

Executive Summary

Pillar III on the Ground

An Independent Assessment of the
Porgera Remedy Framework

1. EXECUTIVE SUMMARY

This report concerns an ambitious corporate program to remedy egregious human rights violations. Barrick Gold conceived the Olgeta Meri Remedy Framework (the Framework) in response to devastating accounts of sexual violence committed by private security personnel at the Porgera gold mine in Papua New Guinea. The Guiding Principles on Business and Human Rights¹ were the Framework's touchstone. Barrick drew on them to design an elaborate operational-level grievance mechanism (OGM) to adjudicate sexual violence claims and determine individual remedies. Between 2012 and 2014, the Framework was implemented by two organizations independent of Barrick: the Porgera Remedy Framework Association (PRFA), an entity led by prominent Papua New Guinean women's rights advocates; and Cardno Emerging Markets, an environmental, social and infrastructure consultancy. Ultimately, 119 women were awarded remedies—including cash compensation, medical care, counseling, school fees and business training—for sexual violence committed between 1990 and 2010.

The Framework's design has been praised for its remarkable ambition and commitment to the Guiding Principles. At the same time, however, the Framework has been the flashpoint of local and international stakeholder controversy. Stakeholders have at various times raised concerns about the Framework's alignment with the Guiding Principles; its respect for international human

rights; its incorporation of local custom; its sensitivity to claimant wishes and the views of local human rights advocates; and its exclusive focus on sexual violence. More recently, Barrick has been accused of unfairness for agreeing to higher compensation than under the Framework for a group of women who rejected Framework remedies and threatened to sue the company in the United States. Controversy continues to this day.

1.A: ASSESSMENT BACKGROUND AND STRUCTURE

This assessment was launched in early 2015 to evaluate the Framework publicly and comprehensively against the Guiding Principles, incorporating international law and a particular focus on claimant experience. The research was funded by Barrick. But the process and report were conceived to be independent. Enodo Rights conducted the assessment with the guidance of an External Committee comprised of Chris Albin-Lackey of Human Rights Watch, Lelia Mooney of Partners for Democratic Change, and Dahlia Saibil of Osgoode Hall Law School. With the External Committee's advice, we² determined the assessment's scope and methodology, including the assessment metrics, documents to review, stakeholders and company personnel to interview, and the length and structure of the onsite research. Barrick provided only logistical and administrative support as requested. We retained at all times final discretion over the assessment's

¹ OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework ("Guiding Principles")* (2011), HR/PUB/11/04 at 1.

² "We" throughout this assessment refers to Enodo Rights. The External Committee has played an invaluable peer review and guidance role, but ultimate responsibility for any conclusions and errors is Enodo Rights' alone.

content. To ensure independence, all research funding was provided long before we processed our results, let alone shared any conclusions with Barrick.

We have aimed with this assessment to evaluate the Framework objectively against an authoritative standard. This is not a report about our impressions of private actors' responsibilities under public international law. We seek instead to identify exactly how and why the Framework did or did not align with the Guiding Principles. Mathematical certainty in this context is impossible. To minimize the risk of caprice we have privileged analytical structure and methodological transparency. We started by identifying the relevant Guiding Principles—GPs 22, 29 and 31. We then applied interpretive maxims from international law to unravel the practical meaning of each GP. The process resulted in 26 indicators. These serve as the assessment's template by delineating the boundaries of acceptable decisions and outcomes.

We assess the Framework against each indicator on two dimensions: design and implementation. Design refers to the Framework's blueprint in the foundational documents developed by Barrick. Implementation focuses particularly on claimant experience and captures the activity of Cardno and the PRFA. The design-implementation division allows us to home in on the cause and institutional source of any failings.

