

CMSI Consultation Response

Respondent Details

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COUNTRY

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PERMISSION

Yes, CMSI can disclose my feedback, name, and organisation.

STAKEHOLDER

Other: ESG Consultancy

ORGANISATION

Intersocial Consulting

COMMENTS & QUESTIONS BY DOCUMENT

Document:
Governance

General comment

COMMENT:

The Consolidated Mining Standard is compromised in both adopting a mining industry-led consultative process to develop the standard instead of a representative multi-stakeholder process and then also proposing as a standard which doesn't enable affected communities (with the exception of Indigenous Peoples) to have any agency in the process of designing projects or mitigation measures or any right to benefits-sharing outside industry CSR approaches to employment, local content and voluntary contributions.

COMMENT:

Issue: Lack of a representative multi-stakeholder design and governance process -the process to develop the CMS is a unilateral initiative by the mining industry which excludes key stakeholder groups such as affected community representatives, civil society, labour unions and Indigenous Peoples. The CMSI states that the Stakeholder Advisory Group representatives are acting in an individual capacity and therefore don't have the mandate to represent their stakeholder group. This means that key stakeholder groups are not represented in the development of the proposed mining standard.

Recommendation: Discontinue the current process and re-formulate the whole initiative and bring the other stakeholder groups into the process so that a multistakeholder co-governance model can be established which brings together the whole mining industry and representatives from key interest groups such as Indigenous Peoples, affected communities, labour unions and civil society.

COMMENT:

Issue: The IRMA progressive mining standard already exists which was established through a multi-stakeholder process, and which has a multi-stakeholder co-governance model. Recommendation: The IRMA standard already exists and could also be strengthened to require a representative multi-stakeholder

governance process for the development of new mines using the principles of Fair and Equitable Land Access (FELA).

Document:
Assurance

General comment

SECTION: 5. What does the overall governance model look like?

COMMENT:

Issue: The CMS does not require a representative multi-stakeholder dialogue structure at site providing local communities with independent support to assess impacts and benefits. This exacerbates the major power differences between mining companies and local communities and can result in significant abuses as there is no significant countervailing pressure to the mining company.

Recommendation: Require a representative multi-stakeholder dialogue processes to reach binding agreements with local communities commensurate with the scale and complexity of both the project context and project impacts and provide commensurate support to local communities to understand impacts and benefits and to participate in an agreement-making process.

3. Who Can Conduct External Assurance?

SECTION: Who Can Conduct External Assurance?

COMMENT:

Issue: Assurance Provider Requirements -the standard states that it is important to the credibility of the Consolidated Standard that only qualified, competent and independent Assurance Providers perform external assurance. The qualifications state that the provider must hold a university degree in a relevant field and/or demonstrate technical experience in a relevant field. This opens certification to industry insiders who have performed roles on projects without having any supporting qualification such as environmental consultants, engineers and geologists claiming to be social performance experts.

Recommendation: Specify that social assessors have both a required social science qualification and experience in applied social science in the field. Mining companies should not be able to select auditors as this will put pressure on auditors to bias audits in favour of the industry in order to win more audit work. The auditors should be selected through a transparent random selection process so that mining companies cannot select auditors they believe will be more industry friendly.

4. Consolidated Standard External Assurance Process

SECTION: 5. What does the overall governance model look like?

COMMENT:

Issue: The CMS is largely modelled on the ESIA approach where the mining industry engages industry consultants to secure project approvals with the same consultants conducting auditing. The CMS is enabling mining companies to select their assessors. Environmental and social experts have considerable discretion in interpreting impacts and if they are required to market strongly to industry then they will likely bias the audits to the industry to win more auditing work.

Recommendation: Several experts have made recommendations on how to reduce bias in impact assessment and auditing (see Smyth 2021). Solutions to address this imbalance: an independent panel of consultants that would be randomly allocated to projects to minimize collaboration and consultants signing a statement of compliance against best practice (with censure measures).

COMMENT:

Issue: Frequency of Audits Every 3 years seems arbitrary.

Recommendation: For social, the frequency of external assurance events should be driven by risk in some instances, yearly external assurance is appropriate, for instance if significant gaps were identified during the last review period that require the implementation of complex gap-closures measures. In other instances, for lower risk processes, every five years might be appropriate.

Document:
Standard

General comment on Performance Area

SECTION: Introduction

COMMENT:

Issue: The CMS and current approaches by mining companies are not grounded in social theory or applied practices.

Solution: The Dublin Declaration on Fair and Equitable Land Access (FELA) provides a framework of six principles and 26 recommendations to provide a strong theoretical framework grounded in applied sociological practice for the mining industry.

Introduction

COMMENT:

Issue: The CMS is proposing three levels of performance: foundational, good practice and leading practice. While the justification for a foundational level of practice might be to encourage mining companies with lower standards to come on board, the outcome will be that many companies will claim adherence to the CMS just by reaching foundational level. An example is for resettlement the foundational practice does not even require a management plan to be prepared, only a grievance mechanism after the harm is done. This does not even meet minimum human rights requirements and would have the impact to continue with existing damaging practices. The foundational level will result in a considerable decline in standards in the mining industry and have the opposite impact of bringing the poor performers into the process.

Recommendation: Eliminate the foundational level and have all mining companies aim to achieve good practice using the same model as IRMA 50/75/100.

