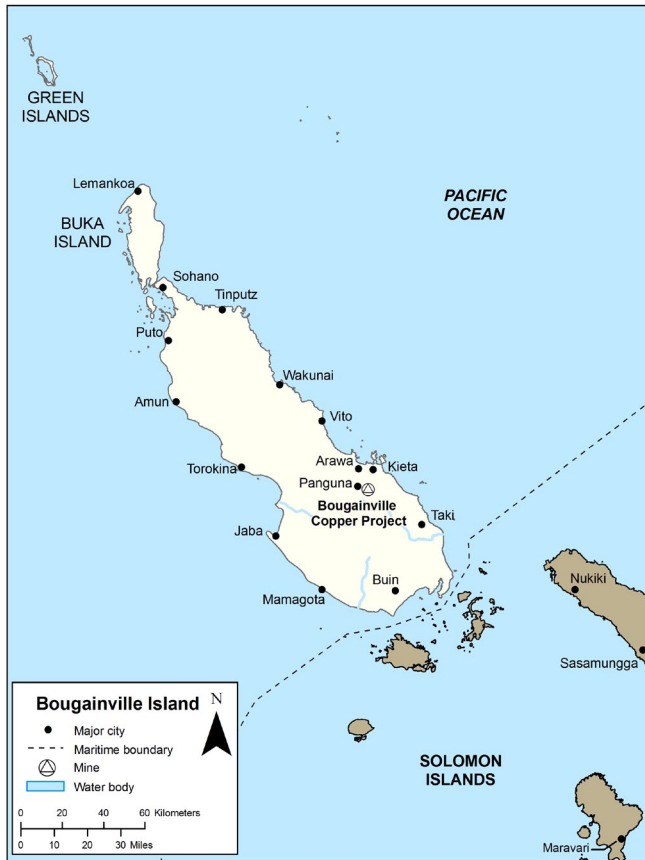
security forces began in the mine area but soon spread across the whole island. The BRA called for independence for Bougainville, taking up a secessionist stance that had last surfaced in the 1960s and 1970s, during early protests against the development of the Panguna mine.[17]

The BRA managed to overrun the Panguna mine at an early stage of the war, during 1989 and 1990, and the mine has remained closed ever since.[18] Currently, the mine site remains in the hands of the Meekamui Movement, a hard-core secessionist faction that has yet to join in the peace process that began in 1998.

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[17] On the triggers, early stages, and escalation of the conflict, see Connell (1991) and Howard (1991); for a history of the conflict, see Parliament of Australia (1999).

[18] Production was suspended in May 1989, and the last remaining staff were evacuated from Bougainville in March 1990.

By the late 1990s, neither side believed there was anything to be gained by continuing the war. Post-conflict peacebuilding ensued, and the Bougainville Peace Agreement, signed in August 2001,[19] marked the final settlement of the war.[20] The agreement's two core political provisions are as follows: (1) for the time until the referendum, autonomy for Bougainville within the framework of the state of PNG and its constitution; and (2) a referendum to determine whether Bougainville will be fully independent or will remain an autonomous entity within PNG, to be held ten to fifteen years after the establishment of an autonomous government for Bougainville.[21] In the meantime, Bougainville has its own government, the Autonomous Bougainville Government (ABG) which has comprehensive governing powers. Most important, a number of highly sensitive issues—including land, natural resources, mining, the environment, oil and gas, trade, commerce, and industry—are to come under the sole control of the ABG.

Reestablishing and expanding mining on Bougainville

Bougainville today clearly exhibits the characteristic features of a hybrid political order: specifically, elements of the Western model of statehood (e.g., a constitution, a president and a parliament, free and fair elections), combined with elements of customary governance (e.g., chiefs and elders, village assemblies, customary law) and modern nonstate actors (e.g., the Meekamui Movement) that have complex relations—including both conflict and cooperation—with state and customary institutions. Although there have been some efforts at deliberate integration, to a certain degree these domains—with all their complementarities, synergies, and incompatibilities—simply coexist. Thus, governance involves a complicated interplay of institutions from different spheres: the state, traditional communities, and nonstate actors.

The ABG is aware that, given the fragility and hybridity of the post-conflict environment, mining has the potential to ignite conflict. Joseph Kabui, the late president of the ABG, nevertheless strongly advocated the reestablishment and expansion of mining.[22] At the time of writing, preliminary talks were under way

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[19]   For an overview of the peace process, see Parliament of Australia (1999), Carl and Garasu (2002), BCC (2004), and Wolfers (2006).

[20]   The text of the peace agreement can be found in Carl and Garasu (2002). For an analysis of the peace agreements, see Regan (2002a, 2002b).

[21]   The Autonomous Bougainville Government was established in 2005.