The assessment's structure comes at the price of narrative flow. Tracking the Guiding Principles limits our discretion in identifying material Framework elements and helps us evaluate them (relatively) precisely. That precision, however, is built on compartmentalized analysis of discrete issues. Moreover, it does not provide for differential weighting. We cannot say definitively, for instance, whether "equitability" under GP 31(d) is of more, less or equal importance to "rights-compatibility" under GP 31(f). This weighting limitation extends to the specific indicators we have chosen. Certain GPs lend themselves to more segregated analysis than others. Thus we have two indicators for "stakeholder engagement" under GP 31(h), but five indicators each for "legitimacy" under GP 31(a) and "accessibility" under GP 31(b).

These limitations mean that we do not seek to conclude whether the Framework itself was a success or a failure. We focus instead on discrete successes and failures, drawing lessons and unspooling underlying themes as appropriate. At this formative

stage of Guiding Principles-aligned assessments, we leave overarching judgment to readers. We caution against judging based on hindsight. Business and stakeholder understanding of corporate human rights obligations is nascent and developing. It was even less choate when the Framework was launched. We have not tried to assess the Framework against standards a reasonable responsible business may have applied in 2012. Rather, with an eye to durable lessons for businesses and stakeholders, our benchmark for Barrick, the PRFA and Cardno is a rigorous, contemporary application of the Guiding Principles. It is not a standard that we could have expected any business reasonably to have followed when the Framework was designed and implemented; we hope it is a standard that businesses can reasonably follow in the future. For accurate understanding and representation of our findings, we would stress the importance of critically examining the indicators we have developed before considering our conclusions.

1.B: SUMMARY OF OUR FINDINGS

The Framework was conceived with sincere and considered commitment to the Guiding Principles. Barrick's design should be lauded for its rare ambition and meticulous attention to claimants' rights. But implementation errors compromised the Framework's actual performance. Claimants were thus exposed to a process which failed adequately to protect them and which they did not understand. In the end, successful claimants received remedies that were equitable, even generous, under international law. Nevertheless, many were left disaffected, stigmatized and abused. Responsibility for these results is not the Framework's alone. It should be shared by international stakeholders whose errors of judgment and unwillingness to engage in good faith exacted a great toll on claimants.

1.B.1: FRAMEWORK DESIGN

The Framework was designed following extensive stakeholder engagement and considered analysis. Over 18 months, from early 2011 to late 2012, a Barrick team of sustainability specialists and in-house counsel consulted an array of expert advisors and credible stakeholders to develop a hugely ambitious Guiding Principles-aligned OGM. Rather than a company-led, dialogue-based grievance process, Barrick sought to empower a legitimate, independent institution to hear and resolve sexual violence claims against the company. The Framework would serve a quasi-judicial

role for vulnerable women whose access to justice before courts was virtually non-existent.

Barrick's aspiration was exacting. Accordingly, the Framework required detailed rules to ensure fair procedures and results. Collectively, the *Framework of Remediation Initiatives*³ and the *Manual*⁴ establish the Framework's governance structure, procedures, and guidelines for substantive outcomes. They demonstrate assiduous care for claimants' rights and each of the Guiding Principles' effectiveness criteria for OGMs.

- **Legitimacy:** Barrick delegated authority to decide all claims against it to the PRFA, an independent institution led by two of Papua New Guinea's most prominent women's rights advocates. Decisions regarding eligibility for remedies and the nature of those remedies would be made by women with a wealth of experience engaging with survivors of sexual violence. The former Chief Magistrate of Papua New Guinea would ensure awards were reasonable and consistent; his decisions could be appealed to the PRFA leadership. Thus conceived, the Framework met the most rigorous standards of procedural fairness under international law
- **Accessibility:** The Framework's design took great pains to ensure its accessibility. It would be available as a means of first resort to all survivors of sexual violence by personnel of the Porgera Joint Venture (PJV), the local entity that managed the concession. The location would be as accessible as possible for women from all over Porgera. Evidentiary thresholds were minimal, and protocols were in place for translation, confidentiality, and claimant support through the process.
- **Predictability:** The Framework would follow a detailed process, with established timelines, to arrive at clearly defined potential outcomes. Specific protocols were developed for Framework staff to meet with claimants and explain every stage of the process orally and in person. As designed, the Framework would ensure that each claimant had a reasonable

basis for her legitimate expectations about both the process and the awards.