COMMENT:

Issue: The CMS is proposing an optional leading practice level. The good practice level is the target for achievement and the leading practice level is optional. It is clear that many of the requirements under leading practice should be under good practice.

Recommendation: Eliminate the Leading Practice Level and, similar to most other standards, for example IRMA, just have one good practice level so it is clear what needs to be achieved - with the same process as IRMA 50/75/100.

Performance Area 1: Corporate Requirements

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Foundational Practice

COMMENT:

The requirement should be for senior management to comprise a senior social manager on projects with complex social impacts.

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Good Practice

COMMENT:

There is no requirement to have a qualified and experienced social manager sitting on the executive management committee on mining projects with complex social impacts. This means that social impacts will not be prioritized on the project.

Recommendation: On projects with complex social impacts there should be a qualified and experienced social manager represented on the senior-level facility management team.

SECTION: 1.1 Board and Executive Accountability, Policy and Decision, Making, Leading Practice

COMMENT:

Recommendation: that the board needs at least one member competent in complex social or environmental impacts.

SECTION: 1.2 Sustainability Reporting, Good Practice, 1

COMMENT:

Only double-materiality reporting (impacts from the facility) is required in leading practice

Recommendation: Double-materiality reporting needs to be a requirement of good practice.

SECTION: 1.4 Risk Assessment, Good Practice, 1

COMMENT:

Recommendation that external stakeholders, particularly affected communities and civil society need to be engaged in the risk assessment process through dialogue processes on the project.

SECTION: 1.5 Crisis Management and Communications, Good Practice, 1

COMMENT:

Recommendation: Good Practice: 1.d. Relevant stakeholders needs to include local communities and civil society.

Performance Area 12: Stakeholder Engagement

SECTION: 12.1 Stakeholder Identification and Engagement, Foundational Practice, 1

COMMENT:

Foundational practice is too basic -need to just focus on achieving good practice.

SECTION: 12.1 Stakeholder Identification and Engagement, Good Practice, 1

COMMENT:

Meaningful stakeholder engagement is not sufficient. There needs to be effective dialogue with local communities supported by independent experts and civil society. Supporting dialogue process is not adequate -these dialogue processes need to be independently-moderated, affected people provided with independent advice and with the aim of negotiating agreements on impacts and benefits or a no-go decision on the project if impacts are too serious.

SECTION: 12.1 Stakeholder Identification and Engagement

COMMENT:

This needs to be reclassified as community dialogue and stakeholder engagement -we need to consider affected people as a special interest group and not just stakeholders with an interest in the project.

Performance Area 13: Community Impacts and Benefits

SECTION: 13.1 Identify and Address Community Impacts, Good Practice

COMMENT:

1/2/3 [Note by ERM: Applies to all requirements in the Good Practice level]. The word "engage" is weak. The developer is funding industry consultants to assess impacts as part of a project approval process. The rights-holders cannot participate effectively in the assessment of impacts without independent support. What is classified as "leading practice" to complement an independent review of the classification of impacts and mitigation measures needs to be good practice as per comment on Good Practice in Stakeholder Engagement

SECTION: 13.2 Community Development and Benefits, Good Practice, 1

COMMENT:

Good practice needs to require community dialogue with independent advice to negotiate impact and benefit agreements with affected people covering "ring fenced" benefit-sharing, local employment and local procurement in binding agreements with targets and periodic reviews.

Performance Area 14: Indigenous Peoples

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 1

COMMENT:

Good Practice needs to be framed as community dialogue and not “meaningful engagement”. The commitment to UNDRIP needs to not only prevent and account for possible adverse impacts on IP rights but to ensure that FPIC underpins all decision-making for the project at each step including exploration, design, permitting and operations.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Good Practice, 7

COMMENT:

There needs to be a clear statement that when IP agreement -there is no such thing as “full agreement” with IPs -there is either agreement through their traditional governance processes or “no agreement”. For example, in Peru all the IP community must give permission for the sale of Indigenous communal land.

SECTION: 14.1 Managing Engagement, Impacts and Opportunities with Indigenous Peoples, Leading Practice

COMMENT:

All “Leading Practice” should be Good Practice.

Performance Area 15: Cultural Heritage

SECTION: 15.1 Cultural Heritage Identification and Management, Foundational Practice, 2

COMMENT:

Might be important to specify that traditional owners are “relevant” in the case of living cultural heritage. When dealing with palaeontology, archaeological finds, does this fall under “users of cultural heritage”? Additionally, this should be informed

SECTION: 15.1 Cultural Heritage Identification and Management, Good Practice

COMMENT:

Missing important GP (aligned with IFC PS7): where the risk and identification process determines the chance of impacts to CH, retain competent professionals to assist in the identification and protection of CH

Performance Area 17: Grievance Management

SECTION: 17.1 Grievance Mechanism for Stakeholders and Rights

COMMENT:

There is considerable repetition in this section -there should be a clear statement that the Grievance Mechanism needs to have an independent recourse process in accordance with the UNGP’s

effectiveness criteria: “For an operational-level grievance mechanism, engaging with affected stakeholder groups about its design and performance can help to ensure that it meets their needs, that they will use it in practice, and that there is a shared interest in ensuring its success. Since a business enterprise cannot, with legitimacy, both be the subject of complaints and unilaterally determine their outcome, these mechanisms should focus on reaching agreed solutions through dialogue. Where adjudication is needed, this should be provided by a legitimate, independent third-party mechanism”.

