Helpdesk Research Report: Community-based Approaches and the Extractives Sector in Situations of Fragility and Conflict
Date: 25.11.09

Query: Please provide a summary of literature on community based approaches and the extractives sector in situations of state fragility and conflict, including the use of the Free, Prior and Informed Consent (FPIC) model. Where possible, please include case studies and/or established guidelines on: (1) pro-poor distribution of resources and local livelihoods development; and (2) human rights, environmental, HIV/AIDS protection and in dealing with conflict in communities.

Enquirer: Fragility and Conflict Unit, AusAID

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1. Overview

There is a large body of research and practical guidance on community-based approaches in the extractives sector and some literature on extractives management in the context of state fragility and conflict, but very little which bridges the two. As such, this helpdesk report includes literature from both fields, drawing out those elements which are most relevant to this query.

A number of authors make the point that conflict can alter the local context of community development initiatives and produce grievances. In addition, in fragile contexts, power structures may be uneven and participation inequitable. In such cases, using community development programmes to address grievances in local communities can be a way of easing tensions and contributing to peace-building.

Free Prior and Informed Consent (FPIC) is gaining increasing recognition as a model for effective and equitable community engagement in natural resource management. Originally developed specifically in relation to indigenous communities, its use is now being advocated more widely. FPIC involves the full participation of the community in setting the terms and conditions of all phases of a project before it begins. However, according to one commentator, given that it requires a set of legally established rights within a well defined community, it may be more difficult to implement in conflict and post-conflict situations where titles may have been destroyed, community members displaced, and/or land occupied by outsiders.
The literature offers a number of recommendations on community engagement in the extractives sector. The following are particularly relevant to fragile and conflict-affected contexts:

- Engage with local communities as partners in preventing and managing conflict, rather than approaching them as a threat or risk.
- Distribute any benefits from the project (including jobs, development assistance, etc.) widely and fairly across communities.
- Apply principles of transparency and accountability.
- Recognise legacies of violent conflict.
- Understand that there are set boundaries for what is possible when it comes to community development.
- Give a voice to the marginalised when designing community development, whilst appreciating that this can also change power dynamics and relationships.
- Ensure that those engaging with the community are as representative as possible of the community itself and have in-depth knowledge of local culture, customs, leadership, and communications.
- Take a tri-sector partnership approach (between the private sector, government and civil society) to help ensure greater legitimacy and build social capital within the community.
- Work proactively to prevent conflict and to build sustainable relations with communities and governments rather than trying to defuse discontent and outrage once they have emerged.
- Apply conflict-sensitive business practices, including early, consistent, meaningful and empowering stakeholder engagement.
- Create effective channels through which stakeholders can raise and address problems.

2. The extractives sector in situations of state fragility and conflict


Aimed primarily at those involved in extractive industries management, this guide provides basic guidance on assessment and management of risks that oil and gas companies might face in conflict settings. This includes conflicts between companies and local communities and wider social and political conflicts.

According to the guide, greater success comes from working proactively to prevent conflict and to build sustainable relations with communities and governments than from trying to defuse discontent and outrage once they have emerged. It proposes a two phased approach involving conflict risk assessment and conflict risk management. The second phase is most relevant to this query.

Conflict risk management involves a variety of strategies and actions to prevent manage and resolve conflict:

- The ‘do no harm’ approach includes adhering to national laws and international norms such as the Voluntary Principles on Human Rights and Security; engaging with local communities as partners in preventing and managing conflict, rather than approaching them as a threat or risk; distributing any benefits provided by the company (including jobs, development assistance, etc.) widely and fairly across communities; and insisting on the application of transparent principles of accountability.
- The ‘do something’ approach involves a combination of internal and external measures, including investing in the company’s conflict management capacities; increasing conflict sensitivity of operations and of community outreach projects; and establishing early warning systems for areas prone to violent conflict.
The ‘do something ++’ approach includes: building external conflict management capacity (e.g. supporting local and national conflict management resources; providing training; funding study tours to regions where successful conflict management has been achieved etc.); and providing funding and/or technical assistance to national and/or international conflict resolution efforts.

The guide also includes three case studies of managing local level conflict in Nigeria, Colombia and Indonesia (pp 22-30).

http://www.commdev.org/content/document/detail/1801/

This toolkit provides guidance on managing conflict in extractive sector community development projects. It focuses on the links between local conflict and community development (rather than the extractive sector project itself). It includes a range of practical tools (p25) and case studies (p 87) from both conflict- and non-conflict-affected states.

