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The Political Economy of Mineral Resource Governance and Children's Rights in Papua New Guinea

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prepared for the UNRISD/UNICEF project on

Mobilizing Revenues from Extractive Industries: Protecting and Promoting Children's Rights and Well-Being in Resource-Rich Countries

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The United Nations Research Institute for Social Development (UNRISD) is an autonomous research institute within the UN system that undertakes multidisciplinary research and policy analysis on the social dimensions of contemporary development issues. Through our work we aim to ensure that social equity, inclusion and justice are central to development thinking, policy and practice.

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Introduction to Working Papers on Mobilizing Revenues from Extractive Industries: Protecting and Promoting Children's Rights and Well-Being in Resource-Rich Countries

This paper is part of a series of outputs from the UNRISD and UNICEF research project on Mobilizing Revenues from Extractive Industries: Protecting and Promoting Children's Rights and Well-Being in Resource-Rich Countries.

The project seeks to contribute to knowledge creation and institutional learning processes within the partner organizations; to bring knowledge to national and international debates about channeling revenues from mineral extraction towards social policy and investments in children; and to examine public finance mechanisms, economic and social policies, and political conditions that are conducive to this end.

More specifically, it aims to:

- advance knowledge and understanding of the linkages between extractive industries and public policies as they relate to children's rights and well-being in Mongolia, Papua New Guinea and the Philippines; and
- advance knowledge and understanding of the political processes and institutions that impact on revenue mobilization in Mongolia, Papua New Guinea and the Philippines.

For further information on the project visit http://www.unrisd.org/eiandchildren.

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Acronyms

ASM	Artisanal and Small-Scale Mining
CBO	Community-Based Organization
CIMC	Consultative Implementation and Monitoring Committee
CMCA	Community Mine Continuation Agreements
DDA	District Development Authority
FSV	Family and Sexual Violence
FSVAC	Family Sexual Violence Action Committee
GDP	Gross Domestic Product
IR (F&F) Act	Intergovernmental Relations (Funding & Finance) Act
JDPBC	Joint District and Provincial Budget Committee
LLG	Local Level Government
LMP	Lease for Mining Purposes
LPA	Lukautim Pikinini (Child Protection) Act
MDC	Mining Development Contract
MMR	Maternal Mortality Rate
MOA	Memorandum of Agreement
MRA	Mineral Resources Authority
MRDC	Mineral Resources Development Corporation
NEC	National Executive Council
NEFC	National Economic and Fiscal Commission
NGO	Non-Government Organization
NRI	National Research Institute
OLPG	Organic Law on Provincial Government
OLPLLG	Organic Law on Provincial and Local Level Government
PDA	Porgera Development Authority
PEAK	Porgera Environmental Advisory Komiti
PEPE	Promoting Effective Public Expenditure project
PESD	Public Expenditure and Service Delivery survey
PLoA	Porgera Landowners Association
PNG	Papua New Guinea
PNGLNG	PNG Liquid Natural Gas project
PNGSDP	PNG Sustainable Development Program
PSRAG	Public Sector Reform Advisory Group
RIGFA	Review of Inter-Governmental Financing Arrangements
SML	Special Mining Lease
SMLI	Social Mapping and Landowner Identification
SSG	Special Services Grant
U5MR	Under Five Mortality Rate
UNICEF	United Nations Children's Fund
UNRISD	United Nations Research Institute for Social Development

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Summary

Papua New Guinea has had a diverse history of contestation over resource revenues during its past forty years since independence. The major actors have been the national and provincial level governments and politicians, international development agencies, resources companies and local landowners in project development areas. This paper explores the debates over decentralization and the distribution of resource revenues between the central, provincial and local governments, and local landowners. It considers issues of representation in negotiations over resource revenues and whether this has been sufficiently equitable. It does this in an effort to understand whether children's needs and welfare have been accounted for when decisions have been made over how to allocate and use resource revenues.

Development indicators for the provision of health and education services were reviewed to ascertain whether Papua New Guinea's resource revenues have been well managed for the benefit of its children, and the overall conclusion was that greater investment in these and other social development sectors is needed in order for children to thrive, a point that is not lost on the current national government. In particular, an improvement is needed in the capacity and resourcing of local-level social development service providers. Stakeholder engagement revealed that there is little overlap between those responsible for the allocation of resources revenues and those responsible for children's welfare, with the result that each of the stakeholder groups felt unable to comment on the business of the others. This indicates that there is an acute need for increased cross-cutting engagement if children's welfare issues are to become a regular preoccupation of those allocating resource revenues in Papua New Guinea.

The Government of Papua New Guinea has increased the proportion of its revenues that are allocated to social development services and has passed a new law aimed at empowering local-level government so that the provision of services at the District level, where most people live, can be improved. It has also recently passed a Family Protection Law which includes elements for protecting children who are exposed to situations of domestic violence. What is now needed, and is recognized by key stakeholders, is enhanced and effective implementation of these changes so that development does not stagnate at the policy stage, as has happened in the past. A crucial factor in making changes happen for the benefit of children will be the inclusion of children and their representatives in the processes of planning and introducing new programmes, not just leaving essential decisions on resource allocations in the hands of financial controllers. Ideally, this would happen as part of a multistakeholder process that would include community members, especially children and women, resources companies, international agencies, NGOs and government representatives. If all major players involved in the resources sector can find a way to work together, the future of Papua New Guinea's children can be made brighter.

Introduction

Children are the future of any society. So, a nation wanting to guarantee a better future for its people must ensure that the needs of children, in terms of health, education, welfare and security, are adequately met and improved upon when possible. Papua New Guinea, with its great stores of natural resources and strong track record of large extractive industries revenues, should be in a good position to ensure its future success by providing for the growth and nurturing of its children. Given the importance of children, are their needs considered in the debates and discussions that take place over the control and use of resource revenues in Papua New Guinea?[1] Are children actively engaged as participants in framing the debate, as proper fiduciary representation would dictate, or even included as objects of discussion (Leib and Ponet 2012)?

This paper provides a political economy analysis of resource revenues and children's rights in Papua New Guinea, examining how children and their representatives have been included in processes that decide upon resource revenue distribution and allocation over time. It examines the social changes and pressures that have been observed as a result of the process of recognizing landowners—and thus identifying who is eligible for receiving royalties and other payments, and who is not.[2] It considers the changing fortunes of national, provincial and local governments over the almost four decades since national independence, and evaluates the efforts of governments to support the prosperity of their people. It reviews the role played by private sector extractives companies in the community development arena, both as government surrogates and as good corporate citizens.

As a starting point, the contestation over the distribution of revenues between the central, and provincial and local governments is examined. This contestation is connected both to the sharing of resources (and other) wealth and the provision of basic services for children, especially in remote areas. The paper begins with a description of the situation of children in Papua New Guinea both in terms of the levels of public expenditure on social development programmes that benefit children and the outcomes of these investments, as depicted by internationally recognized development performance indicators. It continues with a brief overview of the resource extraction sector contribution to the economy of Papua New Guinea since independence in 1975. A detailed analysis follows of the ways in which revenues, including resource revenues, are distributed in the country, focusing on the changes that have been made to the laws and governance practices of these processes and why. The paper then discusses specific components of resource revenues, including royalties, dividends, compensation payments, taxes and other payments.

It then proceeds to a case study evaluation of the actual split of and contestation around resource revenues primarily at one of the major gold mines, the Porgera Gold Mine, and provides further examples from other mines, which include Lihir, OK Tedi,

[1] The term 'resource revenues' is used in this paper to designate extractive industries revenues and includes oil and gas as well as mining revenues.

[2] The paper will not delve too deeply into the complex question of determining who are the 'owners' of customary lands, whether customary land should be registered so that it can be commodified, and legal questions associated with the Incorporated Land Groups laws.

Bougainville and Misima mine. The case studies examine the struggles for control over these revenues and, where evidence is available, how these revenues have been used, or not, to benefit children and families in resource extraction areas. The paper looks at whether the use of mineral revenues has strengthened local institutions, especially those with responsibility for the provision of services to children and families. These case studies represent several major resource projects where social impact studies have been undertaken and that describe, often in passing, the contestations that have taken place over the distribution of resource revenues as well as analyse the impacts of the extractive projects on the local communities. These case studies focus on the role played by actors that represent child interests, including women, non-governmental and international child welfare organizations. The paper concludes with comments about the work still needed to place children in the centre of the resource allocation process.

This paper draws from the extensive literature that surrounds the political economy of natural resource extraction in Papua New Guinea including from academic research papers, journal and newspaper articles and interviews with key stakeholders. Decisive debates and behind-the-scenes negotiations to secure access to resource revenues are generally not publicly reported and are therefore inaccessible. However, much of the social development literature on Papua Guinea focused on resource revenues, as they served as an unprecedented source of wealth for some people in previously underdeveloped parts of the country.[3] In addition, large-scale resource developers in Papua New Guinea have actively engaged experts to conduct social impact assessments as a legal requirement to operate, and continued to engage them in the ongoing monitoring and evaluation of resource projects in Papua New Guinea over several decades (Filer 1999). The remarkable degree of transparency in publishing research associated with these assessments has generated a large pool of secondary sources on how decisions were made about the use of resource revenues, by whom and for whom. The discussion in this paper has been enhanced by interviews with selected key informants from government and non-governmental organizations, international agencies and national advocacy offices.[4] This was done to include the voices of those whose lives are dedicated to helping children to prosper and develop. By pulling together these different sources, we are able to piece together an outline of the ongoing struggles for control over the revenues generated by the extractives sector in Papua New Guinea.

Situation of Children and Child Development Indicators in Papua New Guinea

In order to understand the status of children in Papua New Guinea, this section describes the legal framework that has been evolving to protect children's rights in recent years. It considers efforts to implement these laws and the degree of success of child protection campaigns. It then reviews a set of development indicators to assess whether the situation of Papua New Guinea children has been improving over time in response to legislative measures.

[3] The major scholars whose work comprises this body of research are (in alphabetical order) Nicholas Bainton, Glenn Banks, Aaron Batten, Colin Filer, Alex Golub, Stephen Howes, Benedict Imbun, Lawrence Kalinoe, Martha Macintyre, Thomas Webster, Charles Yala and others. The most relevant of their works are listed in the references section at the end of the article.

[4] We would have preferred to have shared the views of even more organizations but, in spite of several efforts to co-ordinate meetings with other government, non-government and industry representatives, it was not possible. Meetings were conducted in Port Moresby by Mr Basil Peutalo.

Protective framework

Papua New Guinea is a signatory to major international instruments concerning the rights of children, having ratified the United Nations Convention on the Rights of the Child (CRC) in 1993 and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995. Since then, the most significant legislative achievement for children in Papua New Guinea was the passing of the Lukautim Pikinini (Child Protection) Act (LPA) in 2007, a stronger version of which was passed two years later as the LPA 2009. This contemporary, rights-based legislation is based on the principles and provisions of the CRC, which places the best interests of the child as the paramount consideration, and focuses government priority on the prevention of child abuse and neglect through the strengthening of community-based child protection mechanisms. It aims to protect children from all forms of violence, abuse, neglect, exploitation and discrimination, with a clear focus on services for prevention and on strengthening families (UNICEF 2010).