[22]   In particular, a group within the ABG, including the late president Joseph Kabui, established quite a close relationship with a junior Canadian mining company, Invincible Resources Corporation. Invincible established a presence in Bougainville that included a communication center in the town of Arawa and the financing of a private security company staffed by ex-BRA combatants. It also acquired, for around US$7 million, 70 percent ownership of the Bougainville Resource Development Corporation—which the ABG, under Kabui, had established to foster investment in Bougainville. At the time of writing, Invincible had reduced its presence in Bougainville considerably.

between various stakeholders (government, mining companies, and landowning communities) about the possibility of reopening the Panguna mine and developing new mining projects on the island.[23] The ABG has declared its interest in mining—and mining is viewed, by some members of the ABG, as the most promising option for increasing government revenues and spurring economic growth and development.

So that it will have more room to maneuver in negotiations, the ABG has urged the PNG government to put into effect the transfer of control over mining, gas, and oil provided for in the peace agreement. Furthermore, the ABG wants to lift the current moratorium on new mining explorations conducted outside BCL's lease area (the PNG government had imposed the moratorium at the beginning of the violent conflict). With the World Bank's assistance, the ABG has also established a mining division.[24]

Although BCL is still the official owner of the Panguna mine,[25] BCL officials have not had access to the mine site since it was occupied by the BRA in the late 1980s. BCL has declared its interest in reopening the mine and commissioned a prefeasibility study on the costs and technical requirements of redeveloping Panguna. The study, which was completed in November 2008, found that there is potential for a viable mining operation at Panguna, although the capital costs of redevelopment are likely to be high.[26]

In the meantime, BCL and Rio Tinto keep a low profile in Bougainville. Company representatives are well aware of the profound distrust (and even hatred) still harbored in certain quarters of the populace. They acknowledge that reopening Panguna will mean reestablishing trust and good relations with the communities on Bougainville—an immense effort that will take considerable time.[27] Some Bougainville political leaders want BCL to come back, to "clean up the mess" it left behind and to take over responsibility for mining again ("better to work

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[23] Much of the information that follows draws on interviews conducted by Volker Boege in 2007 with former combatants, communal and traditional authorities, and representatives from government, civil society, and business. The interviews were part of a case study for a project entitled Towards Effective and Legitimate Governance: States Emerging from Hybrid Political Orders (2007–2008). The project was funded by AusAID, the Australian government's overseas aid program.

[24] The Bank has allocated US$2 million for training and capacity building.

[25] Rio Tinto owns 53.58 percent of BCL; the government of PNG owns 19.06 percent; and public shareholders hold the remaining 27.36 percent.

[26] Redeveloping Panguna will cost about US$3.8 billion. Copper reserves are estimated at almost 3 million tons, and gold production in the range of 400,000 ounces per year. Panguna is potentially one of the world's largest copper and gold mines, with a processing rate of 50 million tons of ore per year and a mine life of at least seventeen years. BCL holds seven exploration licenses in areas adjacent to the Panguna area, and it is widely believed that they also contain large deposits of copper and gold.

[27] The BCL chairman's annual general meeting address noted that it would be "at least four years, and possibly six, before mining could be re-started on Bougainville" (BCL 2009). This seems to be an overly optimistic prognosis.

with the devil we know than getting in somebody new"). Other political figures are more open to alternatives to BCL.

There is general agreement among representatives of the central government, the ABG, the company, and landowning communities that company-community relations are central, and that in areas that will be both directly and indirectly affected by the mines, comprehensive discussions with local landowning communities will be necessary before planning to resume mining can begin. There are divergent views among stakeholders, however, on whether residents are willing to allow mining to resume. While some members of the ABG and political leaders from the mine area say that local communities are interested in reopening the Panguna mine, others have the impression that the communities are still very much opposed to mining; still others say that it is hard to know.

Some NGOs and community-based organizations are concerned that the ABG and the PNG governments will engage in a hasty and superficial consultation process, and that this will trigger renewed conflict. In keeping with the fragility and hybridity of the post-conflict setting, state institutions are relatively weak both at the central level and on Bougainville, while nonstate actors (e.g., those from the local customary sphere and from new social formations, such as the Meekamui Movement) are relatively strong. Under these conditions, inadequate consultation could be particularly risky.

As noted earlier, the mine site and adjacent areas are still controlled by the Meekamui Movement (specifically, by its military arm, the Meekamui Defence Force). In August 2007, meetings between the ABG and the Meekamui Movement yielded the Panguna Communiqué, which has provided the basis for a rapprochement between the two entities. Without either Meekamui consent or the dissolution of the Meekamui Movement, it will be impossible to reopen Panguna. Within the ranks of the Meekamui Movement, views on reopening Panguna and developing new mining projects seem to differ: some movement members are more open to the idea and others are strongly against it. This division mirrors the views of the communities near Panguna and other potential mine sites.