According to the guide, extractive sector companies have increasingly started to think strategically about community or social investment as a way of not only “doing good” but also creating the type of operating environment which is conducive to business. Whilst this strategic community investment, as it is often called, is more complex and more difficult to implement than corporate philanthropy, its effects can be considerably longer lasting and more in line with both company and community needs. It also provides more flexibility for considering issues surrounding conflict in terms of programme design.

The guide offers the following five key messages for practitioners (p 24):

- Community development always has the potential to cause conflict so ensure that, at a minimum, the design is conflict-sensitive.
- Engage stakeholders in participatory processes which build trust. Involve them in both the design and implementation of projects.
- To be effective, community development should be conflict-aware, participatory, based on a systematic identification of needs and opportunities and strategic to the business.
- When operating in a conflict environment, indirect approaches through community development can often make a positive contribution to peace-building, thereby making the business environment more stable.
- Deal with company-induced conflict as quickly and transparently as possible to avoid escalation. Community development is no substitute for understanding and resolving grievances head-on.

It also offers the following lessons which may be of particular relevance to conflict-affected and fragile contexts (pp15-23):

- Conflict at a regional, national, or international level can alter the local context of community development initiatives. Use community development programmes to address grievances in local communities even if they arise from conflicts outside community control.
- Investing resources into communities will inevitably provoke/stimulate latent or new tensions.
- The terminology “conflict management” can be off-putting to communities when implementing community development.
- Recognise legacies of violent conflict.
Understand that there are set boundaries for what is possible when it comes to community development.

Giving a voice to the marginalised is essential when designing community development, but can also change power dynamics and relationships.

Women have been shown to be effective peace builders in some conflict areas where they have been empowered to do so.

It is not sustainable or effective for companies to try to replace the government as provider of public goods and services.

Ensure that your engagement team is as representative as possible of the communities with which it needs to interact in terms of gender, age, religion, ethnicity and language. Ensure also that the team includes people with in-depth knowledge of local culture, customs, leadership, communications models and power relations, and people with the ability to influence local leaders.


This guide is designed as a tool for managers to help ensure their operations are conflict-sensitive. It aims to enable managers to anticipate, monitor and assess the interaction of business operations with local, regional or national tensions, triggers and accelerators of conflict and to design strategies that contribute to conflict prevention and peace-building.

The guide provides information on understanding conflict risk through a series of practical documents and tools. In particular, it includes special guidance on key ‘flashpoint issues’ where conflict could arise at any point during a company’s operation. These flashpoint issues are:

- Stakeholder Engagement
- Resettlement
- Compensation
- Indigenous Peoples
- Social Investment
- Dealing with Armed Groups
- Security Arrangements
- Human Rights
- Corruption and Transparency

According to the guide, conflict-sensitive business practice (CSBP) benefits host communities, as well as the wider regional and international contexts, by ensuring that company investments avoid exacerbating violent conflict. CSBP can help companies avoid causing, triggering or accelerating conflict to the mutual benefit of themselves and communities. It can also help them develop legitimate steps towards contributing to peace and stability in unstable states. Early, consistent, meaningful and empowering stakeholder engagement processes lie at the core of CSBP. Improved relationships between companies and communities help different stakeholder groups to understand what the impacts of investment are likely to be. Transparency about company plans, schedules and prospects, and the creation of effective channels through which stakeholders can raise and address problems, invites trusting relationships, reduces uncertainty over the future and creates a sense of shared ownership over a company’s operations.

This paper considers how tri-sector partnerships among businesses, government and civil society can help deliver social investments in conflict areas, or can transform the conflict and improve the social investment climate. The key lessons which emerge from the paper are:

- Understanding the conflict’s causes and area of influence is essential for almost all social investment activities, whether delivered through partnerships or otherwise.
- In conflict situations, people may be less willing or able to participate in partnerships. Consequently, the process of creating a partnership and its subsequent role in building social capital may be more crucial than the physical components of community development.
- Tri-sector partnerships that explicitly seek to prevent conflicts need to aspire to equal representation of all parties.
- Human rights are often under threat in conflict situations. Tri-sector partnerships may help ensure that a company’s security provisions include safeguards to protect human rights.
- Companies are less likely to participate in tri-sector partnerships if society views them as being associated with the conflict in some way. Where company legitimacy is low, a more arm’s length model of engagement is preferable.