The Papua New Guinea Parliament unanimously passed a further important bill on 18 September 2013, the Family Protection Act (FPA), which made domestic violence a criminal offence and strengthened protection orders for the first time (Amnesty International 2013). This was aimed at enabling mothers and children to stay in their homes, whereas previously the only available option for victims of family violence was to flee. Although the FPA officially entered into force in early 2014, it was still not being implemented in late 2015, as the government was still in the process of developing the implementing regulations that are needed to make the law function (HRW 2015: 20). Although the law is a major step forward in child protection and it also signifies that the parliament is prepared to heed the voices of civil society organizations and to take action when needed, it nonetheless needs to be made active as soon as possible.

The implementation of laws has often been a weakness in Papua New Guinea, which is compounded by the low level of government service provision and the challenges of reaching remote areas. Although finally passed in 2009, the LPA is still in a relatively early stage of implementation with international agencies such as UNICEF working with government agencies and non-governmental organizations for its full roll-out (UNICEF 2012b). This is being done gradually through the training of government and non-governmental service providers in methods for dealing sensitively with children at risk (UNICEF 2010). In an October 2015 submission to parliament, the Family and Sexual Violence (FSV) NGO Femili PNG recommended that the PNG Government "invest in a detailed implementation plan to ensure that the training and resources required to implement the Lukautim Pikinini (Child Welfare) Act are available at the level of service delivery" (Femili PNG 2015: 7), indicating that there is still some distance to cover. The very fact that national politicians have been more prepared in the past few years to enact laws to protect children and their mothers already represents a positive development. However, according to the key stakeholder groups interviewed, there was insufficient budgetary provision for the enforcement of the child protection laws, which meant that they were not yet as effective as they needed to be.[5] This is discussed further in the section on representation of child interests through NGOs and international organization below.

[5] There was general agreement on this point among the interviewed stakeholders, for example interviews with UNICEF team members, 19 September 2013; interviews with Ume Wainetti and Paul Barker, 12 September 2013; interview with Department for Community Development team members, 19 October 2013.

Protection status

In spite of apparent increases in national prosperity, there are many continuing problems for children and youth in Papua New Guinea. Social dislocation, primarily a result of migration of the poorer sections of society in search of income, was seen as the main cause of children suffering from neglect leading to homelessness (Sullivan and Keleba 2010). Access to education for children, especially girls, and employment prospects for youth are frequently insufficient. Opportunities for young people to participate in decision making processes are few and far between, and government services seem not to be much concerned with the needs and priorities of young people. For example, an Asia Foundation survey of children's services available in seven key locations in Papua New Guinea in 2008 found that there was an increasing number of children fending for themselves and an urgent need for:

> Housing in the form of refuge, rather than permanent 'homes'; training for counsellors in child trauma specifically; research of the quantitative as well as qualitative dimensions of the problem (few NGOs have any real statistics); and awareness campaigns, where the rights of the child, the responsibilities of contemporary parenting and the services available to all are made known throughout rural and urban communities. (Sullivan et al. 2008: 3)

The survey reported that there were several NGO or CBO groups attempting to assist street children but that the need was greater than the resources available (Sullivan et al. 2008). An interesting aspect of a later study was that most of those considered street children are not, strictly speaking, homeless, as only seven per cent of the 324 surveyed children actually slept on the streets, whereas the majority slept in a home with relatives and more than half with their parents (Sullivan and Keleba 2010). Most children were on the streets trying to earn some income, either for themselves or to contribute to their households. These households are too poor to send children to school and have no one to supervise and care for children as all adults have to work. One of the main recommendations of this study was that free schooling should be made available to all children. The Papua New Guinea government commenced implementing free schooling in 2012 as part of the introduction of the Universal Basic Education Plan 2010–2019 (Kukari 2012). The 2016 budget provides for the continuation of tuition fee free education for all primary schools and subsidies for secondary schools (PNG Treasury 2016).

Violence against women and children and physical and sexual abuse of children are also widely prevalent and a major obstacle to Papua New Guinea's development, as they threaten social harmony and the opportunities for children and women to contribute fully to society (Baines 2012, Howes et al. 2013). The nature of existing extractive industries settlements in the country sometimes contributes to the increase of family instability and violence (Johnson 2010, Macintyre 2011). This can be because the influx of people seeking jobs and new opportunities exceeds the low number of jobs afforded by the resource projects, which leads to disappointment, frustration and an unsustainable pressure on social services and results in poor living conditions. For those who do find a way to benefit financially from resource projects, whether through direct employment or through the indirect provision of services, the availability of ready cash and often distance from family and traditional cultural surroundings can encourage the abuse of substances such as alcohol which, in turn, tends to lead to increased violence (HRC 2013). Although the social pressures of an unplanned mining settlement may exacerbate family-based sexual violence, these problems are also reported widely in other areas, both rural and urban. That is why the Family and Sexual Violence Action

Committee was established in 2000 and has campaigned since then towards the enactment of the Family Protection Act of 2013 as well as establishing support services (Wainetti 2013a). Most of the literature on family and sexual violence concentrates on cases directed towards women, but children are often also an integral part of the picture.[6]

Child development indicators

Performance indicators that are often used to describe the status of children in a country include rates of enrolment in school, malnutrition, clinic visits, and under five and maternal mortality rates. Examples of these will be used below to assess the status of child wellbeing and their development in Papua New Guinea. These will include progress measures on the achievement of the Millennium Development Goals (MDGs).

Education

Despite initial slow progress, recent years have shown signs of improvement towards better educational provision and outcomes. In September 2013, Deputy Prime Minister Leo Dion conceded to the United Nations General Assembly that the country was unlikely to meet most of the Millennium Development Goals by 2015 (Dion 2013).[7] And indeed, it did not, despite expressed continued commitment to working towards achieving them. In 2015, the Foreign Minister, Rimbink Pato, was able to state that an additional two million children had enrolled in school in the preceding two years, which must be considered a sign of progress (Pato 2015: 3). The Government of Papua New Guinea included MDG 2 on universal primary education in the national Medium Term Development Plan for 2011 to 2015 (PNG Department of National Planning and Monitoring 2010). Girls fare worse than boys in terms of access to education and, in 2012, the Asian Development Bank commented that Papua New Guinea was one of the few countries in the Asia-Pacific region that had not achieved gender parity in primary school enrolments (ADB 2012). Basic education enrolment rates (up to Grade 8) significantly improved from 53 per cent in 2007 to 75 per cent in 2010, but with girls still lagging behind boys, although improved from 30 to 46 percent total female enrolment from 2002 to 2012 (Howes et al 2014: v). In 2012, the ratio of girls to boys in primary education (MDG 3.1) was at 0.91 and 0.76 in secondary education respectively (UN 2016). In remote parts of the country, this gender disparity is even more marked with the female enrolment rate lower 15 per cent than that of boys in the Highlands region, for example. As one goes up the educational scale, the ratio of enrolled females to males drops still further, with 67 girls enrolled in secondary school for every 100 boys and the number is only 63 women per 100 men at tertiary level (UNICEF 2013).

Health

Children's health statistics in Papua New Guinea reveal major challenges, too. With the highest under-five mortality rate (U5MR) in the Pacific Region, the country recorded 61.4 deaths per thousand live births, which means that one in 16 children die before their fifth birthday (UN 2016). Remote areas display even worse health performances, with the likelihood of rural neonatal deaths three times as high as for urban infants, and the death rate for under-fives being double that of city children (UNICEF 2013). There are strong provincial variations, as also observed in education, from the U5MR rate of 157 per thousand live births in West Sepik to a much lower 27 per thousand live births in the National Capital District—once again underlining the better provision of health services in the city (UNICEF 2013).

[6] For an extensive overview on family violence in Papua New Guinea, see HRC 2013.
[7] As of the date of publication, more recent data for the tracking of progress on the Millennium Development Goals is not available.

Poor nutritional levels are also of concern, with half of children classified as stunted, especially in rural areas, and more than a quarter are also measured as underweight overall with higher incidence of underweight rural children, at 28.3 per cent (UNICEF 2013). Papua New Guinea has recorded the second highest maternal mortality ratio (MMR) in the world at 733 per 100,000 live births (UNICEF 2013). This is largely attributed to the shortage of skilled health personnel in rural areas, with only half of rural mothers receiving such care during pregnancy and childbirth. Urban mothers, in comparison, have an 88 per cent chance of delivering their children under skilled supervision (UNICEF 2012a). Coupled with limited contraceptive provision that leads to a high level of teenage pregnancy, there is an overall one in 25 chance of dying in childbirth at some stage in Papua New Guinea (National Department of Health 2010). Indeed, Dame Carol Kidu, the former Minister for Community Development, commented that the greatest killer of teenage girls in Papua New Guinea was pregnancy (Kidu 2012).

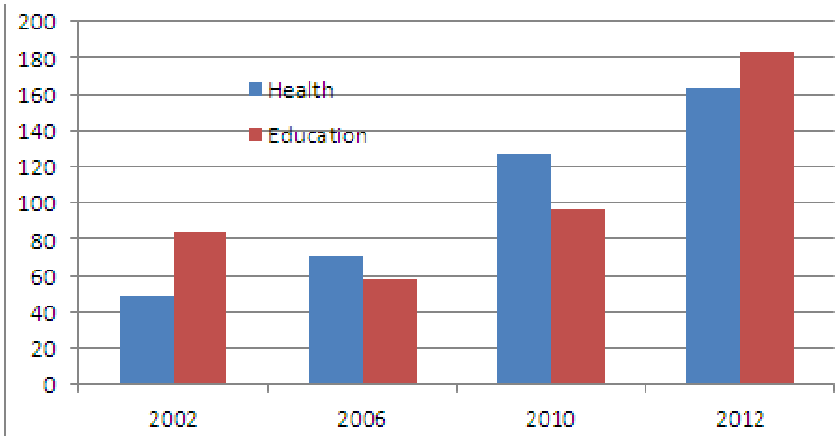
Provision of health and education services

Public expenditure data indicate insufficient government investment in children's health and education programmes to enable the country to perform against international development standards (Howes and Mako 2012). A study conducted jointly by the Papua New Guinea National Research Institute (NRI) and the Development Policy Centre of the Australian National University focused on Papua New Guinea national government efforts to convert increased resource revenues into effective development outcomes. [8] This was done by looking at the allocation of public funds and the provision and use of the funds by those responsible for delivering basic services, especially in health and education (Webster et al. 2013; Howes et al. 2014).

Based on this research, figure 1 below demonstrates the changing level of per capita government expenditure in the health and education sectors. Data from the earlier years show per capita expenditure on health and education well under the 100 Kina level (given in 2011 Kina price equivalents). More recently, however, there has been an increase in per capita government investment on social services, with both sectors increasing to over 150 Kina per person in 2012, approximately USD 60.