There needs to be an external review of the grievance mechanism and remedy measures with independent recourse in Good Practice.

Performance Area 4: New Projects, Expansions and Resettlement

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Foundational Practice, 2

COMMENT:

Recommendation: ESIA should conform with all IFC PS (not only PS1) regardless of if there are jurisdictional regulations. This foundational practice contributes nothing to the standard.

CMS covers avoidance, consultation, baseline, grievance handling. However Foundational expectations in 4.2, in so far as they relate to the planning of resettlement, need to be aligned with basic tenets in IFC PS5 including as a minimum:

- identify adequate replacement housing (or cash compensation where appropriate), livelihood restoration support and relocation assistance to enable affected individuals to improve or restore standards of living and livelihoods.*
- Prioritise land-based compensation options where land-based livelihoods are affected.*
- Recognize displaced persons who have no legal right to the land or assets they occupy and use.*

Where land acquisition is government responsibly, developer to collaborate to achieve outcomes consistent with the Practice or implement supplementary measures

SECTION: 4.1 Risk and Impact Assessments of New Projects and Expansions, Good Practice, 1

COMMENT:

There needs to be provision of supports to affected communities to fully understand project impacts through providing resources for them to hire independent experts. Where significant negative impacts are identified then the project should be redesigned or if the impact cannot be mitigated based on feasible measures established through benchmarking by competent independent experts of expected outcomes, then the project should not proceed.

With regards to GP1, this should go beyond the development of a RAP/LRP e.g. "implement relevant provisions in IFC PS5 for Land Acquisition and Involuntary Resettlement". Incidentally, this would obviate the need for GPs 3, 4, 5, 7, 8 and 9 as these are all covered by PS5.

In addition, suggest including a GP statement (could be Leading Practice) that the principles and approaches in CMS need to "consider situations in which and acquisition is negotiated and/or expropriation is not an option". [with reference to IFC PS5 Good Practice Handbook (p16), this enables due consideration for the potential adverse impacts that might arise from land acquisition and the appropriate disclosure of information, consultation and the informed participation of those affected] The inclusion of GP 6 as part of a resettlement standard as these benefits may not be equally accessible to all affected households (e.g. project employment), sets unrealistic expectations among

broader community members, takes away Project developer focus from resettlement mitigations, creates the impression that benefits are appropriate mitigations

SECTION: 4.2 Land Acquisition and Resettlement, Foundational Practice, 2

COMMENT:

Note foundational practice does not require the facility to mitigate the impacts of impacts on wellbeing from land acquisitions, restrictions and resettlement. This does not meet basic human rights standards, and this foundational level needs to be removed from the standard.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 1

COMMENT:

Recommendation: 1. The standard should require compliance with all of PS5 (development and implementation) and not just the development of a RAP to IFC PS5. The standard should go beyond PS5 and require a negotiated agreement with independent support for the affected people in line with IRMA.

Recommendation 1: The standard should require a multi-stakeholder dialogue forum with access to independent advice on impacts and benefits for affected people.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 8

COMMENT:

Recommendation: 8. The requirement should be the improvement of livelihoods and wellbeing of affected people.

SECTION: 4.2 Land Acquisition and Resettlement, Good Practice, 9

COMMENT:

Recommendation 9. The requirement should be for independent expert monitoring of the land acquisition and resettlement process and not only an internal review.

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice, 1

COMMENT:

LP1 (livelihood restoration) / LP2 (security of tenure) -those are at least GPs?

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice, 2

COMMENT:

LP1 (livelihood restoration) / LP2 (security of tenure) -those are at least GPs? With regards to LP2, I would say "offer options to obtain security of tenure" instead of "legal title" since the latter could be interpreted as only meaning single ownership. There might other appropriate forms in the local context e.g. communal titles, long-term leasing arrangements etc.

SECTION: 4.2 Land Acquisition and Resettlement, Leading Practice, 3

COMMENT:

Agree with LP3 IF this is caveated e.g. "formally assess the need for an external completion audit based on the scale/complexity of resettlement". I would also consider merging this with LP4. [NB Unless I'm mistaken, PS5 does not formally require but states "may be necessary to commission an external completion audit". In my experience, there are circumstances where an external review may not be required e.g. small-scale resettlements, temporary/reversible impacts.]

Performance Area 5: Human Rights

SECTION: 5.1 Human Rights, Good Practice, 4

COMMENT:

The requirement to implement a grievance mechanism in line with the effectiveness criteria of the UNGPs is important - however, the requirement to have independent adjudication needs to be spelled out clearly.