- **Equitability:** Barrick's design was extremely sensitive to the impact of power disparities with claimants, who were socio-economically and sometimes psychologically vulnerable. To ensure that all claimants made decisions freely and on an informed basis, the Framework would provide or fund access to independent legal expertise, so that claimants understood their rights and the implications of accepting Framework remedies.
- **Transparency:** Claimants would be consistently apprised of their claim's progress and informed of appeal options as needed. Framework officers would meet with claimants at every stage of the process to explain why decisions were made, to discuss remedy options, and to facilitate appeals as requested. Every decision and every stage of the process was to be carefully documented.
- **Rights-compatibility:** The Framework's design reflected an ambition to provide novel and empowering remedies. The Framework would not just issue cash compensation. Instead, it would invest in tailoring business support, school fees, and medical and therapeutic care to individual claimants. The Framework's potential outcomes would address all dimensions of the right to remedy under international law. Participation in the Framework would remain voluntary: while accepting Framework remedies would require claimants to waive future civil claims against Barrick or the PJV, they would be able to opt out of the process at any point.
- **Stakeholder Engagement:** Remedies would be decided in consultation with claimants and tailored, from a range of options, to their individual needs and preferences.

The Framework's intricate design was built on the advice of Porgeran stakeholders and leading experts in the Guiding

³ Barrick Gold [Barrick], *A Framework of Remediation Initiatives in Response to Violence Against Women in the Porgera Valley*, 16 May 2013, barrick.com [*Framework of Remediation Initiatives*].

⁴ Barrick, *Claims Process Procedures Manual*, 16 May 2013 [*Manual*].

Principles, human rights, and sexual violence in Papua New Guinea. It should be a touchstone for future adjudicative OGMs. But it was not flawless. First, the scope was limited to (i) historical incidents of sexual violence (ii) committed by PJV employees. The focus on a narrow, historical wrong is contemplated by GP 22; the limitation to PJV employees, however, is difficult to reconcile with a reasonable “cause or contribute to” involvement analysis. Second, the Framework did not envision a mechanism to ensure that all PRFA officials would be accountable for procedural errors, such as misapplying Framework standards or giving claimants insufficient or inaccurate information.

These errors were accompanied by two latent design flaws—both of which were formally justifiable under the Guiding Principles. The first was the Framework’s focus on sexual violence. Barrick conceived of a specialized Framework to redress the existing OGM’s proven weaknesses. That exclusive focus, however, was an inherent barrier to access. Survivors of sexual violence are stigmatized in Porgera. They legitimately fear opprobrium in their community and reprisal at the hands of male family members. The Framework contorted itself to account for these risks, with diffuse adverse effects. To begin, the PRFA adopted a word-of-mouth publicity campaign to keep the Framework secret from men. That necessarily limited its accessibility, and some potential claimants never knew the Framework existed. When discretion failed, accessibility was limited by potential claimants’ fears of reprisal. The discreet campaign also constrained the PRFA’s ability to educate potential claimants about their rights and the Framework’s processes, thereby limiting the Framework’s predictability, equitability and transparency. Claimants were thus acutely vulnerable to implementation errors by PRFA officials and the Framework’s independent legal advisor (ILA).

A second latent design flaw lay in the Framework’s unrealistic ambition to provide individualized remedy, particularly once cash compensation was introduced. The Framework was (i) an adjudicative OGM governed by an independent institution (ii) to provide remedies to a specific type of stakeholder—one who had suffered sexual violence at the hands of a PJV employee. These two elements inherently limited the ability to individualize remedy. Decision-making discretion in adjudicative OGMs, which ought to be delegated to an independent institution, must be

limited to ensure legitimacy and predictability. And a specialist OGM, even when considering claims with distinct facts, must privilege the *perceived* relative equity of remedies to ensure legitimacy. This is especially true in an intimate community like Porgera, where nothing remains confidential. The combination of these factors meant that the Framework’s ambition to provide individually tailored remedies was unrealizable. Promising it ultimately undermined the Framework’s legitimacy, predictability and transparency.