Case studies

Sierra Leone


This paper critically examines some of the main challenges associated with facilitating ‘good governance’ in small-scale diamond-mining communities, focusing on the experience of Sierra Leone. It looks specifically at the Diamond Area Community Development Fund (DACDF) launched in December 2001, a participatory mechanism that aims to allow local actors to exercise their natural resource management responsibilities and decision-making powers (see pp. 75-76).

According to the paper, the fund has been widely heralded as providing considerable incentive for both miners and diamond-rich chiefdoms to engage in legal diamond-mining activities and revenue reporting, by returning a percentage of mining revenue back to the producing chiefdoms. In addition to providing valuable resources for social and economic development, the fund is supposed to encourage chiefdoms to monitor mining more effectively and eradicate illegal activities.

However, the disbursement of funds and the capacity of communities to monitor development projects have provoked a considerable amount of contention among critics. For example, in 2002, a series of reports were produced by industry observers, which revealed that a number of chiefdoms were not using the fund in a competent manner.

According to the author, this and other similar initiatives in Sierra Leone demonstrate how the introduction of complex monitoring processes has provided significant challenges for a country emerging from a long period of conflict and isolation. This is an environment with serious shortages in human capacity, and where good governance and accountability will undoubtedly take considerable time to develop. Furthermore, power structures within Sierra Leonean society remain hierarchical and highly uneven, which makes the equitable participation of civil society a
great challenge. It will also be difficult to eliminate the complex network of actors that have long sustained the corruption and lack of transparency that characterise local diamond extraction.

**West Africa**


This report describes the current state of the diamond industry in West Africa, focussing on Cote D'Ivoire, Guinea, Liberia and Sierra Leone. It identifies possible ways of using diamonds as a tool for development rather than a fuel for conflict. These include how to deliver a larger part of the revenue from diamonds to the miners themselves and to the rural communities that host them, and strategies for making artisanal mine owners more efficient and profitable and less financially dependent on traders. The report also suggests ways of improving cooperation and harmonising diamond policy at the regional and international level.

**Democratic Republic of Congo**


Development agencies and NGOs are piloting several good governance and development initiatives in different areas in the Democratic Republic of the Congo that directly or indirectly aim to enhance the security and livelihoods of artisanal miners. According to this paper, the prospects for resource governance efforts contributing to peace-building depend much on arms control and reform of the Congolese security sector. At the same time, incomplete security sector reform and partial peace should not discourage initiatives from moving forward. Efforts that engage artisanal miners, cooperatives, companies and civil authorities will help to re-establish civil control over militarized mining areas.

The paper argues that the mining sector should be formalised and supported in order to help alleviate poverty and sustain economic growth. The formalisation and regularisation of the artisanal mining sector would also diminish legal ambiguity and reduce the need to use security services to back up claims to resources.

3. Community based approaches in the extractives sector

**General**


http://pdf.wri.org/breaking_ground_engaging_communities.pdf

This paper analyses existing community engagement standards and guidance, as well as experiences in several high profile extractive and infrastructure projects. It reveals that key gaps remain in the knowledge base and on-the-ground application of community engagement standards. Based on this analysis, the paper develops seven principles for effective community engagement for extractive and infrastructure projects that are intended to serve two key purposes:
For companies and governments developing projects: to provide a framework for identifying solutions to core community engagement challenges.

For citizen organisations supporting communities: to serve as a resource, in order to empower local communities to provide more meaningful input into project design and implementation.

The seven principles are:

1. Prepare communities before engaging.
2. Determine what level of engagement is needed.
3. Integrate community engagement into each phase of the project cycle.
4. Include traditionally excluded stakeholders.
5. Gain free, prior and informed consent.
6. Resolve community grievances through dialogue.
7. Promote participatory monitoring by local communities.

http://www.icmm.com/page/629/library/documents/community-development-toolkit-

This guide presents tools to help identify opportunities, build durable relationships, and promote community development in the extractive sector. It is divided into two parts and includes:

Part 1:

- A brief discussion of mining and community development, including community development goals and processes, and opportunities to link community development to the mining project cycle. This section includes good practice principles for sustainable community development, advice on the scheduling of development activities in the mining cycle, and on the roles of government, companies, and communities.
- The community development tools section, which introduces the essential building blocks of community development and describes seventeen tools. Each community development tool is supported by detailed, step-by-step instructions on how and when to use them.