Recommendation: The process to remedy impacts needs to be spelled out more clearly and include the involvement of independent experts. A Corrective Action Plan needs to be agreed with resources and a time-frame and jointly monitored by the company, community and independent expert.



land access resettlement consultation social impact livelihoods

Submission to the Draft Consolidated Mining Standard Initiative Standard

Submitted to:
Consolidated Mining Standard Initiative

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Executive Summary

The Consolidated Mining Standards Initiative (CMSI) aims to bring together four well-established standards - [The Copper Mark](#) (TCM), [Mining Association of Canada's Towards Sustainable Mining \(TSM\)](#), [World Gold Council's Responsible Gold Mining Principles](#) (RGMP) and [ICMM's Mining Principles](#) – into one, global standard for over 100 mining companies. This note aims to offer recommendations on establishing representative multi-stakeholder governance processes for developing international mining standards and managing mining projects. These processes are intended to enhance outcomes for mining operations, local communities, and the environment. Over the past 20 years as a mining industry consultant, I have had the opportunity to understand how the mining industry works from the ground up, first as a resettlement project manager on a major goldmining project in Ghana responsible for the resettlement of affected communities, and then in my ongoing role supporting the planning, implementation and review of mining projects for junior, mid-tier and major mining companies in over 15 countries¹ on five continents. I have also been researching and writing about the mining industry for the past ten years, as a practitioner-academic or 'pracademic' defined by Walker (2010) as “boundary spanners who live in the thinking world of observing, reflection, questioning, criticism, and seeking clarity while also living in the action world of pragmatic practice, doing, experiencing and coping”. This report also relies on research and recommendations by mining industry insiders such as David Brereton, Glynn Cochrane, Deanna Kemp, John Owen and Jessica Smith on how to improve sustainability outcomes on mining projects. These researchers represent what Jessica Smith (2021 p216) refers to as ‘a loyal opposition’, i.e. “people who have worked, or who are currently working, in the mining industry, who don't abandon corporate work but instead serve as internal sources of critique”.

It is important at the outset to understand the difference between representative multi-stakeholder processes and stakeholder consultative processes for both the development of standards and the assessment and management of impacts on mining projects. The development of mines impacts four main interest groups: 1) the Indigenous Peoples and communities living in the territories where mining is being proposed, 2) the government agencies and regulators responsible for approving projects, 3) the mining companies and their investors promoting the project, and 4) the purchasers of mining products along the supply chain. There are also intermediaries providing support to each interest group with NGOs supporting communities to promote sustainable practices, academics supporting government to develop sustainable policies, industry environmental & social (E&S) consultants and industry associations supporting the mining companies to get projects approved and to manage

¹ Australia, Brazil, Burkina Faso, Colombia, Democratic Republic of Congo, Ghana, Guinea, Ivory Coast, Kosovo, Mongolia, Mozambique, Republic of Congo, Papua New Guinea, Peru, Philippines, South Africa, Tanzania and Zambia.

environmental and social impacts, and supply chain experts and NGOs advising purchasers of minerals and metals on sustainable practices. The key question for the development of mining standards is whether each of the key interest groups has agency, a seat at the table, in designing the standards (multi-stakeholder) or only the right to be consulted (consultative processes) in a process controlled by the mining industry.

This note proposes that there are two main approaches to the development of mining industry standards:

1. **Representative multi-stakeholder processes** such as MMSD and IRMA where representatives of Indigenous Peoples and affected communities, mining companies, and commodity purchasers are part of the decision-making process including how and by whom, are the final decisions made.
2. **Industry and investor consultative processes** such as ICMM, TSM, TCM, WGS and the IFC standards where the industry or investors control the process of developing the standard giving Indigenous Peoples, community representatives, and NGOs only the right to be consulted on the standards and where the final authority on the content rested with industry and/or investors.

The note also proposes that there are two main approaches to developing projects at site-level:

1. **Representative multi-stakeholder agreement-making processes** promoted by the Mining, Minerals, and Sustainable Development (MMSD) project or the Dublin FELA Declaration on fair and equitable approaches to projects which provide affected communities with agency in the process of assessing and designing projects and where independent capacity-sharing advice is provided to put the wellbeing of people and planet at the centre of projects.
2. **Environmental and social performance approaches** promoted by industry and investors where affected people are not entitled to any agency in project decision-making, independent advice on the impacts or benefits, multi-stakeholder dialogue forums, or a right to sharing benefits through negotiated agreements.

The paper will make the case that for mining projects to succeed in being profitable and contributing to the development of local communities, and maintaining stable community relations, the key issues for success are a governance process which gives affected people agency, and a balanced focus on the wellbeing of the mining project and the affected communities, and also the wellbeing of the natural environment.

This note outlines the evolution of sustainability standards in the mining industry in response to demands for accountability for the major positive and negative economic, social, and environmental impacts of mining projects on the wellbeing of people and the environment. A key theme running through the development of approaches to mining impacts was the mining industry and investors framing the issues narrowly in their interests by dominating the process and only affording other stakeholders and advisory role. In 1999, the mining industry launched a representative multi-

stakeholder process, the MMSD project, however the report was never implemented. A more recent representative multi-stakeholder initiative, IRMA, has also been ignored by all but a few mining companies. The CMSI is fully controlled by the mining industry with a consultative approach to the other key interest groups. The Stakeholder Advisory Group does not have any mandated representatives from Indigenous Peoples, affected communities or civil society but individuals from these groups acting in an individual capacity. In the absence of a representative multi-stakeholder approach it is not surprising that the content of the standard also advocates for developer-led approach at project sites where affected communities are only entitled to 'meaningful stakeholder engagement' with the terms of the engagement fully dictated by the mining company.