[8] The PEPE study gathered information from across Papua New Guinea. It features the results of a Public Expenditure and Service Delivery (PESD) study conducted in 2002 by the NRI and the World Bank and has deliberately resurveyed many of the same educational and health institutions, to provide an analysis of change over the past ten years. The PEPE survey visited 214 primary schools and 141 health facilities, located in two to three randomly-selected districts in eight provinces, two from each of the four regions of Papua New Guinea. The same schools as in the 2002 PESD survey were visited in 166 cases and 63 of the same clinics, so the measure of change over time is firmly rooted, and the broad-based sample was constructed to allow for regional variations across the country (Webster 2013). The final report of the study was published in 2014 (Howes et al. 2014).
The research organizations that were involved shared their ongoing research openly and transparently, primarily in twice-yearly National Budget Forums (NBF), hosted by the NRI in Port Moresby. The discussion in this section is based on information supplied during the NBF that was held in late September 2013, except where otherwise indicated (Howes 2013a).

Figure 1. Per capita government spending on health and education, 2002–2012 (Kina, 2011 prices)



Source: Howes 2013a: Slide 4.

A lot of the funding increase in 2012 has been to finance the abolition of school fees, which has made school attendance more manageable for many families.[9] There was an average increase in school revenue of 150 per cent from 2001 to 2012 to reach K87,500, with average school revenue per student reaching K340, an increase of 111 per cent (after adjusting for inflation). According to the PEPE study, "over the decade, national government subsidy payments to schools more than compensated schools for their loss of fee revenue paid by parents" (Howes et al. 2014: viii). The pupil to teacher ratio had also increased from 29 to 40, meaning that classes were more crowded than ten years earlier, which could also be a sign of greater attendance, generally considered to be a positive development. Similarly, although insufficient resources were available, most schools reported maintaining a reasonable level of active classrooms and enough books to manage teaching with, even if at a lower level than in 2002 (Howes 2013a).

The health centres surveyed in the PEPE study did not fare quite as well as the primary schools. School attendance improved by 69 per cent over the decade, whereas attendance at clinics declined by 18 per cent. This is consistent with an Asian Development Bank report that found a reduction in the use of health facilities for sick children between 1996 and 2006 (ADB 2012). The PEPE survey found that although the same number of workers were posted to clinics and aid posts, fewer workers turned up for work than ten years earlier. There were several examples of retired health workers staffing clinics out of a sense of duty, as there was no one else to do the work. The availability of drugs and supplies declined over the decade and in his forward to the budget in 2013, the Papua New Guinea Treasurer commented on the need to upgrade health facilities because only 73 per cent of aid posts were functioning, with shortages of health services most acute in remote areas (PNG Treasury 2013a). While the percentage of clinics offering free consultations and drugs increased over the ten years, clinics were less frequented by community members, due to the poor level of service offered.

The analysis of the survey results indicates that the period 2002–2012 has not been 'a lost decade' for Papua New Guinea's development (Howes et al. 2014). Moreover, the provision of (primary) education expanded over the decade, with significant increases in numbers of teachers, classrooms and textbooks in 2012 as compared to 2002—even if the expansion of facilities struggled to keep up with the rapid increase in school

9 Schools are still able to charge project fees considered by many to be too high.

enrolments (Howes et al. 2014: 163). In contrast, health service delivery does not display a similar expansive trend, as it appears that the number of patients using health clinics may actually have fallen, which was accompanied by fewer drugs available at surveyed clinics and a stagnation of the number of health workers (Howes et al. 2014: 163).

The findings from the PEPE survey show that the health sector received less direct input from management in terms of visits from doctors and supervisors, who had visited less than half the facilities over the ten years (see table 1 below). There is also less community involvement and oversight of health centres than there is of schools, which have Boards of Management and Parents & Citizens Committees (Howes et al. 2014: 167), both of which seem to elevate the performance of schools. This would appear to be the reason why health service provision has declined in comparison with educational services, despite receiving similar increased levels of funding. Overall, a lot of work still needs to be done to improve government service delivery to the majority of the populace, especially those in remote areas (Webster et al. 2013).

Table 1: PNG Health Clinic Performance in 2002 and 2012: A Summary

		2002	2012	Growth
Days open & patient visits				
No. days open in a week	days	6.2	6.5	0.5%
Patient visits in a typical day	no.	46	37	-19%
Patient visits the day before	no.	40	28	-29%
Availability of basic drugs & supplies				
Paracetamol	% facilities	81	77	-5%
Fansidar	% facilities	94	95	1%
Chloroquine	% facilities	99	95	1%
TB	% facilities	52	36	-31%
Condoms	% facilities	95	82	-14%
Liniment	% facilities	72	50	-17%
Average	% facilities	82	74	-10%
Health workers				
Positions	no.	4.8	5.4	11%
Regularly turn-up	no.	4.1	4.1	0%
Present	no.	3.4	3.2	-4%
Supervision				
Visit from a Health Extension Officer	%	31	34	10%
Visit from a doctor	%	19	11	-42

Note: Based on responses from the Officer in Charge, and on the full samples for both years of 142 clinics in 2012 and 117 in 2002.

Source: Howes et al. 2014: x.

To summarize, although the economy of Papua New Guinea has been growing steadily over the decades since independence, with the resource sector as a major contributor as discussed below,[10] the country's performance in terms of child welfare, health and education leaves room for improvement, as acknowledged by the Government (Dion 2013). In effect, then, Papua New Guinea children have yet to benefit sufficiently from the high level of resource income.

[10] See also the forthcoming UNRISD paper "Extractive Industries and the Financing of Child-Inclusive Social Development in Papua New Guinea" by Orovu Sepoe for further information on the general fiscal performance of the country and the specific contribution of the mining sector to the budget.

Resource Contribution to the National Economy

Mining, principally artisanal and small-scale mining (ASM), has long been undertaken in Papua New Guinea. ASM continues to be an important source of income for many small operators but rarely plays much of a role in resource revenues, much of it being 'informal'. Mining in Papua New Guinea has attracted international attention and activity since the nineteenth century, including a 'gold rush' that drew many miners from Australia and elsewhere in the 1880s. The twentieth century was characterized by various highs and lows in the minerals sector in Papua New Guinea. For example, there was a copper boom in the 1960s and a gold boom after independence in the 1980s. Since the early 1990s, minerals and petroleum sector products have consistently comprised around 70 per cent of the country's total merchandise exports, over 20 per cent of total government revenues and around 20 per cent of Gross Domestic Product (GDP), on average (Batten 2011). Oil and gas have also been key to the development of the economy, with the Hides and Kutubu oilfields being of particular significance.

Soon after independence, and into the 1980s, mining was contributing about twenty per cent of total government revenue, primarily from the Bougainville Copper mine. Mining's contribution to revenues increased slightly to 12 per cent in the late 1980s, as some other smaller mines started producing; but when the Bougainville mine closed in 1989, due to civil unrest by local residents, the 35 per cent of exports and eight per cent of GDP coming from that one major mine were lost.[11] By 2007, as a result of high global commodity prices, resources revenues soared to almost 40 per cent, levelling out to about 35 per cent between 2008 and 2010 (Batten 2011).

From then on, annual GDP growth was anticipated to average around five per cent (Avalos et al. 2013). Fluctuating commodity prices and production costs have a great bearing on the amount actually earned by extractive industry projects from year to year, and profits can be quite volatile. Nonetheless, it is clear that the resource sector has been very important to Papua New Guinea for many years, and this is expected to continue. With the coming on-stream in 2014 of the enormous Papua New Guinea Liquefied Natural Gas Project (PNGLNG), the oil and gas sector has become an even more important contributor to Papua New Guinea revenues. Accordingly, in 2015, PNG's economy grew by a strong 9.9 per cent, pushed by the first full year of operation of the liquefied natural gas mine (ADB 2016).

Components of resource revenues

Resource revenues are made up of a range of different payments, and not all of them go to the national government. Papua New Guinea is quite unusual among minerals jurisdictions, largely due to the customary land tenure system, whereby about 97 per cent of all land is owned under customary arrangements by traditional landholders (Tararia and Ogle 2010). The subsurface rights belong to the government, apart from arrangements made for ASM to use the top 20 metres, but access to and use of the surface of the land requires agreement with local landowners. This means that extractive industries developers pay substantial sums of money to local landowners, according to the details of the specific agreements reached in each location. They also pay royalties on production which may be collected in the first instance by the central government but which are sent back to sub-national governments, principally provincial governments, again according to specific agreements for each project. Mining and corporate taxes go directly to the central government coffers and dividends are paid to shareholders which generally includes both the national government and local landowners, depending upon

[11] Quodling 1992; Saffu 1992; Filer and Imbun 2009; Batten 2011.

arrangements made for each project. The specific local-level allocations of some of these payments at one of the largest mining projects will be examined later in the paper, as will the process whereby the levels of allocation were decided upon there and at other, comparable mines.

Distribution of Revenues

The distribution of resources revenues in any country is a contested field. Often those who live close to sites of extraction and whose lives may be disrupted by the development of extractives projects feel entitled to a large portion of any benefits flowing from the projects. By contrast, other citizens who do not live close to projects may feel that they are being deprived of benefits derived from the exploitation of resources that are part of the national heritage. Thus, there is frequent tension between national governments, in whose name subsurface resources are vested and the provincial and local governments and residents in whose areas the projects reside. The next section of this paper, on decentralization, will describe contestation that has taken place over the control of resources revenues in Papua New Guinea, particularly between national and provincial levels of government, and the various legislative and regulatory efforts that have been made to try to ensure more equitable sharing of the natural resource wealth. The difficulty of achieving a fair and balanced distribution is evidenced by the number of times that administrative arrangements have been overturned since independence and yet the resource-rich provinces still seem unable to capitalize on their “own-sourced revenues” to be able to provide their residents, children and adults alike, with a satisfactory level of services. The section on the Review of Intergovernmental Financing Arrangements (RIGFA) will deal with this in greater detail.

Decentralization debates

As a unitary state Papua New Guinea’s political and economic structure is sometimes described as centralized. This is true, to some extent, as the national government holds final constitutional powers over all aspects of government, and most revenues are collected centrally before being redistributed to provincial and local-level governments (LLG). However, to consider Papua New Guinea as a centralized state would be to miss the decentralization debate that has been on-going since independence, and also to ignore the amount of revenue, especially resource revenues, which is returned to each of the provinces and LLGs that host major resources projects for their own management. There has been a very high level of political contestation over the decentralization and distribution of these revenues over the past few decades. This contestation needs to be understood in order to grasp the decentralized impacts of the extractives sector on the political and social landscape (May 2009c; Gelu and Axline 2008).

The analysis in this section finds that health, education and child protection services, particularly local service provision, have often “fallen between the cracks” in the struggles for control between various levels of government, to the detriment of children and their families. The only tangible benefits being delivered to children and families by the resources sector have been those specifically provided by mining or oil companies, usually only to communities identified as directly impacted by a project. The considerable resource revenues transmitted to provincial governments in the form of royalties seem rarely to have been converted into social benefits, unless done by resource company intervention under the Infrastructure Tax Credit Scheme, which will be examined in some of the case study examples below. As noted in the discussion on Child development indicators above, the even greater resource income retained by the

national government also does not appear to translate into benefits for children and families.