The strongest resistance, however, comes not from the area immediately surrounding Panguna but from more distant communities that suffered the greatest environmental damage from the mine—particularly those that are downstream, along the Jaba River. In these communities, it is the chiefs and elders who maintain peace and order: customary law comes first, and the law of the state second (if it is accepted at all). This legal pluralism has implications for company-community relations, which must be framed not only in terms of state law, but also customary law.

Processes of reconciliation within and between communities in the Panguna mine area and adjacent areas began in earnest only in 2009. Some community leaders and politicians from these areas have put a lot of effort into initiating these processes; other community leaders, however, remain skeptical and have not yet joined. Although reconciliation will take time, it is an essential foundation for meaningful company-community dialogue about reopening the mine.

In December 2008, James Tanis—a former high-ranking BRA commander who had played a crucial role in the peace negotiations—was elected to succeed Joseph Kabui as president of Bougainville. Tanis, who comes from a village downstream of the Panguna mine, has claimed that he will ensure that all the affected communities will have the opportunity to participate in decision making about mining, both with regard to Panguna and any new mining projects. During the first months of his presidency, he held exploratory talks with a variety of stakeholders—including Panguna landowners, representatives of the Meekamui Movement, the PNG government, and BCL. And in October 2009, at Tanis's invitation, BCL company secretary Paul D. Coleman came to Buka, Bougainville's capital, and held talks with the ABG, with former combatants, and with landowners from the Panguna area (although he was unable to go to the mine site itself).[28] President James Tanis committed the ABG to comprehensive and unhurried dialogue on reopening Panguna, and on mining in general. Future discussions will have to include the PNG government and BCL, on the one hand, and local landowning communities (including members of the Meekamui Movement) on the other.

Bougainville: Conclusions and prospects

Given the historical burden of mining in Bougainville, company-community relations will have to take a fresh approach, both to avoid the mistakes of the past and to obtain a new social license to operate. Company-community relations will be more difficult to manage today than they were in the past. A host of different stakeholders must find common ground, despite different interests, needs, values, worldviews, and aspirations.

It remains to be seen how much the various stakeholders have learned so far, and how deep and sustainable the lessons were. The ABG still seems to be focused on the potential economic benefits of mining, but it also acknowledges the importance of a social license to operate; whether the central PNG government has an equally balanced view is unclear. Given the fragility of the sociopolitical context and the hybridity of the political order, it would be dangerous to give undue priority to economic considerations and to set aside social considerations as less important.

So far, Bougainville has been one of the rare success stories of contemporary post-conflict peacebuilding in a fragile state (Boege 2008). Whether the story will culminate in a peaceful future very much depends on how mining is dealt with, particularly with regard to company-community relations. Bougainville also has the potential to become another kind of success story: one in which conflict-sensitive and conflict-relevant redevelopment of mining actually strengthens

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[28] Tanis extended the invitation in January 2009, but the visit did not occur until October.

peacebuilding. Any future resource developments in Bougainville, however, must engage all stakeholders in a comprehensive dialogue that addresses the following issues:

- The past: What went wrong with mining on Bougainville, and why? A common understanding of history is required as the basis for reconciliation, compensation, and rehabilitation, and for the reestablishment of trust.
- The present: What are the current grievances and concerns? Once an environment of mutual trust has been established, companies, communities, and other stakeholders can explore their expectations.
- The future: How should the process move forward? Collaborative planning, decision making, and implementation are key to building consent (both within and among communities, and between communities and companies), and to establishing procedures for addressing grievances and solving disputes in the future.

Such a process can decisively strengthen and stabilize peacebuilding. However, it will have to be sequential: without reconciliation, it is impossible to plan for the future. State institutions will provide the framework for engagement, and state actors will present their views and interests, but company-community relations will be at the core. Whether reopening the Panguna mine, developing new mines, or both will contribute to peacebuilding or will destabilize what has been achieved so far hinges on the quality of these company-community relations.

CASE STUDY: SAN MARCOS, GUATEMALA

San Marcos, Guatemala, is an example of the post-conflict development of a new mine in an area where mining was not a cause of violent conflict.[29] The case study describes the history of the conflict and the post-conflict situation, analyzes company-community relations at the mine site, and describes the community relations initiatives currently in place.[30]

History of the conflict in Guatemala

The Marlin gold and silver mine is located in the highlands of western Guatemala, in the municipalities of San Miguel Ixtahuacán and Sipacapa, Department of San Marcos. The mine is owned and operated by *Montana Exploradora de Guatemala*,

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[29]   As with other Cold War–era conflicts, access to natural resources was contested at the macro scale in Guatemala, but extractive resource industries did not directly contribute to the civil conflict.

[30]   This case study was based on publicly available material. Where possible, information was confirmed through multiple sources.

S.A., a subsidiary of Goldcorp, a Canadian mining company.[31] The deposit was discovered in 1998, construction started in early 2004, and operations began in 2005. The US$254 million mining development was viewed by the international development community as an opportunity for post-conflict economic development and was supported by a US$45 million loan from the International Finance Corporation (IFC), a member of the World Bank Group.