1.B.2: FRAMEWORK IMPLEMENTATION

These latent design flaws did not affect the Framework’s formal alignment with the Guiding Principles. They simply heightened its vulnerability to implementation failings. In the event, the dissonance between design and implementation was significant. The Framework’s extensive procedural protections were substantially compromised in implementation. As a result, the process was less accessible, predictable, equitable and transparent than it was designed to be. We highlight below the most significant errors:

- **Misunderstanding of “sexual violence”:** The Claims Assessment Team (CAT)—the PRFA officers tasked with initial claimant contact, evaluating claims, and recommending remedies—conflated ‘sexual violence’ with ‘rape’, thereby likely denying Framework access to a number of legitimate claimants.
- **Failure to explain Framework process and remedies:** The claimants we interviewed expressed a shared lack of understanding of Framework processes, potential outcomes, and the settlement agreement. (As explained in Section 4: Methodology, we would treat claimant interviews with some caution based on exogenous intervening events.) The Framework’s remedial posture also changed over time to focus on cash compensation at the expense of small-business support, but claimants did not seem to understand the implications for their legitimate expectations.
- **Failure to explain the right to counsel:** The CAT officers, by their own admission, did not inform claimants of their right under the Framework to retain independent counsel at the PRFA’s expense.

- **Failure to respect the role of the ILA:** Neither the CAT nor the ILA herself respected the role of independent advisor to the claimants. Instead, the ILA simply became an auxiliary CAT member to assess claimant honesty.

We do not attribute these faults to the individual CAT members and ILA alone. That the errors were consistent and shared suggests disturbing institutional failings by the PRFA leadership and Cardno. In particular, it seems that the CAT and the ILA were insufficiently trained in critical Framework elements, including an understanding of sexual violence and claimants' procedural rights. This error was compounded by failures of supervision. It does not appear that the PRFA or Cardno instituted quality-control measures to ensure that the CAT and the ILA were respecting Framework processes. If such measures did exist, they were not effective.

The most troubling procedural failing was the ILA's. The Framework's design gave pride of place to the ILA's role to preserve equitability: she was to ensure that claimants made properly informed decisions regarding whether to access the Framework and whether to accept remedies. Our findings suggest that she did not. She did not seem to appreciate claimants' rights or her duties as their independent advisor. She appeared to act largely as an assessor of truth. Most claimants recall only spending a couple of minutes with her before being asked to swear on the Bible. They do not recall receiving any advice, save that they should sign the settlement agreement because Barrick was much more powerful than them. The result was that claimants only seemed to understand the waiver, without a firm comprehension of the rest of their remedy package.

It is important to note, however, that the Framework's procedural failings did not result in substantial unfairness to successful claimants. First, everyone involved with the Framework's implementation—including an independent doctor and the local NGO most critical of the process—believes that the process was so open and accessible that the PRFA awarded remedies for many fabricated claims. Second, the financial reparations successful claimants received aligned with principles of equity under international human rights law. In particular, the Framework's remedies were more generous, on a purchasing power parity basis, than those awarded by the

Inter-American Court of Human Rights in 2010 for a range of human rights violations, including brutal sexual violence, by the Mexican military. Claimants' remedies were thus rights-compatible and, from the perspective of compensation under international human rights law, complete.

1.C: FRAMEWORK IMPACT ON CLAIMANTS

Assessing the Framework's impact on claimants' lives is complicated by a settlement reached between Barrick and 11 claimants represented by EarthRights International who left the Framework and threatened to sue the company (the ERI Claimants). The settlement's terms are confidential. But our onsite research made clear that the alleged generosity of that settlement—reached after all other claimants had received Framework remedies—pervades current claimant and community perceptions of the Framework. We therefore urge caution in considering the summary below, which is based on our interviews of 62 claimants who only received Framework remedies.