The next section explains in detail the distinct ways in which revenues, including resource revenues, are distributed, focusing on how the laws and governance practices have evolved up to the present. This provides the conditions for and the context in which the realization of child rights takes place, as will be fleshed out over the remainder of this paper.

Organic Law on Provincial Government 1977

Even before Papua New Guinean independence in September 1975, there were debates about whether or not to have a decentralized political system. Although the Constitutional Planning Committee expressed a firm commitment to a strong form of provincial government, the House of Assembly in July 1975 voted to exclude the provincial government provisions from the Constitution. The reasons for the exclusion are not clear but it may have been due to concerns about growing separatist sentiment in Bougainville or perhaps because representatives were unsure that the decentralization provisions were clear enough (Gelu 2008).[12] Shortly before national independence day, however, the leaders of Bougainville made a unilateral declaration of independence from Papua New Guinea, which eventually culminated in amendments to the constitution and the passage of the Organic Law on Provincial Government (OLPG) in March 1977, in order to prevent Bougainville's secession (May 2009). This enabled the election of provincial assemblies, the power to pass laws and raise revenues and the return to the provinces of nationally-collected revenues such as minerals royalties. The National Economic and Fiscal Commission (NEFC)[13] explained in its 2005 Review of Intergovernmental Financial Arrangements (RIGFA) that despite ownership of natural resources by the national government, the provincial system of government requires the central government to return all mineral royalties to the province of their origin. This system of distributing resource revenues has prevailed through all changes to laws since then, and the national government retains none of the royalties derived from mining, oil and gas projects (NEFC 2005a). Thus, it could be said that mineral resource-related contestation has shaped the very structure of the nation of Papua New Guinea since its beginning.

A contributing factor to the recurrent pressures to reform the decentralized structure of the Papua New Guinea government system has been the performance of the provincial governments, criticized since early days, for a variety of reasons. One of the difficulties encountered by provincial governments was the lack of clarity on the divisions of responsibilities between the national and provincial levels in the OLPG and the continued control of funding by the national government.

The 1977 Organic Law on Provincial Government gave elected provincial assemblies the responsibility for a range of functions mostly involving service delivery. But the centre still retained some controls. The purse strings were held by the Department of

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12 Bougainville, formerly North Solomons Province, and now the Autonomous Region of Bougainville, endured a civil war for secession from Papua New Guinea between 1989 and 2001, when a peace agreement was signed between the Government of Papua New Guinea and the Autonomous Bougainville Government. The Panguna Copper Mine was at the centre of the conflict, as much of the original struggle was concerned with Bougainville's share of mining revenues and also with claims for compensation for environmental impacts. It is a complex story and negotiations for full autonomy and the possible reopening of the mine are ongoing and have been underway for many years. The literature on the Bougainville crisis is not all easily accessible online, as much of it was written over 20 years ago. Important works include Regan 2010, Regan and Griffin 2005, May and Spriggs 1990 and Filer 1990. For a source that can be obtained electronically, see May 2004a.

13 An independent Constitutional advisory body of the State. It was established under the Organic Law on Provincial Governments and Local Level Governments (OLGPLLG). See http://www.nefc.gov.pg/background.php.

Finance while staff of the new departments of the provinces kept their status as national public servants (Turner and Kavanamur 2009: 9).

Finances were allocated according to the dictates of the central government, with the exception of the resources royalties. In spite of the OLPG, most provinces (with the exception of Bougainville and East New Britain) continued to receive their funding directly from the national government, which deemed those provinces not yet fully financially responsible (May 2009b). In general, the funding was insufficient for provincial needs, a problem that has long persisted for provinces. NEFC calculated that only about half a per cent of the derivation grant has been allocated to provinces by the central government since it could not afford to pay the maximum allowable amount of five per cent of each province’s non-mineral exports (NEFC 2005b). Allocations of funds designed to equalize the disparities between provinces, such as the additional unconditional grants, were not paid at a sufficient level, and not paid at all after 1984 as the central government diverted them to other purposes, again underlining the relative powerlessness of the provincial administrations (May 2009b).[14] By the mid-1990s, there was a good deal of pressure from national politicians for changes to the system, reportedly because many people were angry that services were concentrated in the provincial centres and were not reaching the people in outlying districts (Kalinoe 2009b).

Organic Law on Provincial and Local-Level Government 1995

In 1995, the Organic Law on Provincial and Local-Level Governments (OLPLLG) was passed into law and replaced the 1977 OPLG as a result of recommendations by the Bi-Partisan Committee made up of politicians. The fact that the committee was comprised of politicians and not technocrats is extremely important and reveals the motivation of the law of removing the power of provincially-elected politicians, who were perceived to be in competition with the members of the national parliament representing the same electorates (Filer 2008).

> The implementation of a new decentralised system in 1996 reflected the outcome of a pattern of political competition that had operated in Papua New Guinea since the creation of provincial governments. The political competition comprised two fundamental divisions—competition between politicians and bureaucrats on one hand, and between national politicians and provincial politicians on the other. The OLPGLLG altered the political structure of decentralised government in Papua New Guinea, and represented the victory of politicians over bureaucrats, and victory of national politicians over provincial politicians. (Gelu and Axline 2008: 6)

The OLPLLG did not centralize government but removed some of the powers of the provincial level government. While the provincial structure did not disappear, it did change shape. The changes abolished the elected provincial legislatures and replaced each of them with a body comprising all of the locally-based members of national parliament and heads of local government bodies (Gelu 2008). Ostensibly, this was intended to empower LLGs by bringing them into the provincial authority structure, and to increase provincial performance by encouraging the politicians representing provincial electorates to spend more time in the provinces and less time in Port Moresby (Kalinoe 2009b). The politicians who now represented their provinces in the provincial structure as well as in the national parliament were not opposed to this arrangement

[14] For further reading, see May 1999 (available as reprintn in May (2004b). See also May and Regan with Ley (eds) 1997.

because they had control of the spending of the funds, through their positions as chairs of the Joint District Planning and Budget Priorities Committees (JDPBPC), which opened up a new trend of politically-based projects rather than developmentally necessary works (Gelu and Axline 2008; Kalinoe 2009b). A review of the effects of the OLPLLG on Southern Highlands Province underscores:

> The province receives additional revenue in hundreds of millions of kina in royalties from the Kutubu oil and Hides gas projects. These windfall funds, however, have been frittered away by politicians and landowners in the national capital, Port Moresby, and the northern Queensland city of Cairns, Australia, thereby leaving little or nothing for the development of the province. The province remains backward, with poorly developed infrastructure and declining social indicators. (Ketan 2009: 115)

As the JDPBCs under the OLPLLG were not answerable to the LLGs and were often dominated by the politicians who chaired the committees, the new structure resulted in making LLGs seem irrelevant, rather than strengthening them as had apparently been intended (Kalinoe 2009b). This comment was reinforced by the observation of Southern Highlands district administrators who complained that their input was not always sought by the MPs when they made their decisions about expenditure of funds intended for development and services (Ketan 2009).

Another major change embodied in the OLPLLG was the funding arrangement for provinces, a change which has had ramifications ever since and only recently reversed. The basis of provincial funding was changed from a calculation based on needs and costs by the central government to funding based on a flat per capita rate calculated purely on population (Gelu and Axline 2008). This sounds egalitarian but did not take account of the very different circumstances of the provinces, thus widening gaps rather than closing them. As Axline explained:

> It is generally recognized that the new system of decentralized government did not represent an improvement over the preceding arrangements, and in many cases worsened the situation, particularly with respect to the funding of provincial governments and the delivery of services. The principle of allocating funding based on the cost of delivering services was replaced with a formula founded on per capita funding. In practice, the financing arrangements were not implemented as provided, and did not respond to the financial needs of provincial governments. This is not surprising, as the 1995 reforms were addressed mainly at restructuring the political arrangements between provincial politicians and national MPs, and were more concerned with concentrating financial control in the hands of the latter rather than improving the funding of essential services of provincial government. (Axline 2008: 3-4)

A 2008 consultation campaign on changing the funding system explained that the 2006 per capita allocation of funds meant that Western Province (home to the Ok Tedi Mine) residents received 458 kina per capita, New Ireland Province (where Lihir Gold Mine is located) received 114 kina per person, whereas Simbu Province people had a government revenue income of only 14 kina each (NEFC 2008). When 2005 provincial expenditure was measured against the estimated costs for service provision, the NEFC found that, on average, only 20 per cent of what was needed was actually spent for health, 52 per cent for education, 24 per cent for infrastructure, 37 per cent for agriculture and 184 per cent on administration (NEFC 2007: iv). Thus, they recommended a national government review of the intergovernmental funding arrangements and effective allocation of funds towards priority areas by the provinces.

Review of Intergovernmental Financing Arrangements (RIGFA)

The NEFC was instructed by the National Executive Committee (NEC) to commence a major review on provincial funding in 2001, the Review of Intergovernmental Financing Arrangements (RIGFA). Throughout the period since independence, the major international agencies active in Papua New Guinea, especially the World Bank, AusAID, the Asian Development Bank and UNDP have funded a series of initiatives aimed at public sector reform seemingly with little success (Turner and Kavanamur 2009, May 2009a). The cycle of reforms initiated through RIGFA seems to be the strongest yet and may finally address the lack of changes in implementation (Axline 2008). The NEFC, under the RIGFA process, has produced detailed and increasingly comprehensive Provincial Expenditure Reviews (PER) every year since it started until 2013 and has since been undertaking sectoral reviews of provincial expenditure. The RIGFA reports and subsequent annual reviews of provincial finances proposed major changes to the way in which provincial functions are funded, culminating in the passage of the Intergovernmental Relations (Function and Funding) Act in 2009 (NEFC 2005a and b, 2013a).

The new funding arrangements replaced the per capita grant system that was introduced by the OLPLLG in 1995. Instead, an equalization system was introduced based on specific formulae for calculating provincial revenues, costs and the fiscal gap between them that needs to be filled by funds from central coffers. This new system aimed to ensure that no province would receive less revenue than it had in 2008 and is being phased in over a number of years until reaching steady state in the 2014 financial year. The NEFC described the new funding system as founded on the principles of vertical equalization and horizontal equity, meaning that the central government needed to take responsibility to ensure that lower level needs were met from the top level of government and that the differential earning capacities of the provinces were taken into account (NEFC 2005a).

The NEFC made available detailed calculation methods used to determine the allocation of funds to each province.[15] From this, it is crucial to note the important role that resource revenues play in the NEFC assessments. The NEFC denotes certain provinces as “higher funded provinces”, explaining that these are provinces with comparatively large amounts of “own-sourced revenue”, primarily from the resource sector. Several NEFC annual reviews have expressed disappointment that the higher funded provinces do not allocate more of their revenues into their service delivery sectors such as health, education, transport infrastructure and agriculture (NEFC 2013b).