The mine is the first major mining investment in Guatemala since the cessation of a protracted civil conflict (1960–1996) in which more than 200,000 people were killed (Commission for Historical Clarification 1999). The roots of the conflict stemmed from the 1954 overthrow (organized by the U.S. Central Intelligence Agency) of the populist and democratic government of Jacobo Árbenz Guzmán by Colonel Carlos Castillo Armas. After the murder of Castillo Armas,

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[31] Goldcorp acquired the mine from its acquisition of Glamis Gold in November 2006.

in 1957, a series of short-lived regimes followed, one of which was the autocratic government of General Miguel Ydígoras. In November 1960, discontented army officers attempted to oust Ydígoras in an unsuccessful coup, precipitating a revolutionary movement and a counterinsurgency state.

In the 1960s, state violence involved selective targeting of militants; in the 1970s, the attacks expanded to include prominent members of the political opposition and, ultimately, indigenous Mayan villagers, who were perceived to be supporting the rebels; widespread massacres, which included high percentages of women and small children, peaked in the early 1980s (Ball, Kobrak, and Spirer 1999). Noncombatants, including Mayan villagers, made up 83 percent of the victims of the civil war, and 93 percent of the atrocities were committed by the armed forces (Commission for Historical Clarification 1999). In addition to civilian deaths, Guatemala faced the trauma of disappearances, the destruction of more than 400 villages, and the internal displacement of over a million people; 100,000 more fled to neighboring countries (Colletta and Cullen 2000). Extrajudicial killings by the military continued until 1996, when the UN brokered a peace accord between the government and the guerrillas. By the time the conflict ended, the state and its institutions had been discredited. Writing in 2000, Nat J. Colleta and Michelle L. Cullen noted that "severe social, economic, and political exclusion was a catalyst for the protracted, brutal conflict, and these exclusionary issues remain only partially resolved after the peace accord" (Colletta and Cullen 2000, 100).

The region in the vicinity of the mine is populated by Mam-Mayan and Sipakapense-Mayan indigenous peoples. Between 1960 and 1996, tens of thousands of people were murdered in Guatemala's western highlands, the location of the mine. And the Commission for Historical Clarification (1999) recorded fifteen distinct massacres in the Department of San Marcos—a high concentration relative to other regions.

The contemporary company-community relationship

The post-conflict environment in San Marcos is shaped by the lingering trauma of the conflict and by the Guatemalan government's lack of institutional capacity. It is also influenced by complex allegiances and interactions between Maya communities, Ladino (mixed-race) communities, municipal governments, the Catholic Church, and various arms of the Guatemalan state. Glamis Gold, the former owner of the mine, has described the operating environment as a "culture of distrust" and a "very complex cultural, historical, and political backdrop" (Schenck 2006, 2). Community members who are opposed to the mine argue, similarly, that the mine must be understood within the social and political context of Guatemala—which, thirteen years after the end of the civil war, "is in danger of becoming a failed state, plagued by drug-fueled violence, government corruption, and the absence of the rule of law" (Frente de Defensa San Miguelense and Center for International Environmental Law 2009, 2). Some NGOs have argued that the company's presence has ultimately done more harm than good; Rights

Action, for example, has observed that "rather than strengthening the collective social fabric of impoverished indigenous communities, weakened by the enduring legacy of the internal armed conflict, the company's engagement with local actors further weakened the social fabric" (Rights Action 2008).

The operators of the Marlin mine have encountered a number of difficulties, some of which stem from the post-conflict environment. Conflicts have arisen over issues such as consent for resource development, respect for indigenous worldviews and decision-making structures, compensation for land purchases, water security, the regulation of mining, damage to housing allegedly caused by blasting, company and government responses to community protests, and the potential for, and the alleged occurrence of, environmental pollution.

Consent and consultation are common issues for mining operations outside the post-conflict context;[32] but in Guatemala, where indigenous people and their lands were the target of the pre-mining conflict, these issues are particularly acute. Opponents of the mine claim that in 2003, the Guatemalan Ministry of Energy and Mines violated the International Labour Organization (ILO) Convention 169 on Indigenous and Tribal Peoples (ratified in June 1996 as part of the peace accords, but not enacted through legislation) by failing to gain the consent of indigenous communities before granting a mining license. Although the spirit of the convention emphasizes the need to protect and recognize indigenous peoples agreement or the precise wording requires only consultation "with the objective of achieving consent."[33]

The failure to gain the acceptance of nearby communities triggered conflict as early as the exploration stage. In December 2004, in the town of Los Encuentros,

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[32] Free, prior, and informed consent (FPIC) of indigenous communities affected by development projects is emerging as an international legal norm, as reflected in the recent UN Declaration on the Rights of Indigenous Peoples (UN 2008). The mining industry, however, has yet to systematically embrace the concept, beyond what is enforced by host states.