The Framework ultimately did not have the empowering effect for which it was designed. The vast majority of claimants believe they were treated unfairly and that they did not receive the remedies they were promised. Indeed, it seems that relatively few benefited from the remedies they did receive. Most were threatened and physically abused by men in their family to give up much of the compensation. Many were left with nothing. A number of women claim to be worse off now than before approaching the Framework: their families assaulted them, their money was taken, their husbands left them, and they are now pariahs in their community.

Responsibility for these horrific results is not the Framework's alone. It must be shared with certain international stakeholders who helped ensure that the Framework was (i) known about by all men in Porgera and (ii) that Framework remedies would expose claimants to substantial risk of heinous abuse. In this regard, MiningWatch Canada played an important role. Despite the advice of women's leaders in Porgera that secrecy was essential to protect claimant security, MiningWatch publicized the Framework widely, facilitating community stigma for all claimants and exposing them to the risk of physical abuse for surviving sexual violence.

Concerted pressure on the Framework to issue cash compensation was even more pernicious for claimant security. Claimants themselves first applied the pressure. International stakeholders magnified it. In doing so, a few of these international stakeholders allied themselves with two local, male-run, self-styled human rights organizations whose interest in women, let alone in survivors of sexual violence, appears instrumental and recently minted. The credibility of both groups had previously been questioned by Human Rights Watch. (When discussing sexual violence, a prominent member of one of these groups callously joked, in front of two survivors, about gang rape by dogs.) The cash-oriented position of this alliance contravened the advice of *every single* expert in sexual violence in Papua New Guinea Barrick consulted when designing the Framework, including (i) representatives from UN Women, (ii) government officials, (iii) human rights defenders, and (iv) Porgeran women's leaders. Each of these experts warned that women in Porgera are commodified subjects of a customary patriarchy. In this oppressive social context, they argued, cash compensation would largely benefit claimants' male relatives at the expense of claimants themselves. Their prescience haunts this assessment.

The pressure from international stakeholders and claimants led the PRFA to make cash⁵ the lion's share of all remedy packages. Successful claimants each ultimately received 50,000 Kina—8 times the national per capita income—in cash. The decision, notwithstanding its popularity, undermined the Framework's ability to empower socio-economically disadvantaged and vulnerable women in Porgera. First, cash made every award fungible. Claimants became targets for avaricious relatives, and could be easily dispossessed by their families. Second, cash made every award easily comparable. The Framework could no longer tailor remedies to individual claimants without compromising the OGM's legitimacy. Third, cash is easily dissipated. For claimants who retained their money, the PRFA could no longer patiently build their capacity to launch and run a business. All of these possibilities materialized. Claimants were immediately, often forcefully, dispossessed of their remedy; every award was virtually identical; and, what cash remained in claimants' possession was quickly spent, with no durable benefit.

1.D: CONCLUSIONS AND RECOMMENDATIONS

The Framework disappointed many involved in its implementation and almost everyone it was designed to benefit. It would be facile, however, to blame any one actor for its shortcomings. Barrick designed the Framework based on the insight of local stakeholders and leading experts in the Guiding Principles and sexual violence in Papua New Guinea. The Framework's foundational documents evidence sincere and considered attention to claimant-oriented procedural protections. The PRFA and Cardno made mistakes. But they implemented the Framework against a complex backdrop of impossible confidentiality, widespread gender-based violence, and socio-economic deprivation. Fidelity to the Framework's original conception was inevitably a challenge. It was exacerbated by claimant and international stakeholder pressure to issue cash awards, which ultimately exposed survivors to the very perils of custom and patriarchy that the Framework was designed to transcend. In short, beyond institutional errors, the Framework's ambitions were not realized because of a confluence of powerful external forces.