In three provinces that are host to some of the country’s largest mining projects, the amount of the provincial internal revenue allocated to basic services from 2008 to 2011 ranged from five per cent to 21 per cent in Enga (Porgera Gold Mine), 17 per cent to 24 per cent in Western Province (Ok Tedi Mine) and a higher level (described as “limited support”) of 25 per cent to 41 per cent in New Ireland Province (Lihir Gold Mine) (NEFC 2013b: vi). The cause for concern is evident when coupled with the recognition that these provinces have generally unimpressive results on fulfilling the targets of the Millennium Development Goals, with New Ireland ranked fourth from the top, Western Province in ninth place and Enga Province near the bottom, at 17th place, out of nineteen ranked provinces, (UNICEF 2012a). The 2011 NEFC report takes a stern tone on the issue of provinces not allocating enough of their own revenues to recurrent spending in line with national priorities, and highlights the importance of this for children’s welfare.

[15] See NEFC 2013a:1-4 for an explanation of how the provincial equalization calculations are done.

It poses the question "Given that we know service delivery must improve and become more accessible for more families and children, we also ask – can we do better?" and replies that:

> For those provinces with a significant amount of internal revenue there is a need for a reprioritisation to occur in future budgets. If more internal revenue is not directed toward service delivery activities in priority sectors then those activities simply will not occur and services cannot improve. (NEFC 2013b: 13)

The NEFC concludes that the government has started to address the funding gap faced by most of the provinces by introducing the new system of intergovernmental financing. It emphasizes how important it is that provinces do their part in ensuring that additional funds are spent wisely in order to further improve service delivery. It highlights shortfalls in efficiency and absorptive capacity as indicated by the recurrent problem of more than 40 per cent of funding being spent in the last quarter of each year rather than steadily throughout the year. This last-minute "spending imperative" can lead to delayed service provision and wastage of funds on non-priority areas, in order to spend quickly before unexpended funds can be reabsorbed into consolidated revenue the following year (NEFC 2013b: 22-25). Urging provinces to use their funds more judiciously does not mean that the central government is avoiding its own responsibilities for the funding of local level services, just that it expects the provinces with their own means, that is the resource-rich provinces, to use them for social and economic development. As the NEFC is still expressing disappointment at provincial government performance, we can conclude that the issue of the use of minerals revenues will continue to be contested between the centre and the provinces until the provinces achieve better performances.

Organic Law on Provincial and Local-level Government (District development authority) Law 2013

In 2006, a bill was introduced to the Papua New Guinea Parliament by the then opposition leader (now Prime Minister) Peter O'Neill, with the intention of strengthening the autonomy of district governments in direct relationship to the national government.[16] The bill did not become law at that time but Prime Minister O'Neill reintroduced it on 26 November 2013, which passed unanimously, 92 votes to nil, an indication of the strength of his support as Prime Minister rather than opposition leader. O'Neill explained the purpose of the change to the OLPLLG in the following terms to an NRI Forum in 2006:

> It is envisaged that the administrative structure that comes with the establishment of district authorities in each open electorate will remove cumbersome provincial bureaucratic red-tape, political preferences and biases, and other systemic flaws that have made it impossible to attain efficient delivery of basic life support and development services. (O'Neill 2006: 2)

In his speech to parliament when introducing the new bill, Prime Minister O'Neill said that the JDBPCs have taken on a great deal more responsibility than the administrative role that was intended for them and that they now need to be converted into formal statutory bodies so that they can become effective instruments of implementation of plans and programmes at the district level. The newly-created District Development Authorities (DDA) have the same membership as the JDBPCs that they replace,

[16] Although this paper has concentrated primarily on struggles between the national and provincial levels of government, there is actually a third level, the District or Local Level Government, which has started to receive more attention and funding since the 2013 National Budget increased its funding allocation by ten per cent (Wiltshire 2013).

including continuing to be chaired by the local MP and all public servants in the LLG areas came under the authority of the DDA. Although there has been some speculation that this change has been made to strengthen the PM's position in parliament, by reinforcing the funding control of local MPs, there is also a general understanding that LLGs need their resources and capacities increased and that this may be a good start to empowering local-level institutions, as long as the required core funding, human resources, reporting and accountability structures are also introduced (Wiltshire 2014). In February 2014 parliament passed an amendment to the Organic Law on Provincial Governments and Local Level Governments to create the new DDAs, and specified their operational details in passing the District Development Authority Bill in November 2014. According to this act, the DDAs will carry out service delivery responsibilities in tandem with provincial governments to ensure appropriate infrastructures are developed, improved and maintained; oversee, co-ordinate and make recommendations on the overall district planning including budget priorities, and play an important role in the development of rolling five-year development plans and conducting annual reviews of these plans (District Development Authority Bill).

Contestation over Resource Revenues in Papua New Guinea

The decentralization debates shed light on the struggle over the control of provincial revenues, the most lucrative of which have usually been resource-related. But one must look at a more localized level to gain understanding of the actual struggles that have taken place over the division of the resources revenues transferred to the provinces and the outcomes this has produced. The following section provides this angle, tracing the historical trajectory of local-level contestation over the allocation of resources revenues in different provinces of Papua New Guinea by examining some examples of how distribution decisions have been made on the ground.

No formal system existed that engaged the beneficiaries in mine impact areas to determine revenue splits prior to the adoption of the Development Forum process at the end of the 1980s. The concerns about secessionist activities and civil unrest by discontented mining host communities served as an impetus to the creation of a credible negotiation system (Saffu 1992). The Bougainville crisis that resulted in the closure of the mine in 1989 until now was largely based upon the dissatisfaction of the people of Bougainville with the splitting of royalties with 95 per cent going to the provincial government and only five per cent to the landowners. Furthermore, the mine revenues from taxation and dividends received by the central government over the period 1972 to 1989, were about ten times larger than the revenues received by both the provincial government and landowners combined. Bougainvilleans felt that the grants and services provided by the national government were inadequate compensation considering the revenues were being generated from their province (Quodling 1992). As can be gleaned from the divisive politics that evolved from the crisis, the growing concern at the national level about the separatist movement in Bougainville and its association with resources revenues led to consideration about better ways of negotiating agreements with local and regional representatives for the other mines that were coming online at this time, starting with Misima in 1988 and Porgera in 1989 (Filer 2008).

The Development Forum

Local communities in Papua New Guinea have had much greater success than in many other parts of the world in gaining direct access to revenues from resources projects. This is a result of the country's uncommon land tenure system in which 97 per cent of the land is held under customary tenure and where landowners do not necessarily

respect the state's ownership of subsurface minerals (Kupo 2010). Indeed, Golub stated that "Papua New Guineans have one of the best track records in the world for extracting concessions from foreign developers and the national government" (2006: 266). Since 1988, negotiations for the sharing of resources revenues have been decided upon through a process called the Development Forum. Originally, it consisted of a series of tripartite discussions between representatives of the national government, the relevant provincial government and the local landowning community to reach a set of agreements (Memoranda of Agreement or MOAs) that would spell out the future distribution of project-related benefits and responsibilities between the three parties (NEFC 2005a). The developer was not originally included as one of the main parties and neither were local-level governments. For the first few years of the Development Forum process, developers signed the Mining Development Contract (MDC) solely with the national government, which included observing the terms of the MOAs produced in the Development Forum. Since 1995, however, developers have also been included in signing the MOAs (Togolo 2006).

The Development Forum institution was included in the 1992 Mining Act and the 1998 Oil and Gas Act. In its original form, it included six economic components as a 'basic mining package':

1. Royalty redistribution
2. Optional equity
3. Special support
4. Infrastructure development
5. Economic opportunity, and
6. Seed capital.

The royalties collected by the central government were all to be returned to their province of origin, with a minimum of 20 per cent going to the recognized landowners (five per cent in cash, the rest into a trust fund for the future). This was a significant increase from the five per cent that upset the Bougainville landowners. Landowners were given the option to purchase up to five per cent of the project (the national government has the option of up to 30 per cent)—which the landowners from Porgera did, for instance. Equity gives local landowners a stake in the mine and therefore some responsibility for maintaining its operations. However, it requires borrowing money to purchase the shares, possibly offsetting the benefits flowing from the mine to the landowners until such time as loans are repaid, which can be quite a disincentive (Banks 2003). The people of Misima opted not to take up the offer of acquiring equity, so this varied from project to project (Filer 2008).

Special Support Grants (SSG) are given to the provincial government by the national government at a percentage of the value of annual production. This is done to allow provincial governments to meet the expectations of the local people as a result of the MOAs. At the same time, it was meant to offset the reduced amount of royalties allocated to provincial governments when the landowner proportion was increased by the 1992 Mining Act. Originally, the amount was set at one per cent but this was later reduced unilaterally by the state to 0.5 per cent in 2001 and to 0.25 per cent in 2005 in an echo of the way in which the central government reduced derivation grants to provinces at its sole discretion (Johnson 2012). There was a separate infrastructure component to enable landowners and provincial governments to negotiate for the building of infrastructure during the construction phase of a project, before any revenues from production would be received. The economic opportunity provision

effectively means preferential hiring, training and contracting opportunities for local people and businesses. The seed capital element required the central government to guarantee a loan to one local landowner company to the tune of 500,000 Kina (approximately USD 500,000 at the time) to enable that company to take advantage of business opportunities with the mine (Filer 2008).

Negotiations and representation

The focus of the negotiations in the Development Forum varies by project depending upon local circumstances and desires. For example, the Kutubu oil project forum had to deal with splitting benefits between the landowners of the oil field in Southern Highlands Province and the landowners of the easement through which the pipeline carried the oil in Gulf Province. The people of Misima, as represented by the Milne Bay Provincial Government and local landowners did not want to take equity in the project, so they negotiated additional infrastructure instead (Filer 2008). The Ok Tedi landowners bargained to have 30 per cent of royalties at the expense of the provincial government, and 20 per cent of projects under the SSG. The biggest early changes to the basic package were negotiated in 1993 by the people of Lihir, led by the Lihir Mining Area Landowners Association, the Nimamar Development Authority and the New Ireland Provincial Government, with the implicit support of the local MP, who happened to be the prime minister at the time, Sir Julius Chan (Filer 2008). Their "integrated benefits package" negotiations, which were drawn out over a couple of hard-fought years, extracted an increase in the royalty rate to two per cent from the previous 1.25 per cent of the value of production, 30 per cent of SSG projects, 30 per cent of royalties and a 15 per cent equity parcel from the central government. This was the first time that a local group had, in effect, forced a change in the national minerals policy in the form of an elevated royalty rate. The chairman of the landowners' association was reputed to have said that "the state is only a concept", echoing an attitude common among remote area landowners and indicating a lack of respect for state ownership of resource rights (Bainton 2010). The Lihirians also greatly expanded the definition of compensation to be paid and insisted that it include all the people in the project vicinity, not just the landowners of the actual mining lease (Filer 2008).

One of the greatest social divisions that has emerged from the process of resources allocation to local landowners has been between those who are acknowledged as owners of the land on which the resource projects are located, and those who are not —and who constitute the vast majority of the population. Data on how many people benefit directly from project revenues and how many do not in any particular location are difficult to find, not least because population census figures are not collected frequently and are not very accurate. Peter Johnson attempted to address this problem by looking at Porgera Gold Mine revenue streams but was unable to obtain from the Porgera Development Authority the list of acknowledged landowners (and therefore royalty recipients) for the Special Mining Lease. Instead, he quoted estimates of the indigenous population at the time the mine started and more recent population figures, such as an estimated 12,000 indigenous Porgerans in 1994 and between fifteen and twenty thousand immigrants, and a 2002 estimate of 22,000 residents in the Porgera Valley, of whom around 10,000 were thought to be migrants (Johnson 2012: 84). Although unreliable, these numbers at least give an indication that here the acknowledged landowners in a situation of population influx created by the mine constituted at best about half the population.

