

# MINING AND ITS ROLE IN SUSTAINABLE DEVELOPMENT: WHERE DO WE STAND IN 2011?

IBRAM, Belo Horizonte

29 September 2011

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# Development of Ideas

- 1987: The Bruntland Commission
- 1992: The Rio Earth Summit
- 2002: The Johannesburg Summit
- 2002: The Mining Minerals and Sustainable Development Project [www.iied.org/mmsd](http://www.iied.org/mmsd)
- 2002: Founding of ICMM [www.icmm.com](http://www.icmm.com)
- 2003: World Bank Extractive Industries Review

# Development of Ideas in the Last Decade

- At the **international level**, continuing rapid development of standards and rules
- At the **national level**, very considerable changes in national policy and legislation
- At the **community level**, a revolution in expectations

# The Challenge: Getting Beyond the “Resource Curse”



“Nations that depend heavily on their natural resources tend to have

(a) less trade and foreign investment,

(b) more corruption,

(c) less equality,

(d) less political liberty,

(e) less education,

(f) less domestic investment, and

(g) less financial depth than other nations that are less well endowed with, or less dependent on, natural resources.”

- Thorvaldur Gylfason, *Natural Resources and Economic Growth: From Dependence to Diversification*, (2004).

# THE OBJECTIVE IS SUSTAINABLE DEVELOPMENT

- *“Humans don’t exist to serve mining. Mining exists to serve humans”*
- The goal is not "sustainable mining," but sustainable development of human communities and nations.
- Is mining supporting sustainable development? *This is a way of asking how efficient mining is at meeting human needs.*

# WHAT IS SUSTAINABLE DEVELOPMENT?

- **Sustainable development**, as defined by the Brundtland Commission in 1987 *"is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."*
- Sustainable development is development.
- But what is development? And can we measure it?

# WHAT IS DEVELOPMENT?

- Increasing GDP per capita?  
<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.html>
- Increasing GDP per capita plus a measure of income distribution?
- Income may be an inadequate indicator of well-being; the poorer people are, the less meaningful it is
- The Human Development Index? <http://hdr.undp.org/en/>
- Gender-Related Development Index?

# Amartya Sen: **Development as Freedom**

- political freedoms
- economic facilities
- social opportunities
- transparency guarantees
- protective security



In short, the ability of people affected to choose their own path; the multiplication of their options and control over their own future

# MOVING FROM THEORY TO PRACTICE

- Requires that we measure results
- Requires that we choose a scale for measurement
- I propose that we measure on three scales:
  1. Meeting the expectations of local communities
  2. Contribution to national aspirations for development
  3. Consistency with the emerging framework of international norms

# I. Local Communities and Resource Development



# CHANGES IN COMMUNITY EXPECTATIONS

- The changes in the relationship between mining projects and communities has been changing dramatically
- It is impossible to detail all of these changes
- We will focus on the movement *from coercion to negotiation to consent*

# The “Old Model”

Property rights are determinative in who gets a say in development .

- The company’s task is to identify owners
- And where necessary acquire their property as provided by law, with compensation
- And where property was affected by development, to pay for any damage or injury
- Government used force to protect the company’s property rights
- *What did people get who owned no property?*

# Who Were the People Who Owned no Recognized Property?

- The informal sector (de Soto)
- Indigenous and tribal peoples
- Residents of former colonies whose legal systems were imported
- The poor
- In the case of the minerals themselves, everyone but the state

# Level One

- The requirement of consultation arises
- Often as a requirement of an Environmental Impact Assessment law
- Usually seen as a single event
- Often with very little advance information
- Often focused only on environmental concern
- Gave local communities very limited influence
- *But it extends to everyone who may be affected by development, regardless of property ownership*

# Level Two

- From one consultation event to multiple consultations
  - A variety of changes over the life of a project require consultation
  - Common Triggers:
    - Scoping
    - Exploration
    - Construction
    - Expansion
    - Accidents
    - Closure Plan



# Level Three

- **Broadening Consultation**

- Consultation moves from environmental impact to include environmental, plus social, plus local economic development impacts
- Consultation goes beyond traditional, visible leadership, to reach out to women and marginalized groups
  - Many of these ideals are embodied in the Akwé-Kon Guidelines



# Level Four

- From consultation to negotiation
- All development issues are on the table: who feels the impacts, who gets the benefits, and who makes decisions
- The concept of “community development agreements” or “impact benefit agreements” [www.sdsg.org](http://www.sdsg.org)
- The community becomes a contracting party with legal rights
- This can be seen either as recognition of traditional community property rights, or as moving beyond the concept of property rights as the sole basis for participation in development.