[33] Article 6 of the ILO Indigenous and Tribal Peoples Convention states:

   1. In applying the provisions of this Convention, governments shall: (a) consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly. . . . 2. The consultations carried out in application of this Convention shall be undertaken, in good faith and in a form appropriate to the circumstances, with the objective of achieving agreement or consent to the proposed measures.

Article 15 (2) states:

   In cases in which the State retains the ownership of mineral or sub-surface resources or rights to other resources pertaining to lands, governments shall establish or maintain procedures through which they shall consult these peoples, with a view to ascertaining whether and to what degree their interests would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of such resources pertaining to their lands. The peoples concerned shall wherever possible participate in the benefits of such activities, and shall receive fair compensation for any damages which they may sustain as a result of such activities (ILO 1989).

mining equipment en route to the Marlin site was blockaded for forty days (Fulmer, Godoy, and Neff 2008). The standoff ended in a clash with Guatemalan military and police forces, the death of one man, and the injury of twenty others (Eccarius-Kelly 2007).[34] In March 2005, residents of Sipacapa lodged a formal complaint with the Office of the Compliance Advisor/Ombudsman (CAO) of the IFC about the consultation process and the operation's potential environmental impact.[35] The CAO found that the residents were not at significant risk of environmental contamination from the project; however, the CAO also found the following:

- A number of technical breaches of procedure had occurred.
- "A more thorough consideration of the governance and country context and the balance of risks and benefits accruing as a result of this investment would have been helpful" (iii).
- Consultation had not met the community's expectations, which were that the mine should seek their consent.
- The environmental impact statement had failed to provide adequate information to the community (CAO 2005).[36]

In December 2009, the Frente de Defensa San Miguelense, a coalition of Mayan and Catholic community groups in San Miguel Ixtahuacán, filed a further complaint on the basis of the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development (OECD). The complaint alleged human-rights violations—in particular, the failure to obtain free, prior, and informed consent from indigenous communities; structural damage to housing from mine blasting; water contamination and associated health issues; and the criminalization of community protest. At the time of writing, the outcome was still pending (Frente de Defensa San Miguelense and Center for International Environmental Law 2009).

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[34] In a separate clash, a mining security guard was implicated in a shooting death.

[35] IFC investment in the Marlin mine closely followed the completion of the World Bank Extractive Industries Review (EIR), an effort to respond to civil society concerns about the links between natural resource development, human rights, and sustainability. The EIR recommended changes in the assessment process for World Bank involvement in projects. Under the recommendations, environmental and social criteria, in addition to economic factors, would be taken into account (World Bank 2004). This has led many to regard Marlin as a test case of the World Bank's new approach. The IFC involvement in the Marlin project, however, had already begun before World Bank management adopted responses to the EIR recommendations.

[36] Changes implemented at the Marlin operations since the complaint to the CAO include operational changes to water management systems, the establishment of a community monitoring committee (Asociación de Monitoreo Ambiental Comunitario), the adoption of the Voluntary Principles on Security and Human Rights (IFC 2005), and certification under the International Cyanide Management Code for the Transport, Manufacture and Use of Cyanide for the Production of Gold.

The legal basis for obtaining indigenous consent for resource development in Guatemala is also grounded in articles 58, 66, and 67 of the Guatemalan constitution, which recognize indigenous cultural identity, customs, and lands, and in the municipal codes that outline processes for consultation with local communities and indigenous peoples. In June 2005, exercising its powers under the municipal codes, Sipacapa organized a referendum on the Marlin operations, in which residents overwhelmingly rejected the presence of the mine (Eccarius-Kelly 2007). A series of referenda were subsequently held in San Miguel Ixtahuacán, with similar results. The legality of such procedures was challenged in the Guatemalan courts by Montana Exploradora, a subsidiary of Goldcorp; in May 2007, the Constitutional Court ruled that although the referenda were legal, their results were nonbinding because they encroached on provisions of the Guatemalan constitution, including articles on the exploitation of nonrenewable natural resources.

While Goldcorp and the Guatemalan government may or may not be in compliance with the Convention ILO 169, the IFC guidelines, the OECD Guidelines for Multinational Enterprises, and the Guatemalan constitution, the legalistic approach—especially one that fails to recognize the legal pluralism that shapes everyday life in San Marcos—has failed to address the core issues in the dispute. Regardless of law, a strong argument can be made that prior consultation with, and consent of, affected communities and indigenous peoples is a precondition for gaining a social license to operate, particularly in post-conflict settings. Without a social license, the risk of disruption to the operation is significantly increased. The case demonstrates the limits of relying on statutory structures under conditions of political hybridity.