The Mining Act (1992) requires consultation with and the payment of compensation to "landholders" without going into any great detail on how they are to be recognized. The Oil and Gas Act (1998) prescribes that a process of Social Mapping and Landowner

Identification (SMLI) must be undertaken prior to the granting of a prospecting licence. The purpose of this identification is to identify the future beneficiaries of compensation and rents from the project. The SMLI process is usually diligently undertaken by resource developers in an effort to capture all the people with customary rights to the land needed for the development of projects. Yet, the dynamic and multi-layered nature of land rights mean that it is essentially impossible to determine all who claim entitlement now or may do so in the future, as explained below by Filer:

> The problem lies primarily in the political and economic consequences of a legal distinction drawn between the 'true landowners', the acknowledged owners of land leased to the developers, and the rest of the 'local population', which is normally the vast majority. For when people are excluded from a share of some resource rent on the grounds that they are 'not landowners', that is, not the owners of the particular resource on which the rent is being paid, their resentment springs not only from the perception of an arbitrary discrimination, but also from the feeling that an assault has been made on their most fundamental sense of identity, for if they are 'not landowners', then they are nothing. (Filer 1997: 186)

Banks (2008: 29) describes the effects of this formal and exclusive landowner identification process as "generating a mix of puzzlement (that they were not included) and resentment from surrounding groups and individuals." As will be seen in the discussion about the Porgera Gold Mine below, the designation of some people as owners of the land upon which the project sits and others not as landowners has contributed to social inequalities and disharmony that traditional cultural practices have been unable to resolve.[17]

The question of who should be involved in negotiations and who in the community has the right to give consent to the conditions of a project can be a fraught one. As Macintyre explains, working with traditional landowners may not be the best way of guaranteeing broad-based community consent and support.

> For example, if a community of customary landowners deals with a mining agreement in terms of customary modes of representative authority, the legal rights of young adult men and women are often ignored. Male clan leaders will usually be recognized as 'speaking for' the community. However, at Bougainville in North Solomons Province, Porgera in Enga Province and most recently on Lihir in New Ireland Province, women have voiced their dissatisfaction with the processes that initially excluded them on grounds of 'custom'. (Macintyre 2007: 55)

In some ways, the success in negotiations for shares of resources revenues by those recognized as landowners for extractives projects has been exemplary. However, the associated exclusion of other people resident in the area, and the narrow band of people with traditional rights to represent communities has tarnished this performance. Similarly, the revenue streams from resource projects have not always been converted into sustainable investments for the benefit of the majority of current and future

[17] Customary land tenure in Papua New Guinea is a very complex field of study, so this paper will do no more than note that the process of distinguishing certain people as the owners of resources-producing land, entitled to a stream of benefits, and leaving the majority of people out of this category, has created social tensions. As explained by Banks, "the process by which often malleable and complex rules of 'belonging' become simplified lists of 'landowners', and social boundaries become cartographic ones, has been the cause of conflict at all major projects (see e.g. Jorgensen, 1997). Clearly here it is local understandings of belonging and identity which become the sites of contestations – the formal, official 'rules' are relatively simple, but the interpretation and negotiation of these rules by local groups grounded in the norms and values of their social universe are highly unlikely to match these (2008:29)." Further information on this complex question is available in Aidwatch 2008; Fairhead, Kauzi and Yala 2010; Filer 2005; Jorgensen 2006; Kalinoe 2008, Power 2008; Tararia and Ogle, 2010.

members of the project-affected community, children in particular. Indeed, Johnson ends his study of the economic benefits of the Porgera mine with the conclusion that "until there is greater transparency in how resource finances are distributed both in terms of individual and community benefits, PNG will remain resource rich and its people poor" (Johnson 2012: 97).

Infrastructure tax credit scheme (ITCS)

Another unique aspect of Papua New Guinea resource revenues utilization is the Infrastructure Tax Credit Scheme (ITCS). It evolved as a spin-off from Development Forum negotiations in recognition of the difficulty of delivering services in remote locations. Initiated in the 1992 budget, the ITCS allows the developers of large-scale mining and petroleum projects to spend two per cent of their gross revenues on the construction of social and economic infrastructure, which can be counted as corporate income tax already paid to the government (Filer 2008). The ITCS was proposed by the developers of the Porgera gold mine (Placer Niugini) reportedly in recognition that if a similar scheme had been permitted in Bougainville, then the crisis surrounding the Panguna mine may have been averted (Togolo 2006, Jackson 2002). Landowners, the provincial government and the developer agree among themselves which types of project are to be built under the ITCS each year. The proposals are then submitted to a committee of national departments comprised of National Planning and Rural Development, Department of Mining or Department of Petroleum and the Internal Revenue Commission for approval. As the central planning ministries approve the projects, the government in Port Moresby is given more control than if all funding was channeled through the provincial governments. The provincial politicians in the national parliament also feel satisfied with the arrangements, as they have a say in approving the projects through the national budget approvals process (Filer 2008). In the 2013 budget papers, the government reported that annual expenditure under the ITCS varied between about K40 million (USD 11.4 million) and K85 million (USD 24.3 million), averaging at about K65 million (USD 18.6 million) between 2005 and 2010.[18] This is anticipated to grow considerably once the PNGLNG starts producing with K1.3 billion (USD 37.2 million) expected to be needed to maintain the Highlands Highway in order to support the project (PNG Treasury 2013a). To give some flesh to the outline of how the ITCS is used, Oil Search Limited, the operator of the Hides and Kutubu oil fields in Southern Highlands and Gulf provinces, reported an allocation of USD 9.4 million to the scheme in 2008 and USD 3.6 million in 2009 (variability is due to oil prices and production levels) towards construction of roads and bridges including road repairs, school, and health facilities (Oil Search 2010: 47).

Other modifications to the Development Forum process have been introduced over the years to meet the political challenges posed by a succession of major resource projects and during renewal negotiations at many of the mines. For example, in 2006, a requirement to include women in the negotiations was introduced, apparently influenced by the World Bank's emphasis on Women in Mining through a series of conferences in Papua New Guinea from 2003 (Filer 2008). The role of women in discussions over the distribution and allocation of resource revenues among local communities and also the inclusion of specific benefits for children will be examined in the case study below.

Women and children at Porgera Gold Mine

Although the rights of women and children are not identical, they are often intertwined, particularly in Papua New Guinea, which still tends to be a traditional society in which

[18] At a rough average of USD 0.35 to the Kina using exchange rates charted in the 2013 Budget (PNG Treasury 2013a: 20).

women are overwhelmingly responsible for child welfare, even to the extent of being the main providers of food for their families. For this reason, the degree of inclusion of women in decisions about resource revenue use and distribution has a direct impact upon the outcomes for children and is discussed wherever possible in the case studies that follow.

The Porgera Gold Mine in Enga Province in the Papua New Guinea Highlands was one of the first extractives projects to undertake the Development Forum process, commencing in 1989. From 1990, benefits started flowing to local landowners, either as dividends from purchased equity in the project, as compensation for land disturbance, as royalties for gold production, which they received part of, or as wages from jobs at the mine or in associated businesses. The Porgera mine is the most accessible for a case study on the effects of resources revenues distribution and contestation since it is one of the most studied mining projects with several published studies, as described by one of the key scholars of mining impacts in Papua New Guinea, Glenn Banks, below:

> The social and economic effects of the Porgera mine have generated a significant body of work and debate. Key to these changes have been significant improvements in access to services for the population, large economic benefit streams to a relatively small population, and a range of pervasive and often destructive social effects within the community, largely flowing from these same revenue streams. In-migration, for example, has driven up the population of the leases and the surrounding valley, as well as impacting on community cohesion, exacerbating local conflicts, and increasing the availability of alcohol with associated rises in domestic violence. (Banks 2013: 690)

There is a wide array of literature on the Porgera project but this case study will draw primarily from two specific recent studies on economic impacts by Peter Johnson (2012) and on women by Penny Johnson (2010). The findings of the two studies will be used to describe the levels of resource revenues received by local people, the differential impacts these have had within the community, and on women and children.

The NRI commissioned economist Peter Johnson to conduct a study on benefit flows to Porgera and the use of the revenues. The study was motivated by the concern of the Institute's Director Thomas Webster, when he visited the area in 2009 and discovered that schools and aid posts were closed and heard complaints from the local community over inadequate service provision despite the mine's management claim of paying substantial amounts to government entities to provide the services (Johnson 2012). Webster's comments on the report confirm NEFC's observation that the mineral revenues are being paid into local areas but not sufficiently used for social development:

> The report clearly shows that Barrick, the operator of the Porgera mine, has paid the different amounts that were required as per the agreement to the different government institutions. But it's clearly the government institutions which are not doing what they were expected to do on the ground in terms of looking after health services, education, and so forth. In terms of the landowners, there are different financial benefit streams to different landowner groups and to entities. It was difficult getting data from those and trying to understand. From Barrick it was clear their payments were made, but what was being done with those funds and who had responsibility for them and what it was spent on was very unclear. (Webster 2012: 1-2).

In terms of gaining access to resource revenues, the landowners of Porgera have proven to be skillful negotiators. In 1995, they renegotiated their share of the royalties, as

described in the table below, having observed other resources projects going through the Development Forum process and achieving better results in some cases. Beyond simply negotiating to get 23 per cent of the share that previously went to the provincial government, the Porgera landowners also established two new fund groups: one for the Porgera Landowners' Association, which represents local landowners with land rights outside the Special Mining Lease (SML) area, and one for young adults, which was designed to lessen intergenerational problems. The Porgera Agreements also marked the first time that a local-level government, the Porgera Development Authority, received royalties. This turning point is considered to be very important for long-term sustainability, as local-level governments will eventually hold responsibility for the area after closure of the mine (Jackson 2002).

Table 2. Distribution of Royalties from Porgera Gold Mine to Provincial Beneficiaries (per cent)

Group Name	To July 1995	From July 1995
Provincial Government	77	50
Porgera Development Authority	5	5
SML Landowners	8	15
Children's Fund	10	10
Porgera Landowners' Association	0	12
Young Adults' Fund	0	8

Source: Johnson 2012: 41.