Part 2:

- An overview of the toolkit development process, including consultation activities, work undertaken, and experience drawn from southern Africa.
- A discussion of government tools for sector sustainability. This includes an examination of overarching mineral policies and mining laws in five countries (Botswana, Namibia, South Africa, Tanzania, and Zimbabwe) to identify current trends in mineral development that contribute to sustainable development.
- An annotated bibliography, describing the broader range of information and resources available on mining and community development.


This study explores how communities and companies can engage in co-planning and monitoring to ensure sustainable local development benefits from the extraction of resources. A sample of participatory monitoring and evaluation tools and mechanisms include:
Participatory planning: Members of local communities contribute to plans for company activities potentially relating to business and to local development.

Good Neighbour Agreements are co-produced, whereby commitments are constructed and agreed upon between companies and communities.

Community Forums: Single or multi-stakeholder community groups gathering voluntarily to discuss a previously agreed upon topic, to provide information and receive feedback, or for other relationship-building activities that are made explicit. Effective communication strategies are required to ensure balanced participation.

Community Suggestion Boxes: Members of a community may submit anonymous complaints, suggestions or questions. The box should be placed in an easily accessible public location. It is opened publicly at pre-determined times (such as weekly) and a response is provided to each suggestion.

Participatory Budgeting: Processes by which citizen-delegates decide on or contribute to decisions regarding the allocation and monitoring of expenditures of all or a portion of public resources. Also applicable to company resources allocated for community development.

Citizen Report Cards: Short surveys with questions developed through participatory discussion and used to measure perceptions of adequacy and quality of public services. They are also potentially applicable to the extractive industry context. Survey responses are supplemented with a qualitative understanding.

Community Scorecards: Focus groups identify indicators of success for a given project or service. Target beneficiaries and service providers rate the effectiveness of service based on the agreed upon indicators.

Underlying each of these tools are supporting processes of training and capacity building, access to information, and mutually agreed-upon metrics for monitoring.


This paper examines the role of communities and civil society organisations in the management of mineral wealth. It looks at where communities currently fit in discussions and policies relating to mineral wealth and to their marginalisation and lack of capacity. It addresses the issues of governance, participation and human rights and discusses three case studies that show ways in which companies and NGOs can assist communities participate in the management of mineral wealth. The paper concludes with recommendations regarding institutional and other changes that may be required to facilitate community participation in the management of mineral wealth; and of the roles that NGOs and development agencies can play in assisting the process.

**Free Prior and Informed Consent**


This report examines the emerging concept and practice of prior informed consent in the context of communities affected by mining. Prior informed consent refers to the right of a local community to be informed about mining operations on a full and timely basis and to approve a mining operation prior to the commencement of operation. This includes participation in setting the terms and conditions addressing the economic, social, and environmental impacts of all phases of mining and post-mining operations. The report identifies the key elements of an effective right to prior informed consent. These elements include the need to legally establish this right, the need to broadly define the community to be consulted, the right to veto mining development, and the right to participate in monitoring and enforcement.
However, as revealed in the report, this right is not often manifested in full. Rather, it varies in
degree, ranging from the right of communities to be informed regarding mining development, to
the right to dictate the terms and conditions of mining development, to the right to veto mining
development on community lands. The report draws upon analyses of nine case studies where
the right of prior informed consent was a significant issue.

The case studies reveal that national and local level recognition of mining communities as key
partners in decision-making is growing. Governments are increasingly acknowledging the
importance and legitimacy of various components of the right to prior informed consent,
particularly the rights of indigenous people to control development of their lands. Mining
companies are also increasingly consulting with communities to obtain a social license to
operate. This has occurred even in the absence of legal requirements, in order to avoid incurring
costs due to community resistance and risks to their corporate reputations.

In addition to efforts asserted and exercised at the national level, the right to prior informed
consent is gaining prominence in the international arena. International instruments, including both
legally-binding treaties and non-binding guidelines and declarations, have recognized the right of
affected communities, particularly indigenous communities to participate in mining-related
decision-making.

However, individual state practice is not sufficiently consistent or widespread so as to confirm
such a right as customary law today. The right to prior informed consent is effective only if it is
defined and applied in a manner that guarantees the sustainable development of local
communities.

Consent Processes in the Extractive Sector’, Yale Human Rights and Development Law
Journal, Vol. 11, p. 69
http://www.commdev.org/files/2264_file_Article_Yale__Extractive_and_FPIC.pdf

According to this paper, contemporary struggles over extractive industry projects are not
adequately captured by current corporate social responsibility (CSR) strategies because they are
not exclusively disputes about the environment, human rights or health and safety.