Community-relations initiatives

Goldcorp has undertaken a number of initiatives designed to build a constructive company-community relationship (Montana Exploradora de Guatemala 2009):

- A seventeen-member community-relations unit that includes Mam- and Sipakapense-speaking staff (residents of San Miguel Ixtahuacán and Sipacapa).
- Seven public information offices.
- A formal process for addressing community grievances.
- A community development foundation (Fundación Sierra Madre).
- Support for community development projects (activities are identified and assigned priority by local development councils and local government representatives from each community).

At the urging of a group of "socially responsible" investors (the Public Service Alliance of Canada Staff Pension Fund [PSAC], the Ethical Funds Company, the First Swedish National Pension Fund, and the Fourth Swedish National Pension Fund), Goldcorp also agreed to a human rights impact assessment

(HRIA) as a means of further improving company-community relations; the HRIA was in progress at the time of writing.

HRIAs are designed to help resource developers consider the human rights implications of their actions in greater depth; they also help ensure compliance with international and national obligations (International Alert 2005; International Business Leaders Forum and International Finance Corporation 2007; Lenzen and d'Engelbronner 2009). These assessments generally proceed along the same lines as other impact assessments;[37] where HRIAs differ is that they explicitly evaluate the human rights impacts of laws, conflicts, and social and economic practices in relation to the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

But standards of human rights, however universal they appear, cannot be substituted for an understanding of local norms; moreover, HRIAs may simply be incompatible with the hybridity of post-conflict settings. While it is too early to judge the success of the approach in the Marlin case, the HRIA has already encountered some obstacles. In December 2008, On Common Ground, a Canadian consulting firm, was brought under contract to undertake the HRIA.[38] While the consultants initially proposed involving community-based organizations in the development of the methodology, they subsequently concluded that "the conditions necessary to engage local communities and organizations in open dialogue do not exist in the current circumstances" (HRIA Steering Committee 2009). Although the consultants attributed the refusal to participate to polarization in the community—originating in disagreements over national debates on the revision of the mining law—it is at least as likely that the contemporary mine-community conflict and the and fragile hybrid post-conflict setting were contributing factors to community polarization, opposition to mining, and the decision not to participate.

Further, the HRIA process itself has been subject to criticism from NGOs, community organizations, and the Catholic Church for failing to consult community stakeholders about the decision to undertake an HRIA; and one of the original instigators of the assessment, the PSAC, withdrew from the process, citing concerns over prior community consent (Law 2009). The consultants are proceeding with the assessment but leaving open the prospect of community participation should circumstances change (HRIA Steering Committee 2009). Meanwhile, a parallel HRIA—funded by the Archbishop of Guatemala City and led by the University

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[37]   Standard impact assessments typically have the following elements: a description of the activity and the context, including the legal, regulatory, and administrative standards of host and home governments, financiers, and the corporation itself; predictions, which are developed through scenarios and forecasting methods; an analysis of risks and impacts, including the assignment of priorities; and the development, implementation, monitoring, and reporting of management strategies.

[38]   Independent peer review of the HRIA and its methodology is to be undertaken by International Alert.

of Notre Dame's Center for Civil and Human Rights—was also under way at the time of writing (CCHR 2009). Local participation is essential to understanding the views of community members and fostering mutual understanding. Without it, the HRIA fulfills only one of the dimensions of community relations practice: to foster change in corporate practice.

Guatemala: Conclusions

The Marlin case demonstrates the challenges of community relations practice in post-conflict settings; it also demonstrates the intersection between historical and contemporary grievances, even when mining development is not implicated in the original conflict. Although Goldcorp did not have to repair a historically fractured relationship, post-conflict conditions not only generated company-community conflict, but also made it difficult for those conflicts to be resolved. Failure to consult with indigenous peoples, to engage them in decision making, and to obtain their informed consent to actions that would affect their lives were fundamental issues in the Guatemalan civil conflict. Indigenous peoples had been politically marginalized and dispossessed of land and resources; they were also the principal victims during the war. Grievances against the mining companies arose because of a variety of issues, including different values and interests, unequal distribution of costs and benefits, disproportionate influence on decision making, and varied access to information. The fragility and hybridity of the post-conflict setting, however, intensified the difficulties posed by these issues. Moreover, both communities and the state are relatively unfamiliar with mining processes and inexperienced in regulating and negotiating with mining companies.

For company-community relations to thrive, both parties must want a relationship. When this is not the case—and when the community does not even consent to the presence of a resource developer—community relations techniques have reduced efficacy. Goldcorp inherited a situation in which neither the former owners nor the Guatemalan government seems to have paid enough attention to the perspectives of local residents or to the post-conflict context. Goldcorp is attempting to address some of these issues, but is likely to face continued challenges.

LESSONS LEARNED

Reopening or developing mines in post-conflict settings can benefit from three strategies: taking fragility and hybridity into account, assigning priority to reconciliation, and building familiarity.