Up until the 1970s, mining companies and governments relied largely on the argument that society needed the materials provided by mining for development and therefore needed to accept the negative impacts. However, major mining disasters in the 1970s and growing activist pressure led to the requirement for EIAs to assess environmental, social and economic impacts. The industry embraced this process which was framed around enabling projects to move forward in a developer-led approach with requirements to mitigate negative impacts. A major industry of environmental and social consultants, mainly ex-mining industry, emerged to serve the mining sector's need to conduct impact assessments to secure project approvals. The first social scientist employed by the World Bank, Micheal Cernea, recognized that social scientists needed to be involved in the design of projects and social impact management plans to predict, avoid and manage negative social impacts. The mining industry initially involved social scientists on projects in the early 2000s but with a relentless focus on cost-cutting the industry created an environmental and social (E&S) expert role to manage these risks. This led to non-social scientists dominating the new social performance industry where external industry consultants prepared SIAs and social performance management plans to address social impacts. Without social scientists involved in mining projects, the local communities were framed as a risk which needed to be managed by the industry. Affected communities were treated as just another stakeholder on their own territories with only the right to be consulted on management plans being prepared by industry consultants visiting the project area for short periods. This social performance approach has led to ongoing serious negative outcomes for affected people who are often impoverished in the process of developing mines while having to suffer a range of social, economic and environmental impacts.

In 1999, nine of the World's largest mining companies initiated a research project, the Mining, Minerals, and Sustainable Development (MMSD) Project (IIED 2002), to explore the role of the sector in the transition to sustainable development following a series of major mining disasters. The MMSD process led to recommendations for reform of the mining industry and the implementation of multi-stakeholder processes and the importance of independent multi-stakeholder engagement and participatory analysis to address the interface between the mining sector and sustainable development. The MMSD

did lead to the formation of the ICMM, however the recommendations of the MMSD report were not implemented and instead the industry developed a range of voluntary industry standards, including the ICMM (Mining Principles), Mining Association of Canada (Towards Sustainable Mining), the Copper Mark and The World Gold Council Responsible Mining Gold Principles. These voluntary standards reinforced the top-down, expert-led approach, to addressing the impacts of mining. Industry insiders have repeatedly pointed out that the mining industry needs to build competent and experienced social teams to build trust with local communities and co-design effective strategies to develop profitable mines and sustainable communities, however, the industry has not been willing to invest in this process.

The focus of social performance on external experts auditing plans and strategies developed by external experts is leading to a focus on audit performance instead of building mining company-community relationships. In my experience, site teams are frustrated with the constant demands to prepare metrics for sustainability and audit reporting which can take up 50% of the resources of the team on some sites. Having worked as a resettlement project manager on a mining project for three years, I am aware of the considerable time that goes into staging audits in terms of gathering information and showcasing the best side of the project. This can involve having external consultants conduct a pre-audit to ensure the site is prepared for a full audit. Ultimately, the social performance model of external consultants flying in for short periods of time to countries and regions they have little knowledge of and preparing studies and management plans to facilitate project approvals adds limited value to the project. E&S consultants are preparing social management plans to satisfy national regulators and international banks and often exaggerate positive impacts and understate negative impacts. The site-based social team often have limited expertise in applied social science to manage the complex social development problems caused by mining projects. Mining companies are spending their resources on auditing rather than on resourcing site teams to participate in representative multi-stakeholder processes on mining projects where the focus is on capacity-sharing with local communities to develop long-term partnerships to develop profitable mining projects and to develop local communities based on their knowledge and aspiration.

The mining industry needs to rethink the unilateral development of the Consolidated Mining Standards with only consultation with a limited number of stakeholder members. A fair and equitable approach to mining projects which empowers affected people to share their knowledge and builds their capacity to understand the impacts of mining projects and what benefits can be gained through a multi-stakeholder agreement-making process is the way forward.

In 2024, a group of international experts in land acquisition and resettlement launched the Dulin Declaration on Fair and Equitable Land Access (FELA 2024) at the annual conference of the International Association of Impact Assessment. The FELA Declaration proposes a new approach to projects where communities are treated as equal partners in the process to reach agreement on

impacts and benefits and if and how projects can proceed to achieve a Just Transformation. The FELA Declaration is framed by six principles: Rights & Recognition, Fair Procedure, Fair Distribution, Planning & Resources, Power & Context, and Remedy & Accountability and twenty-six recommendations for implementation of fair and equitable projects.

Fair and Equitable project approaches focus on the overall wellbeing of affected people and the environment and not a more limited focus on economic and physical displacement. The IFC Standards and Social Performance approaches do not present any holistic framework for conceptualizing or communicating the impacts of projects on people and planet. The FELA approach uses the Sustainable Wellbeing Framework which was first developed by the author as the Social Framework for Projects in 2015 (Reddy et al. 2015) and later evolved into the current version (see Smyth & Vanclay 2024).