1.D.1: RECOMMENDATIONS FOR BARRICK

This assessment was not geared to developing specific recommendations for Barrick regarding the Framework, which had already run its course. Yet we cannot ignore that the cost of institutional failures—no matter their cause—was borne by the most vulnerable rights-holders. A number of the women the Framework was designed to benefit may not have been able to access it. Those who did may have been improperly denied remedies. And those who received remedies ultimately did not enjoy the lasting benefits to which the Framework aspired, often suffering further harm at the hands of their families. If Barrick remains committed to its initial aims, these failures demand a response.

The specifics of the response will require considered analysis and planning based on extensive stakeholder engagement. In particular, the path forward will need to account carefully for the risks to survivors of sexual violence inherent in a cultural context where women are commodified and gender-based violence is pervasive. To be effective and sustainable, such

⁵ We use the term "cash" in its colloquial sense to denote monetary amounts. Claimants under the Framework received such amounts through direct deposit into bank accounts, not physical currency.

solutions would need to include Barrick and the Zijin Mining Group—now a 50-percent owner of the PJV—in the analytical process. Based on our assessment findings, however, we advance some preliminary recommendations to calibrate expectations and ground further stakeholder engagement.

1. **Do not extend or re-launch the Framework:** The

Framework has been delegitimized in Porgera. Implementation errors no doubt played a role. But the most significant delegitimizing force was the ERI settlement, which led to persistent and consistent rumors of relative inequity. In the currently charged environment, the Framework itself could only regain legitimacy if Barrick gave everyone who alleged sexual violence by PJV personnel K200,000 (the amount widely rumored to be what the ERI Claimants received). That is neither a reasonable expectation nor a sustainable solution. The Framework had virtually no evidentiary thresholds. Stakeholders—including claimants, critical activists and medical personnel—consistently state that the Framework awarded remedies for fabricated claims. The expectation of an improbably generous cash award heightens the risk of false, and possibly coerced, claims. That is not to encourage Barrick or the PJV to ignore OGMs. To the contrary, we believe that the path forward should seek an enduring solution that addresses the Framework’s implementation gaps while minimizing risks to claimants and advancing the Framework’s original ends.

2. **Take monetary or other fungible compensation off the table for all claims of gender-based violence:** Denying the possibility of fungible remedies would be unpopular. But we believe that bowing to stakeholder pressure to award substantial cash compensation critically undermined the Framework. It made tailored empowerment and durable remedies virtually impossible. Tragically, cash compensation exposed successful claimants to horrific domestic violence. As experts in sexual violence in Papua New Guinea predicted from the outset, fungible remedies do not benefit the female survivors of sexual violence in Porgera. Denying the possibility of fungible remedies would

also make clear that any OGM is simply a complement to, and not a substitute for, existing judicial processes. Survivors who so desired could continue to seek monetary remedies from Barrick, the PJV or individual perpetrators, but only in fora legitimately equipped to assess the truth of claims and their associated damages.

3. **Ensure that the existing OGM at the Porgera mine is able to receive and process gender-based violence claims:**

Parallel to the Framework, Barrick developed a more formalized, general grievance process at the Porgera mine. We recommend directing all future gender-based violence claims—including those that, if filed at the right time, would have gone through the Framework—to this non-specialized OGM, without differentiating between sexual and non-sexual violence. The Framework’s focus on sexual violence, with its associated social stigma, rendered the filing of a grievance a source of risk for claimants. An OGM for an array of grievances would mitigate that risk. The broader OGM would permit the PJV safely to invest in more public education about the process and remedy options for all types of claims without compromising women’s safety. That would obviate the Framework’s challenges of accessibility, predictability, equitability and transparency. And, from the perspective of effective implementation, the PJV may better handle sensitive human rights issues directly rather than relying on an intermediary to implement key protocols and procedural protections.