Taking fragility and hybridity into account

Any mining company that hopes to achieve mutually beneficial company-community relations and strengthen peacebuilding must take into account the fragility and hybridity of the post-conflict setting. In practical terms, this means actively

including those informal institutions and actors that represent the political order outside state structures, and acknowledging that the state structure, including the legal system, is not the sole (or even the principal) framework for resource governance in post-conflict environments. Where customary law still holds sway, companies and state institutions that intend to establish extractive resource projects are well advised to take it into account, and to strive for a social license to operate within the framework of customary law. As both the Bougainville and San Marcos cases demonstrate, under conditions of political hybridity, customary rules regarding land and other natural resources must be reconciled with state-based laws. Moreover, in the absence of state enforcement of environmental and social standards, it is essential to uphold high corporate standards.

It is only natural that people who have experienced violent conflict—and who may have had past negative experiences with mining companies, particularly where the mines played a role in the conflict—would be suspicious, and perhaps resentful, of external actors who want to reopen or develop mines. On Bougainville, for example, BCL will initially have to deal with resistance and blame (and perhaps even outright hatred) while attempting to meet the community's expectations and demands.[39]

Both cases demonstrate that it is particularly difficult, under conditions of political hybridity, to provide a secure environment for operations, given the multiplicity of actors and institutions that lay claim to legitimate authority. To address this issue, companies would be well-advised not to think of security in a narrow sense—that is, as something that is achieved by means of police or other security forces. Instead, security should be based on good company-community relations; any remaining needs for the protection of employees and assets should be addressed by locally managed and staffed security services. Locally based security not only meets the security needs of the project but contributes, in a broader way, to peacebuilding.

Giving priority to reconciliation

Regardless of whether mining was implicated in prior conflict, communities must reconcile within themselves and with other communities, even before negotiating with mine operators and government representatives. There can be substantial intracommunity conflict (e.g., between men and women, or between the older and the younger generation), intercommunity conflict (e.g., between those in the immediate project area and those in areas subject to potential impacts), and conflict between religious or ethnic groups. Supporting intra- and intercommunity reconciliation is an essential part of establishing sustainable company-community

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[39]   On the other hand, some Bougainville residents view the reopening or development of mines as an opportunity to improve their economic and social circumstances. (In fact, community members are rarely unanimous about mining, and even a single person may hold simultaneous and conflicting views about it.)

relations, but it requires "long-term commitment and patience" (Nelson 2006, 21) on the part of companies, and an awareness that communities want ongoing relationships, not merely "solutions" and "settlements" (Banks 2008, 32).

Where mining was implicated in the prior conflict, the company must deal with deep wounds, and any attempt to reopen operations will have to address this history and the associated grievances first. To rebuild trust and achieve reconciliation, the company must engage in a genuine and focused dialogue, in which each side presents its perception of the history and its ongoing effects. In Bougainville, for example, BCL will essentially have to behave as if it were another "clan": it must acknowledge its status as a party to the previous violent conflict, participate in traditional Bougainvillean conflict resolution, and accept all the obligations that come with such participation.[40] In practical terms, this means making reparations for environmental damage and finding ways to remediate the damage to the extent possible. A willingness to respect Bougainvillean culture and to be a part of local ways of doing things is essential for building trust, restoring the relationship with the community, and getting back into business. Moreover, it is an alternative to protracted legal proceedings, which can be very costly and do not really enjoy legitimacy in the eyes of the community; solutions achieved through judicial proceedings are much less reliable and sustainable than solutions achieved in the local customary context.

BCL and other companies that might develop mines on the island must be careful not to rush things; to gain the free, prior, and informed consent of all relevant stakeholders, they must be willing to engage in a comprehensive, long-term process that may well take years. BCL has stated that it is committed to reopening Panguna only "if this is the wish of the majority of landowners and Bougainvilleans" (BCL 2009); this commitment will have to be translated into practice. Nor will such a commitment be without problems. If influential minorities continue to oppose the reopening of the mine, the wish of the majority will not be enough: BCL will have to persuade an *overwhelming* majority of the local population of the benefits of mining.[41] Obtaining the free, prior, and informed

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[40] At the core of customary peacebuilding in Bougainville is the restoration of social harmony among the conflicting parties, which does not necessarily mean a return to the status quo, but may instead involve some sort of transition to new arrangements. Only through extensive talks and negotiation can parties overcome hatred and mistrust and achieve reconciliation. Reconciliation is cemented by the exchange of gifts (compensation) for damage done and wrongs committed. The exchange takes place in the context of peace ceremonies, in which former adversaries may feast, drink, and dance together; chew betel nut together; and symbolically break spears and arrows. Of course, participation in such a process poses extraordinary problems for a modern multinational mining corporation—but it will have to be done in some form. On customary peacemaking and peacebuilding in Bougainville, see Regan (2000), Howley (2002), and Boege (2006, 2008).