Box. 2: The Sustainable Wellbeing Framework – an Equitable DFDR Framework



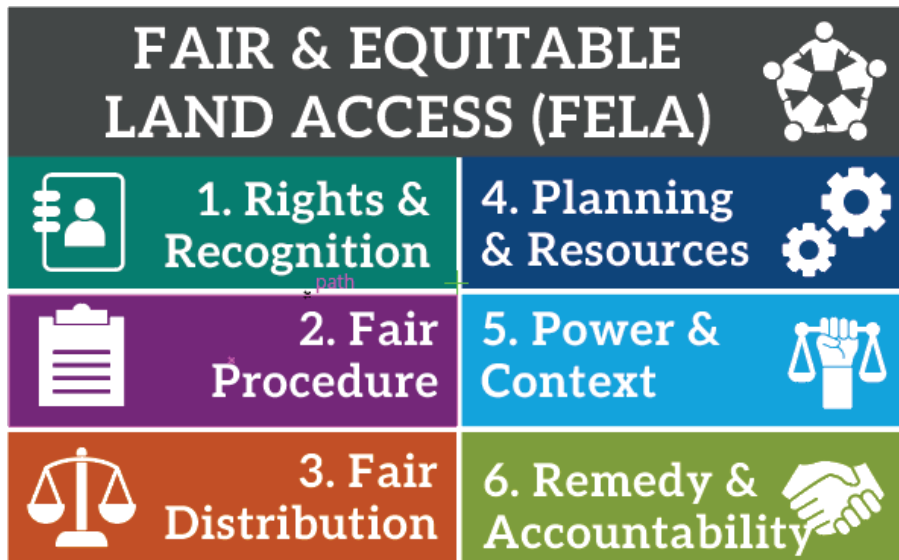
The SWF has the following components:

- A central objective of enhancing the wellbeing of people and planet. The well-being of people and the planet is central to all international sustainability standards. This values not only impacts on people but also impacts on biodiversity and the environment which are valued for their existence regardless of whether these resources are valued by local people.
- The eight interrelated SWF categories represent all the factors that contribute to the well-being of people and the planet: People, Community, Culture, Livelihoods, Infrastructure, Housing, Living Environment, and Nature.
- The nested presentation of the eight interrelated SWF wellbeing categories in the three sustainability pillars: Social, Economic and Environmental.

[Smyth & Vanclay \(2017\)](#)

In the fair and equitable projects approach, affected people have agency with inclusive decision-making powers on projects through their own cultural processes or supported through independently moderated stakeholder forums with the provision of advice. This approach has already been implemented on many projects internationally.

Box. 3: The Dublin Declaration on Fair and Equitable Land Access (FELA)



Principle 1 Rights & Recognition: Recognize the rights, knowledge, and agency of affected people, and their right to enhanced wellbeing.

Principle 2 Fair Procedure: Promote inclusive decision-making through a fair and transparent procedure from the outset and throughout the lifecycle of the project.

Principle 3 Fair Distribution: Ensure a fair distribution of impacts and benefits and align with the Sustainable Development Goals.

Principle 4 Planning & Resources: Ensure high standards of professionalism and planning and sufficient resources to improve the lives of affected people and their communities.

Principle 5 Power & Context: Address power differences and contextual factors.

Principle 6 Remedy & Accountability: Ensure remedy and accountability through access to Grievance Redress Mechanisms, remediation, and legal recourse.

General Issues with the CMSI Approach

The Consolidated Mining Standard is compromised in both adopting a mining industry-led consultative process to develop the standard instead of a representative multi-stakeholder process and then also proposing as a standard which doesn't enable affected communities (with the exception of Indigenous Peoples) to have any agency in the process of designing projects or mitigation measures or any right to benefits-sharing outside industry CSR approaches to employment, local content and voluntary contributions.

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Issue: The IRMA progressive mining standard already exists which was established through a multi-stakeholder process, and which has a multi-stakeholder co-governance model.

Recommendation: The IRMA standard already exists and could also be strengthened to require a representative multi-stakeholder governance process for the development of new mines using the principles of Fair and Equitable Land Access (FELA).

Issue: The CMS is proposing three levels of performance: foundational, good practice and leading practice. While the justification for a foundational level of practice might be to encourage mining companies with lower standards to come on board, the outcome will be that many companies will claim adherence to the CMS just by reaching foundational level. An example is for resettlement the foundational practice does not even require a management plan to be prepared, only a grievance mechanism after the harm is done. This does not even meet minimum human rights requirements and would have the impact to continue with existing damaging practices. The foundational level will result in a considerable decline in standards in the mining industry and have the opposite impact of bringing the poor performers into the process.

Recommendation: Eliminate the foundational level and have all mining companies aim to achieve good practice using the same model as IRMA 50/75/100.

Issue: The CMS is proposing an optional leading practice level. The good practice level is the target for achievement and the leading practice level is optional. It is clear that many of the requirements under leading practice should be under good practice.

Recommendation: Eliminate the Leading Practice Level and, similar to most other standards, for example IRMA, just have one good practice level so it is clear what needs to be achieved - with the same process as IRMA 50/75/100.

Issue: Frequency of Audits Every 3 years seems arbitrary.

Recommendation: For social, the frequency of external assurance events should be driven by risk in some instances, yearly external assurance is appropriate, for instance if significant gaps were identified during the last review period that require the implementation of complex gap-closures measures. In other instances, for lower risk processes, every five years might be appropriate.

Issue: The CMS does not require a representative multi-stakeholder dialogue structure at site providing local communities with independent support to assess impacts and benefits. This exacerbates the major power differences between mining companies and local communities and can result in significant abuses as there is no significant countervailing pressure to the mining company.

Recommendation: Require a representative multi-stakeholder dialogue processes to reach binding agreements with local communities commensurate with the scale and complexity of both the project context and project impacts and provide commensurate support to local communities to understand impacts and benefits and to participate in an agreement-making process.