# And Moving Beyond:

- We are Reaching the State of Permanent Consultation
- We are moving “from Consultation to Consent”
  - 1. Government is no longer willing to use military or police force against its own voters
  - 2. Impact of the legal movement toward prior informed consent
  - 3. Business realization that whatever the legalities, companies cannot operate profitably without a social license

## II. CHANGING NATIONAL POLICIES

There is a dramatic change in attitudes of national governments:

- The economic pendulum has swung from fewer investment dollars chasing many opportunities to more investment dollars chasing fewer good opportunities.
- Governments want more, ask for more, demand more, get more

# A FEW EXAMPLES

- All existing rights invalidated, or at least questioned:  
DRC, Philippines
- Broad Based Black Economic Empowerment – South Africa
- New tax regimes
- A swing back to mandatory joint ventures with state companies – many countries
- Is nationalization really impossible?
- **All in a search for more development benefits**

# TWO DISTINCT VISIONS

First vision: the company pays taxes to the state; the state manages development. The questions are all about a fair tax system, transparency of revenues, and investment for development: the Value Chain.

Second vision: the emphasis is on more direct development benefits: transportation, communication, and other infrastructure, human capacity building, economic linkages.

**African Mining Vision 2050.**

# The Fundamental Question

Can better natural resource governance in resource rich countries deliver better development results?

# Where Are the Benefits?

- Notable development of the Extractive Industries Transparency Initiative
- Search for better governance through the whole value chain
- International Bar Association's MMDA – [www.mmdaproject.org](http://www.mmdaproject.org)



# 1. Preventing the Race to the Bottom

- THE OUTLAW SEA, William Langewiesche



# Additional Concerns

2. National laws have trouble regulating global markets
3. Economic efficiency: common international standards can lower transaction costs.
4. Protection of non-economic values: international rules may provide protection for things the market will ignore
5. Lowering the risk of violent conflict surrounding resource development

# The Dilemma

International rules are required in the natural resources sector to prevent the potential excesses of unregulated markets—but there are no true international law-making institutions.

?

# Further Dilemma

- Is it better to have undemocratic rules, or no rules at all?
- Amartya Sen quoting Thomas Nagel: “The most likely path toward some version of global justice is through the creation of patently unjust and illegitimate global structures of power that are tolerable to the interests of the most powerful current nation-states.”

# Essential Components of Effective International Rules

- 1. A Rule
- 2. A mechanism to ensure the rule is being followed
- 3. Positive consequences for following and negative consequences for failing to follow the rule

# International Rule Systems in Natural Resources

- IFC's Performance Standards and Guidance Notes:  
<http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards>
- Extractive Industries Transparency Initiative (EITI):  
<http://eiti.org/>
- Voluntary Principles on Security and Human Rights  
[www.voluntaryprinciples.org/files/voluntary\\_principles\\_english.pdf](http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf)
- Global Compact  
<http://www.unglobalcompact.org/>
- Global Reporting Initiative  
<http://www.globalreporting.org/Home>
- United Nations Special Rapporteur on Business and Human Rights  
<http://www2.ohchr.org/english/issues/health/right/standards.htm>
- OECD Guidelines for Multinational Enterprises  
[http://www.oecd.org/department/0,3355,en\\_2649\\_34889\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html)

# Rule Systems in Development

- The Natural Resource Charter Project  
<http://naturalresourcecharter.org/>
- The Extractive Industries Source Book—University of Dundee  
<http://www.eisourcebook.org/>

# Six Sigma

- $Q \times A = E$ : Quality x Stakeholder Acceptance = Excellence and Effective Results



# Next Steps in Strengthening Rule Systems

- Dialogue that includes the emerging investor nations: China in particular
- Expansion of rules
- Better independent verification
- Stronger incentives for compliance
- Cross-linking of rules
- Increased participation





**Thank You!**

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