4. **Focus on community-based empowerment and sustainable development programs:** Beyond individual remedy, the Framework’s *raison d’être* was economic empowerment: it was conceived to provide sustainable and enduring benefits to survivors of gender-based violence in Porgera. Disappointment over the failure to provide such solutions animated our interviews with PRFA decision-makers, community leaders, and most successful claimants. The clock cannot be turned back for Framework claimants. But community-level empowerment programs geared to small-business development could help address one overriding concern about the Framework’s implementation and deliver on the Framework’s initial ambitions.

1.D.2: LESSONS LEARNED

The Framework was at the vanguard of corporate efforts to develop Guiding Principles-aligned OGMs. As such, it faced a host of unforeseen, and possibly unforeseeable, challenges. Its experience is replete with lessons for stakeholders and businesses. We distill six overarching lessons for OGMs of all types:

1. **Understand the virtues and limits of different OGM types:** An OGM cannot be all things to all stakeholders. Distinct OGM structures serve distinct purposes. An adjudicative OGM, for instance, may be preferred to a dialogue-based OGM when facts are in dispute and legitimacy is a paramount concern. But each type also brings inherent institutional constraints. An adjudicative OGM inevitably has less remedial discretion than a dialogue-based OGM in pursuit of legitimacy and predictability. Similarly, a rolling OGM may set higher evidentiary thresholds than an historical OGM without compromising accessibility, because facts and grievances are contemporaneous. OGM designers should recognize the virtues and limits of distinct institutional types to ensure they tailor the OGM to context and to avoid setting impossible targets.
2. **Anticipate the butterfly effect:** A cognate of institutional limits is the network effect of apparently discrete decisions. In the Framework's case, for instance, the decision to focus on sexual violence forced the PRFA to seek institutional secrecy, which in turn limited Framework efforts to promote accessibility, predictability, equitability and transparency. Similarly, the decision to include a waiver, while justifiable under the Guiding Principles, significantly heightened the importance of equitability and forced the Framework to offer complete remedies under international human rights law to ensure rights-compatibility. OGM decision-makers should thus avoid considering issues in isolation, as apparently narrow decisions may have diffuse effects.
3. **Do not rely on confidentiality:** In communities as intimate as Porgera, confidentiality is likely chimerical. OGMs should therefore be implemented as if any and all information will become widely disseminated. Confidentiality may still be an aspiration, but it should not be a foundation. An OGM that requires confidentiality to protect critical interests should be reconceived. The conservative assumption will help ensure the OGM's resilience if sensitive information does become public.
4. **Prepare always to be audited:** A key virtue of the Guiding Principles is that stakeholders have an authoritative benchmark for OGM effectiveness. The benchmark encourages reporting and auditing. OGM decision-makers should keep detailed records regarding stakeholder engagement and individual grievances to ensure they can explain their decisions in the future. Such records are most important for unsuccessful grievances or claims so that observers can confirm that decisions were fair. In addition to readiness for reporting, such records ensure rigorous implementation and facilitate continuous learning.
5. **Ensure consistent monitoring:** The Framework is a testament to the risks of imperfect implementation. OGM decision-makers should anticipate dissonance between design and implementation. Even the most qualified and best-intentioned OGM decision-makers will make mistakes. To minimize the risk of implementation errors, OGMs should incorporate quality-control mechanisms. Such measures should ensure that decision-makers are held accountable contemporaneously for implementation failings.
6. **Trust the stakeholder engagement (within limits):** Stakeholder engagement is the cornerstone of an effective OGM. But over-sensitivity to stakeholder views can compromise the stability and efficacy of an intricately designed OGM. While stakeholder engagement is an important element of continuous improvement, in certain circumstances—as with the Framework and cash compensation—adopting stakeholder views to change an already-operating OGM is dangerous. We therefore suggest a presumption against deviating from pre-OGM stakeholder advice when three circumstances obtain: (i) the OGM was developed based on the guidance of myriad independent and credible experts; (ii) those experts reach a consensus about an important aspect of the OGM; and (iii) that aspect is at the heart of an intricate institutional design.

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