Issue: The CMS is largely modelled on the ESIA approach where the mining industry engages industry consultants to secure project approvals with the same consultants conducting auditing. The CMS is enabling mining companies to select their assessors. Environmental and social experts have considerable discretion in interpreting impacts and if they are required to market strongly to industry then they will likely bias the audits to the industry to win more auditing work.

Recommendation: Several experts have made recommendations on how to reduce bias in impact assessment and auditing (see Smyth 2021). Solutions to address this imbalance: an independent panel of consultants that would be randomly allocated to projects to minimize collaboration and consultants signing a statement of compliance against best practice (with censure measures).

Issue: The CMS and current approaches by mining companies are not grounded in social theory or applied practices.

Solution: The Dublin Declaration on Fair and Equitable Land Access (FELA) provides a framework of six principles and 26 recommendations to provide a strong theoretical framework grounded in applied sociological practice for the mining industry.

Issue: Assurance Provider Requirements – the standard states that it is important to the credibility of the Consolidated Standard that only qualified, competent and independent Assurance Providers perform external assurance. The qualifications state that the provider must hold a university degree in a relevant field and/or demonstrate technical experience in a relevant field. This opens certification to industry insiders who have performed roles on projects without having any supporting qualification such as environmental consultants, engineers and geologists claiming to be social performance experts.

Recommendation: Specify that social assessors have both a required social science qualification and experience in applied social science in the field. Mining companies should not be able to select auditors as this will put pressure on auditors to bias audits in favour of the industry in order to win more audit work. The auditors should be selected through a transparent random selection process so that mining companies cannot select auditors they believe will be more industry friendly.

Section 4 presents detailed recommendations on the performance areas.

Appendix A presents a comparison of IFC and draft CMS with Fair and Equitable Project Approaches

Conclusion

The mining industry has embarked on the Consolidated Mining Standard Initiative with an objective to bring together the best of four of the most widely used standards. However, based on assessments by the IGF and Lead the Change and the RMI assessment of mining projects and the authors experience of working in the mining industry, these four standards are among the weakest in the mining industry. The CMSI standards as presented will only lead to an expanded focus on social performance and huge spending on industry consultants. The industry needs to rethink the approach to Indigenous Peoples and affected communities and properly resource qualified social teams to develop partnerships through a fair and equitable process of agreement-making on projects. The Dublin FELA Declaration provides six principles and twenty-six recommendations for a fair and equitable approach to the development of mining projects which will enhance outcomes both for the mining industry and for affected people.

1 Introduction

The Consolidated Mining Standards Initiative (CMSI) aims to bring together four well-established standards - [The Copper Mark](#) (TCM), [Mining Association of Canada's Towards Sustainable Mining \(TSM\)](#), [World Gold Council's Responsible Gold Mining Principles](#) (RGMP) and [ICMM's Mining Principles](#) – into one, global standard for over 100 mining companies. This note aims to offer recommendations on establishing representative multi-stakeholder governance processes for developing international mining standards and managing mining projects. These processes are intended to enhance outcomes for mining operations, local communities, and the environment. Over the past 20 years as a mining industry consultant, I have had the opportunity to understand how the mining industry works from the ground up, first as a resettlement project manager on a major goldmining project in Ghana responsible for the resettlement of affected communities, and then in my ongoing role supporting the planning, implementation and review of mining projects for junior, mid-tier and major mining companies in over 15 countries² on five continents. I have also been researching and writing about the mining industry for the past ten years, as a practitioner-academic or 'pracademic', defined by Walker (2010) as "boundary spanners who live in the thinking world of observing, reflection, questioning, criticism, and seeking clarity while also living in the action world of pragmatic practice, doing, experiencing and coping". This report also relies on research and recommendations by mining industry insiders such as David Brereton, Glynn Cochrane, Deanna Kemp, John Owen and Jessica Smith on how to improve sustainability outcomes on mining projects. These researchers represent what Jessica Smith (2021 p216) refers to as 'a loyal opposition', i.e. "people who have worked, or who are currently working, in the mining industry, who don't abandon corporate work but instead serve as internal sources of critique". It is important at the outset to understand the difference between representative multi-stakeholder processes and stakeholder consultative processes for both the development of standards and the assessment and management of impacts on mining projects.

It is important at the outset to understand the difference between a representative multi-stakeholder processes and stakeholder consultative processes for both the development of standards and the assessment and management of impacts on mining projects. A representative multi-stakeholder process requires shared decision-making power among all the participants. For example, the development of the Global Industry Standard Tailings Management (GISTM) was not a representative multi-stakeholder process as it was developed by the International Council on Mining and metals (ICMM), United Nations Environment Programme (UNEP) and Principles for Responsible Investment (PRI), with no seat at the table for affected communities or civil society. The first draft of the standard was developed by the ICMM who then held a consultative process with a wide range of stakeholders but ultimately decided on the content and governance of the standard. In "Credibility Crisis: Brumadinho and the Politics of Mining Industry Reform", Hopkins & Kemp (2021) provide a detailed account of how the mining industry exerted its influence during the Global Tailings Review process. The authors