[41] As well as providing a strong moral foundation for the project, an overwhelming majority would deliver a practical benefit by ensuring that any groups that were still in opposition would be too small to spoil the project.

consent of an overwhelming majority is just one of the challenges, however; defining the landowners is another. Too narrow a conception of landowners, as fence-line neighbors, was one cause of the previous violent conflict. This time, BCL will need to apply a much broader definition—one that includes, for example, communities that are located downstream of the mining area, well beyond the mine site.

For their part, communities must avoid settling too hastily on monetary compensation packages that may seem attractive at first but that may generate new problems, such as intracommunity disputes about the division of funds. To avoid potentially destructive intracommunity and intercommunity conflict, communities must learn to speak with one voice in their negotiations with companies, state institutions, and other external actors; in practical terms, this means working to resolve their own disagreements before they attempt to deal with outsiders. Last but not least, communities will have to adjust their customary ways of doing things to meet the challenges that accompany large-scale mining projects: as Glenn Banks has noted, "conflicts are created precisely because tradition cannot deal with the new questions or issues that come about with resource developments" (Banks 2008, 30–31).

Building familiarity

Although a mining company whose presence predates a violent conflict may be burdened by the weight of that history, it also has the advantage of a deeper understanding of the place and the people; in many cases, mining companies have managed to retain some sort of relationship with the local community, and some residents may even have retained a positive view of the old operation. Newcomers, on the other hand, must establish a company-community relationship from scratch and gain familiarity with the social, political, historical and environmental context. Conflict-sensitive context analysis is indispensable to any attempt to reopen or develop mines in post-conflict situations. Two dimensions of the context must be analyzed: the overall post-conflict setting—that is, the political, economic, social, and cultural context, including issues related to security, reconciliation, law and justice, and legislation—and the specific post-conflict setting of the mine. During the early development of the Marlin mine, no such analysis appears to have been undertaken, and the mining operation continues to grapple with issues historically rooted in the prior conflict, including marginalization, exclusion, and the failure to have obtained the free, prior, and informed consent of indigenous stakeholders.

At the same time that companies must familiarize themselves with the post-conflict setting, they must also provide support for the communities whose lives may be affected by mining projects. The communities may be unfamiliar with what mining entails, and the government may lack the experience and capacity to effectively regulate operations. Lack of familiarity with mining can create fear and influence residents' views on whether and how mining should proceed. To help the community understand the planned project and its potential impact, and

to bolster the community's capacity to undertake community development and participatory roles, the company must make a deliberate effort to increase the community's familiarity with mining. In addition to maintaining ongoing and transparent communication, consultation, and engagement, the company might arrange community training sessions and site visits to similar operations. The company should also help build capacity in government departments that have a role in regulating mining, while being careful to respect the independence of the agencies performing their oversight functions.

CONCLUSION

As the Bougainville case demonstrates, a company that attempts to reopen a mine that played a role in a previous conflict is likely to be greeted with suspicion, if not resentment, by community residents. Working with and through community leaders, and in the context of customary forms of dispute resolution, the company will have to take responsibility for past wrongs, show willingness to make reparations, and strive for reconciliation. It must respect the outcome of reconciliations and must at the same time be aware that reconciliation is an ongoing process: conflicts may never be really "over" (Banks 2008). A company that attempts to establish a new extractive resource project in a post-conflict setting, as in the case of San Marcos, is burdened by different issues: although there is no unpleasant history associated with mining, newcomers are less familiar with the communities with whom they are planning to develop a relationship. The communities, for their part, are unfamiliar with what mining entails, and the various levels of government lack experience with mining and may lack the capacity to effectively regulate operations.

In addition to engaging in conflict-sensitive community relations practices, companies in post-conflict settings also have an obligation to actively assist peacebuilding through conflict-relevant policies. In practical terms, this means creating policies and engaging in activities that are specifically designed to support peacebuilding. For example,

- Providing former combatants with mining jobs, or hiring them to help repair or rebuild infrastructure in communities on both sides of the prior conflict.
- Building the capacity of state institutions to effectively regulate mining projects.
- Providing community services in an impartial and inclusive manner.
- Partnering with civil society groups and communal institutions to address issues that are of particular relevance for peacebuilding, such as corruption; human rights abuses; job creation; and access to education, health care, and economic opportunity.

In addition, companies should participate proactively in the broader post-conflict policy dialogue, in order to strengthen peacebuilding and prevent new

conflict. Given the hybridity of the political context, such dialogue should involve central government, local governments, and civil society organizations, particularly at the local level; the participation of traditional authorities and customary leaders is of particular importance. In other words, NGOs, community-based organizations, and chiefs and village elders should not be perceived as nuisances or threats, but as partners. There is no question that this level of engagement can be costly and time-consuming. But to take one's time is perhaps the most important recommendation for post-conflict situations.

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