In terms of children's benefits, there are two funds dedicated to young people, one for young adults and one for children. The Children's Fund was established from the beginning and has been used ever since to pay for the schooling of SML landowners' children, at all levels of education, including tertiary studies, which may be abroad.[19] Through the Tax Credit Scheme, schools were built in many communities in the district. However, some were burnt down during tribal fighting in 2009 and were therefore not functioning (Johnson 2010: 42). The Children's Fund has not been used to pay for the school attendance of other children, as royalties are paid only to recognized landowners. These landowners have not yet elected to share these benefits with all the children of the province or even district. It is difficult to estimate how many children receive education as a result of the presence of the mine since enrolment and attendance data are not collected systematically, nor are population statistics in general. At the time of Johnson's study, there were two high schools and five primary schools functioning in the area. Over 3,000 students were enrolled in these schools with a sex ratio of 3:1 in favour of male students. The exception was the Porgera International School, which had almost parity of 171 male students and 163 females (Johnson 2010: 42). The International School, a private school, is by far the most expensive and can only be afforded by the children of mine employees or by those who benefit from royalties and the Children's Fund Estimates in Porgera District were that 40 per cent of children did not attend school (Johnson 2010: 44). However, recent government changes abolishing school fees since 2012 have made it easier for more families across the country to send their children to school (Howes et al. 2014).

Over the years, the list of beneficiaries of the Children's Fund has been growing and suggestions of including non-eligible children such as more distant relatives of landowners have been raised. Although this means that more children are benefiting

[19] Interview with Ms Ume Wainetti from CIMC, 12 September 2013; interview with Mr Paul Barker from CIMC, 12 September 2013.

from mine revenues, the increased number of recipients has caused the trust to reduce the proportion of schooling expenses it can cover with the funds available. We do not know whether the introduction of tuition fee free schooling by the government has eased the pressure on the Trust Fund, as up-to-date information is hard to obtain. Nonetheless, the Children's Fund is a good example of how mining revenues can be used to benefit children specifically, although it would be far more equitable if it was used for all local children and not only the children of landowners. It is run as a Trust Fund, with a Board of Trustees, which includes local and national government representatives, as well as the mining company and local landowners. Compared to the Children's Fund, which is publicly audited annually, the management and accounting of the Young Adults and Porgera Landowners' Association Funds are not as transparent. There is no specific requirement for public auditing of these funds making it impossible to understand how those funds are being used (Johnson 2012). Johnson strongly advocated further research into the distribution and use of mineral revenues in host communities and increased transparency of information concerning resources revenue, particularly since "the significant inequality in the distribution of mining wealth may be an important underlying driver of mineral wealth's failure to fulfil the expectations of the communities" (Johnson 2012: 92).

The mine's external advisory body, the Porgera Environmental Advisory Komiti (PEAK), commissioned a study on the social impacts of the mine on women by anthropologist Penny Johnson (Johnson 2010). She found marked disparities between the impacts of the mine on SML women who have access to some of the benefits flowing from the mine, and other women in Porgera. Paradoxically, although the women with access to the resource revenues were financially better off than others, they had suffered a loss of traditional status because they were no longer major providers of household food from gardening activities due to loss of land and increase in household cash incomes (Johnson 2010: 4). The non-SML women envied the services and income available to SML women but had maintained their status of food providers and related importance within the household. Neither group of women holds much power on decisions over financial expenditure and women were not reported as playing any role in the discussions of the Porgera Development Fora.

> Decisions about life in Porgera have generally been made by men, and women are not directly involved in either decisions or business negotiations, even though it is the women who are more oriented to investing in the future: it is women who concentrate on such values as educating children, and it is the mothers who generally take responsibility for school fees, and who invest in health care, better nutrition, provide clothing, and fostering Church and community relations. It is also often the women who invest in their land, wanting to purchase fertilizers and make the soil more productive with an aim towards long-term use and generating economic growth. (Johnson 2010: 4)

Having access to large quantities of income from the Porgera Mine did not necessarily improve the standard of living of the people of the Porgera Valley, especially women and children. The lack of positive impact on the lives of women and children in the Porgera Valley was aggravated by problems brought about by the doubling of population in the last ten years. The massive influx of migrants, doubling the population in the last ten years, has placed strong pressure upon local institutions, resulting in a deterioration of the quality and availability of services. The institutions deemed responsible for poor performance in the Porgera case include the national government and the Enga Provincial Government (EPG), the Porgera Development Authority

(PDA), the Mineral Resources Development Company (MRDC), the Mineral Resources Authority (MRA), and the Porgera Landowners Association (PLoA).

> A number of institutions were set up to fulfil the desire for development expressed in negotiated settlements. These institutions are responsible for implementing health care, education, and infrastructure improvements, amongst other things, for the benefit of landowners. In the early years, these institutions operated within their mandate and largely achieved their goals. Recently, however, their success has been more difficult to judge. Oversight and transparency have lapsed to unacceptable levels. (Johnson 2012: 1)

Other problems are more intimately related to the inequitable accumulation of profits by a few powerful men. Women reported that they have become less valued as members of society since they have lost access to their productive activities in growing food for the family. The women lost the land they could cultivate to the mine but the compensation money goes to men and not women. There has been a marked increase in rich men taking several wives, often abandoning the older wives in favour of younger women. For example, the staff at the International School reported that 80 per cent of school families had more than one mother and three families had 14 wives each (Johnson 2010: 44). Children are often left behind in these transactions, as fathers often privilege the children of newer spouses, and in the case of divorce, father’s custody of children has not always guaranteed good childcare (Johnson 2010).

The influx of money created and exacerbated certain social divisions, frequently to the detriment of children and their mothers. For instance, substance abuse and family violence are reported to have increased. Although no baseline data exists, the Police Commander of Porgera Station reported a high proportion (75 to 80 per cent) of police work concerned family-based violence (Johnson 2010: 57). The level of sexual violence including accusations of rape against members of the mine’s security workers in the Porgera mine area became so acute over the past few years that Barrick Corporation felt compelled to institute an independent judicial and human rights review in 2011 and establish a grievance and redress procedures managed by credible third-party organizations (Wainetti 2013b).

Women’s inclusion in negotiating mining agreements: The cases of Lihir Gold Mine and OK Tedi Mine

Lihir Gold Mine Development Agreement

In discussing the process of concluding the development agreement for the Lihir Gold Mine in New Ireland Province, Martha Macintyre stated that “Lihirian women played almost no role in the negotiations over the mining lease. This is not unusual in Papua New Guinea where all parties assume that men will adequately represent all within the affected community” (2003: 123). While local mining companies on a number of occasions have wanted to include women in negotiations, they have been afraid of accusations of interference with local custom. Local women usually declined to participate as they felt intimidated at the prospect of sitting at meetings with white men and public servants from the capital. Thus, women could be said to have acquiesced to not participating in negotiating for their rights and those of their children in these settings, for reasons of culture and tradition, although with sufficient encouragement and support, these obstacles can be overcome, as described below with reference to both Lihir and Ok Tedi.

However, upon realizing the adverse impact of the mine to their livelihood, the women felt they could have played a more active role. Although Macintyre explained that Lihirian women believed that their male relatives were genuinely representing their interests in the negotiations, years later, she says that Lihirian women felt "betrayed" by both mining companies and the men who represented them in the negotiations.

> They believe now that had they been made aware of the implications of giving up rights to land, they would have chosen differently from their men. After all, in these cultures women are the breadwinners who grow the food for their families. They maintain that they should have been informed by the company of all implications and been able to give or refuse consent by virtue of their constitutional and human rights. (Macintyre 2007: 56)

According to the Lihirian women, human rights, which pertain to the guarantee of equal rights of women by national and international laws, should prevail over custom and traditions. Macintyre advocates that all agreements should incorporate a regular review process, associated with ongoing stakeholder education about changes to the mining programme and associated impacts (Macintyre 2007). This also implies the active engagement of women and the inclusion of children's needs and, ideally, this would be the case from the earliest discussions about a potential project.

Ok Tedi Mine Continuation Agreements

The Ok Tedi Mine Continuation Act 2001 allowed BHP Billiton to divest itself of the Ok Tedi Mine in Western Province by transferring all of its shares (52 per cent of the total) to the Papua New Guinea Sustainable Development Program (PNGSDP). The law obliged the mining company to establish Community Mine Continuation Agreements (CMCA) with the communities in the immediate impact area of the mine (Kalinoe 2008; Morauta 2012). It also involved a regular review process that required the renegotiation of CMCAs. As a result of this process, a specific requirement for the involvement of women at the negotiation table emerged in the early stages of discussions for the first time in Papua New Guinea. Prompted by its gender desk, the mine's management and the independent facilitators put forward this requirement out of concern over inadequate representation of women's and children's interests by the male negotiators (Menzies and Harley 2012: 5). The men accepted this changed condition of negotiations, and a sole female delegate joined the committee, Ms Ume Wainetti, a local woman with a national profile as Convenor of the National Family and Sexual Violence Action Committee (Menzies and Harley 2012).

Through participation in the negotiations through the female delegate, Ok Tedi women secured mandated seats for women on ongoing implementation committees as well as future reviews of the agreements; ten per cent of all compensation funds ring-fenced for women; an allocation of 50 per cent of scholarships to girls, to be selected by committees staffed by at least 50 per cent women; benefits payments to be made to family bank accounts with women as cosignatories, not just to men; and a number of other gender equity provisions that have made the Ok Tedi women the envy of other mining communities. Although the CMCAs are not the same as Development Forum negotiations in that they are specific only to the Ok Tedi situation, they are nonetheless a crucial element of the process of allocating resources revenues. The impetus behind this move to include women was the recognition that development outcomes, especially for children, would likely be much improved if women had control over finances. The implementation of the CMCAs has not brought all the benefits hoped for in 2007, and the programs suffer from the same challenges and constraints as any other development programs in remote Papua New Guinea, particularly remoteness and difficulty of access

to services, including financial (Menzies and Harley 2012: 9). Nonetheless, this was a step forward in recognizing the importance of including women in discussions and negotiations and as a consequence, ensuring that children's needs were better taken care of. Ms Wainetti said that women "wanted a separate pot to make sure that women and kids were not forgotten as usual" and this was certainly achieved in the 2007/2007 Ok Tedi CMCA negotiations (Menzies and Harley 2012: 5).

Representation of child interests through NGOs and international organizations

Interviews held for this paper with representatives from government, non-governmental organizations, international agencies and national advocacy offices revealed a disconnect between the generation and collection of resource revenues and the policies and programmes required to protect children's rights and nurture their wellbeing. In general, those involved in child protection did not feel qualified to comment on resource revenues matters and those who knew about mining did not feel able to comment on children's rights. For example, the Catholic Bishops Conference of PNG and Solomon Islands commented that they had no involvement in and no investigative capacity to understand the distribution of mining revenues and therefore were unable to comment on changes in the allocation of resource revenues over time.[20] The Department for Community Development commented that the Finance Department would be the correct source for any information about the utilization of resource revenues, highlighting the separation between the finance management and service provision sections of government.[21]

Several interviewees highlighted the positive co-operation that exists among the various groups concerned with child welfare, and on support received from international donor agencies, such as the Catholic Bishop's Conference acknowledging AusAID's support for the implementation of the PNG Catholic Church's National Policy on Child Protection and the Department for Community Development noting the importance of the Incentive Fund provided by Australian Aid.[22] Respondents endorsed the necessity for greater participation of community and family and child representative bodies in policy-making processes The revival of the Child Welfare Council as a co-ordinating body within government was seen as positive, as was the Joint Coordination Committee on the Lukautim Pikinini Act, which meets less frequently, as needed.