This article proposes that extractive industries can tackle the underlying causes of the growing
opposition to their projects in the developing world by engaging in consent processes with
communities and groups directly affected by projects, with a view to obtaining their free prior and
informed consent (FPIC). The authors propose that FPIC must be enduring, enforceable, and
meaningful in order to take companies and communities out of their current defensive positions.
FPIC should instead allow companies and communities to take up proactive positions— with
those companies that have the consent of the communities in which they operate obtaining a
competitive advantage; and those communities that have enforceable agreements with
companies obtaining control over the natural resource-based development process on which their
future depends.

World Resources Institute, 2007, ‘Development without Conflict: The Business Case for
Community Consent’, WRI, Washington

While much has been written on the legal, normative, and development arguments for ensuring
that host communities have the opportunity to provide their free, prior, and informed consent
(FPIC) to a project, relatively little attention has been paid to the “business case” for FPIC. Most
project sponsors and financiers tend to perceive the business case for community interaction in terms of “community engagement” or “consultation.”

This report demonstrates the business case for incorporation of FPIC principles in large-scale development projects. Drawing on four case studies from projects in the Philippines, Argentina, Thailand and Peru, it illustrates how a company’s ability to gain the approval of the host community can affect the project’s success. In addition, it describes best practices and leading policy developments that provide practical guidance for implementing FPIC principles in global business practices.

Based on these case studies, the report reaches the following conclusions:

- When businesses get it right, achieving consent can benefit both the community and the project.
- The business risks of going forward with a large-scale project in a community without its acceptance can threaten the viability of the project.
- Community opposition can arise from impacts that are generated at any stage in the project cycle.
- Addressing issues of community concern before the project begins is likely to be more successful and cost-effective than responding to community opposition later on.
- The risks of failing to achieve community consent are not borne exclusively by the project sponsor. Other stakeholders, such as shareholders, financiers, and host governments can also have their interests adversely affected.
- Engagement or consultation may not always be sufficient to fully address these risks. Consultations that do not resolve a community’s reasons for opposition or achieve consent will provide little assurance against potentially costly and disruptive conflict.

The case studies also suggest six principles for implementing consent procedures:

- **Information**: Affected communities should be provided sufficient information, support and time to make informed decisions,
- **Inclusiveness**: All interested community members should be allowed and encouraged to take part in the FPIC process
- **Dialogue**: Dialogue within an FPIC process should be formalized, continue throughout the lifetime of a project, and include government and local stakeholder representatives.
- **Legal recognition**: FPIC should be formally recognized through binding negotiated agreements.
- **Monitoring and evaluation**: Opportunities for appropriate and independent community monitoring and grievance processes should be put in place.
- **Corporate buy-in**: Project proponents should view FPIC as an inherent and necessary cost of project development.

Community involvement and consent work best in a setting where the host country government recognizes these concerns as a matter of law or policy.

**Crosscutting issues**


This report summarises the basic facts surrounding HIV/AIDS, looking at policy issues that may need to be addressed when dealing with HIV/AIDS in the workplace. It presents links to several case studies specific to the oil and gas industry, with particular reference to developing countries.
http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/ref_HIVAIDS_section1/$FILE/Section+1b.pdf

This guide is a compendium of resources – information, tools and case studies – aimed at stakeholders and organisations working within mining communities in Southern Africa, to initiate or strengthen their responses to the HIV/AIDS epidemic.

http://www.icmm.com/page/739/hiv-aids-tuberculosis-and-malaria

This guide aims to improve competencies to manage HIV/AIDS, TB and Malaria at an operational level and to encourage an integrated approach to addressing the impact of the three diseases within the workplace and the communities where mining companies operate.


This report outlines the various elements of the ICMM Sustainable Development Framework relating to human rights. It highlights key points of relevance to business and human rights, as well as some relevant external tools and initiatives. It also briefly documents approaches to dealing with human rights issues adopted by a number of ICMM members in order to facilitate the spread of good practice.


This Good Practice Guidance provides the mining industry with an outline of the steps required to improve biodiversity management throughout the mine cycle.

4. Further information

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Websites visited:
NIZA, CIDSE, CommDev, International Council on Mining and Minerals (ICMM), United Nations Conference on Trade and Development (UNCTAD), Communities and Small-Scale Mining (CASM), Centre for Social Responsibility in Mining (CSRM), Environmental Law Institute, Wilson Center, International Petroleum Industry Environmental Conservation Association (IPIECA), Revenue Watch Institute, Alliance for Responsible Mining, Bank Information Center, Extractive
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