From all respondents, the commentators from the Consultative Implementation and Monitoring Council (CIMC) were most knowledgeable, able to comment on mining and revenue matters as well as questions of child protection. The CIMC is an important stakeholder engagement body that is based in civil society but which has strong linkages with both government and the private sector. The Council is an independent organization that brings together civil society, private sector and government partners to develop policy, and influence and monitor government decision making. It holds regional forums in widely-spread parts of the country several times a year (Barker 2013). It also has powerful sub-committees, such as the Family and Sexual Violence Committee, which is very influential and has been instrumental in having the

[20] Interview with Fr. Garry Roche from the Catholic Bishops Conference, 29 October 2013.
[21] Interview with Mr Terry Lui from DFCD, 19 October 2013.
[22] The Incentive Fund provides high-performing organizations with grants to improve service delivery and/or provide economic opportunities for the people of Papua New Guinea. It has been funded by the Australian Government since 2000. Eligible organizations can apply for grants of between K1million and K10million, which are awarded through a competitive process. Eighty per cent of Incentive Fund projects must have a focus on the empowerment of women and girls, although the broader category of children is not specified. See http://incentivefund.org/about for further information.

Government pass the Family Protection Act.[23] Barker and Wainetti also commented that there is often a women in mining and petroleum or community affairs component to the biennial conference convened by the PNG Chamber of Mines and Petroleum, which could be an important forum for raising the profile of child welfare issues associated with the extractives industry. Since 2008, the Chamber has managed a number of programmes aimed at empowering women in extractive industries areas to increase their access to the benefits of the industry. These have been largely financed by Japanese aid, channeled through the World Bank's offices in PNG. They have not been specifically targeted at children's issues, but this could be an area for future focus.[24]

The CIMC has recently initiated a new sub-committee, the Budget Tracking Sectoral Committee (BRC), which aims to influence fiscal decisions and the allocation of revenues and resources for the improvement of the country's social as well as economic welfare.[25] It held its inaugural meeting in October 2013 and included child representative bodies such as UNICEF, to ensure that children's needs will not be neglected in lobbying and public campaign activities (UNICEF and CIMC interviews 2013). This committee meets quarterly and reports to the National Executive Council through the CIMC Chairman, the Minister for National Planning. It has the potential to be a powerful force for helping the shaping of social development policies and ensuring that children are considered, which would be a major improvement. It could fill the role suggested at the 2012 East Asia and Pacific Conference on Public Finance, Social Policies and Children, which was co-organized by the Government of Viet Nam and UNICEF and attended by a high-level Papua New Guinea delegation, including the Ministers and Secretaries of Education, Community Development and Finance. The participating Papua New Guinean delegates recommended that the social development ministries should be included in the National Budget and Economic Committee of the government, which proposes policies to the National Executive Committee, or Cabinet. This institutional linkage was suggested in order to ensure that social sector ministries are adequately represented in the process of determining sound annual budget decisions that are sufficient for the implementation of social policies (UNICEF and Socialist Republic of Viet Nam 2012: 17). The CIMC Committee is able to fulfil this function until such time as the PNG Government is ready to formally include social ministries in the national budgeting process.

Current contestation

Resources revenues distribution and control continue to be controversial. One struggle that received considerable media coverage was the passing of laws in September 2013 and November 2014 enabling the nationalization of the Ok Tedi mine, a fund domiciled in Singapore.[26] The government's takeover rhetoric centred mostly on nationalistic sentiments such as permanently removing any participation by previous mine owner BHP Billiton (which used to appoint some of the board members) and having both the Ok Tedi mine and the PNGSDP under the control of the government. An alternative construction of the dispute is that it is a battle to gain control of the PNGSDP Long

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[23] Interview with Mr Paul Barker from CIMC, 12 September 2013; interview with Ms Ume Wainetti from CIMC, 12 September 2013.

[24] We were unable to obtain interviews with the minerals and energy sector but the Chamber of Mines and Petroleum's website contains further information about its women's programmes. See http://pngchamberminpet.com.pg/programsprojects/wimap-program/. Accessed 5 September 2016.

[25] See http://www.cimcpng.net/index.php/committees/budget-tracking-sectoral-committee for further information. Accessed 1 September 2016.

[26] Mining (Ok Tedi Mine Continuation (Tenth Supplemental) Agreement) Act 2013 and Mining (Ok Tedi Mine Continuation (Eleventh Supplemental) Agreement) Act 2014. Available at http://www.parliament.gov.pg/bills-and-legislation/2013. Accessed 5 September 2016.

Term Fund worth over USD 1.4 billion, which is quarantined for use only after the mine closes (Howes 2013b, Howes and Kwa 2011). Whatever the reason, the dispute is subject to some complex jurisdictional and legal issues and is not likely to be resolved anytime soon.[27]

A number of aspects of the resources revenue regime are also currently under review. One of these aspects is the practice of granting tax concessions to project developers to help them establish projects and to make Papua New Guinea an attractive investment location. The 2013 budget papers announced “a taxation review on the resources sector” as part of the Medium-Term Fiscal Outlook reforms to public finance. The basis for this review is that there are a number of “mines with tax concessions and exemptions that are not in line with standard tax law” (PNG Treasury 2013a: 146-7). However, retrospectively changing taxation arrangements for major mining projects is likely to create major tensions between the government and foreign investors. Another controversial measure is that of subsurface rights being transferred from the central government to the ownership of the landowners, which is likely to receive support from certain sectors of the population (Chamber of Mines and Petroleum 2012). Introducing any of these measures is likely to lead to contestation, either between the government and companies, companies and landowners, or between all three groups. Discussions over any of the currently contested issues still do not mention social development or children’s rights. Subsequent budget papers from the PNG Treasury indicate that the taxation review process was still ongoing, although advanced, as at September 2016 (PNG Treasury 2016: 93).

Conclusion

This paper argued that children’s issues are rarely included in the discussions about fiscal decisions and how revenues should be distributed, and it will end on the same note. The trajectory of social development indicators in Papua New Guinea brought to the fore the need for greater investment in local-level services. Fortunately, the current Government of Papua New Guinea seems to have reached the same opinion and it has announced markedly increased investments in health, education and rural infrastructure services, plus an intention to empower local-level governments. How successful the government will be in implementing these improved policies remains to be seen but as the will has been expressed, there is a chance that the way will be found, and efforts have commenced. A training course for District Development Authority chief executive officers and line managers, including a specific gender component and roles for women, was announced in early 2016, to be held at the PNG Institute of Public Administration.[28]

What has not been expressed by the government and which will be needed if the welfare of Papua New Guinea’s children is to be improved, is far greater inclusion of children’s representatives in decision making processes. These representatives could be any of a range of child rights advocates, including parents, local and international children’s NGO workers, and government child protection specialists. The inclusion of the social development ministers (Health, Education, Community Development) in the Economic Advisory Committee has been raised as a priority by several government ministers but

[27] As at the end of August 2016, media reports were indicating that the PNG Supreme Court had not ruled on the validity of the acts, and therefore on the nationalization of the PNGSDP shares. The court case had been brought by the PNGSDP’s Chairman, former PNG Prime Minister, Sir Mekere Morauta, who had no standing to do so, as the company itself should be making the application. In February 2016, the Singapore High Court, while agreeing that the PNG Government had a right to inspect the papers and accounts of the PNGSDP, had not granted access to the funds. Litigation can be expected to continue.

[28] See information about the first cohort of graduates on 18 March 2016 at https://www.facebook.com/pngipa.ac.pg/. Accessed 5 September 2016. Three more courses are to be offered in 2016.

this has yet to be operationalized by the government. Ensuring that these sectors of government are always included in discussions of economic and social policy and revenue allocation, prior to the submission of proposals to the National Executive Committee would go a long way towards keeping children's welfare and needs front and centre in government thinking.

Of more direct importance in the process of allocating revenues in specific resource extraction areas is the need to include women and children's representatives in the negotiations over revenue utilization. This paper traced the shift from early Development Forum processes that did not include women (let alone children) nor even think about it (Porgera), to those who thought about it but felt constrained by tradition not to invite women (Lihir), to more successful negotiations that have had women and children's interests at their core (Ok Tedi). That is where mineral resource governance needs to go to protect children's rights—down the path of inclusive and participatory decision making.

This research has also revealed a lack of detailed and co-ordinated data collection and analysis concerning the use of resources revenues in extractives projects areas, with the exception of large international companies, which intermittently release information. Coupled with a lack of transparency in reporting from many of the organizations involved in resources revenues distribution, this has resulted in a dearth of available information about how resources revenues have been used in Papua New Guinea. More systematic and comparative research on the actual utilization of resource revenues and the outcomes of their investment in local communities would be of great benefit in determining optimal future revenue use and sustainable development programmes.

The new District Development Authorities, as outlined in the amendments to the OLPLLG in late 2013 and the District Development Authority Bill passed in November 2014, could perhaps take a leading role in instituting local development forum meetings that include resource company representatives, ordinary community members, and women, youth and children's representatives in determining how revenues are spent for providing local-level social services, whether utilizing direct resources revenues or other grants from the national government. The NEFC has strongly urged provincial-level governments to make more effective use of "own-sourced revenues" and this could be an innovative means of ensuring that funds will be directed at a broader constituency and that children's needs are not forgotten. Taking an active, inclusive, multistakeholder approach, with strong leadership from the local MPs who chair the DDAs, and effective management from the District Administrators, who have become the Chief Executive Officers, might finally bring about the "creation of a dynamic district administration structure within which local-level governments can participate in development, policy-making and wealth sharing" as envisaged by the Prime Minister (O'Neill 2006: 1).

National government stakeholders, such as the Sustainable Development Planning unit of the Mineral Resources Authority and the DFCD could play valuable roles in guiding DDAs in their new responsibilities. International and local NGOs need to play an active support role in whatever capacity may be needed by Papua New Guinean stakeholders and, crucially, in maintaining their campaigns to ensure that children's rights are paramount in the new structures. Close monitoring and evaluation of progress in delivering services at the local level will be important in ensuring the success of the new system. All stakeholder groups (NGOs, churches, donors, community members) can play a supportive role here, ideally in a participatory M&E process that includes local

people, specifically women and children's representatives, in providing feedback to the local and central governments. This could be a dynamic way of guaranteeing that child welfare becomes an essential focus of government expenditure and service provision.

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Mr Paul Barker, Executive Director, Institute for National Affairs, CIMC, 12 September 2013.

Ms Vathinee Jitjaturunt, Deputy Representative, UNICEF PNG, 19 September 2013

Ms Jill Lawler, UNICEF M&E and Social Policy Adviser, 19 September 2013.

Mr Asefa Tolessa Dano, Chief of Child Protection, UNICEF PNG, 19 September 2013

Ms Hennie Kama, Child Protection Officer, UNICEF, 19 September 2013.

Mr Collin Sakap, Executive Officer, Welfare Council, Department for Community Development (DFCD), 19 October 2013.

Mr Terry Lui, Senior Child Protection Officer, DFCD, 19 October 2013.

Fr Garry Roche, Secretary, Catholic Bishops Conference, PNG & Solomon Islands, 29 October 2013.