² Australia, Brazil, Burkina Faso, Colombia, Democratic Republic of Congo, Ghana, Guinea, Ivory Coast, Kosovo, Mongolia, Mozambique, Republic of Congo, Papua New Guinea, Peru, Philippines, South Africa, Tanzania and Zambia.

describe how the industry used its collective power to shape the outcome in its favour, often at the expense of other stakeholders. The authors document instances where the ICMM sometimes sidelined the concerns of other stakeholders and while NGOs and community representatives were consulted, their influence on the final decisions were limited. In a representative multi-stakeholder process all relevant stakeholders have equal or shared decision-making power involving collaborative decision-making, consensus building and transparency and accountability. Examples of multi-stakeholder processes include the Forest Stewardship Council (FSC), Extractive Industries Transparency Initiative (EITI) and the Global Reporting Initiative (GRI). Although these processes are also subject to criticism, the civil society organizations have an equal seat at the decision-making table in each of these processes which is not the case with the Consolidated Mining Standard. This paper will argue that it is in the interest of the mining industry to develop a representative multi-stakeholder process to develop and govern standards and that this can enable more equitable multi-stakeholder processes at project site level focused on strong site social science teams building partnerships with affected people.

The development of mines impacts four main interest groups:

1. Indigenous Peoples and communities living in the territories where mining is proposed.
2. Government agencies and regulators responsible for approving projects.
3. Mining companies and their investors promoting the project.
4. Purchasers of mining products along the supply chain.

Additionally, intermediaries provide support to each interest group:

- NGOs support communities to promote sustainable practices.
- Academics assist governments in developing sustainable policies.
- Industry environmental and social (E&S) consultants and industry associations help mining companies get projects approved and manage environmental and social impacts.
- Supply chain experts and NGOs advise purchasers of minerals and metals on sustainable practices.

The key question in developing mining standards is whether each key interest group has agency in designing the standards (multi-stakeholder) or if they are merely consulted (consultative processes).

This note proposes that there are two main approaches to the development of mining industry standards:

- **Representative multi-stakeholder processes** such as MMSD and IRMA where representatives of Indigenous Peoples and affected communities, mining companies, and purchasers are part of the decision-making process including how and by whom, are the final decisions made.
- **Industry and investor consultative processes** such as ICMM, TSM, TCM, WGS and the IFC standards where the industry or investors control the process of developing the standard giving

Indigenous Peoples, community representatives, and NGOs only the right to be consulted on the standards and where the final authority on the content rested with industry and/or investors.

The note also proposes that there are two main approaches to developing projects at site-level:

- **Representative multi-stakeholder agreement-making processes** promoted by the MMSD or the Dublin Declaration on Fair and Equitable Land Access (FELA) which provide affected communities with agency in the process of assessing and designing projects where independent capacity-sharing advice is provided to put the wellbeing of people and planet at the centre of projects.
- **Environmental and social performance approaches** promoted by industry and investors where affected people are not entitled to any agency in project decision-making, independent advice on the impacts or benefits, multi-stakeholder dialogue forums or sharing benefits through negotiated agreements.

The paper will make the case that for mining projects to succeed in being profitable and contributing to the development of local communities, and maintaining stable community relations, the key issues for success are a governance process which gives affected people agency, and a balanced focus on the wellbeing of the mining project and the affected communities and also, the wellbeing of the natural environment.

The paper will provide a brief description of the mining industry, the evolution of standards in the mining industry and international lender standards, the emergence of environmental and social (E&S) performance standards and approaches to projects, and recommendations for alternative approaches to partnership and agreement-making with communities.

1.1 The Mining Industry

The mining industry is divided between the larger companies (majors) with diversified portfolios that operate at a global scale and mid-tier and junior mining companies operating at a regional or local scale and also artisanal miners working at a local scale. The majors include those who are members of the International Council on Mining and Metals (ICMM), representing a third of the global and mining industry who commit to adhere to ICMM's Mining Principles on environmental, social and governance requirements. The non-ICMM mining majors are operating mainly under domestic legislation and have limited transparency around their operations. The major mining companies, through their industry associations, lobby for a reduction in 'red tape', i.e. government regulatory oversight of the industry while promoting voluntary international standards such as the CMSI. Junior mining companies are defined as having an asset value of US\$5 million or less. Combined there are over 2000 junior mining companies listed on the Toronto (TSX) and Sydney (ASX) stock markets (Junior Miners, 2023), and in addition there would likely be hundreds of privately-owned juniors. Halcombe (2021) observed that the business logic of junior miners is framed around risks and uncertainty, with a priority on the discovery, development, and delivery of mineral and related products, and that they generally have weak social

performance management systems. However, the culture of any junior, mid-tier or major mining company can change over time and acquisitions dominate the sector and also disposals where less profitable projects, or projects near closure, are often sold to operators with lower environmental and social standards. Commodity cycles with periodic downturns in prices drives a relentless focus on cost-cutting in mining which can mean that voluntary sustainability standards with higher costs to meet environmental and social commitments are a target for cutting budgets during downturns if legally binding commitments are not in place. Artisanal miners generally don't operate to any environmental or social standards except where there are permitting processes for formalization requiring adherence to minimum operating conditions.

Regardless of the size of the mining company, engineers, geologists, and finance managers dominate projects with a constant focus on maximizing production and cutting costs. The environmental and social departments seen as introducing extra complexity and costs on projects and are often under resourced. A key challenge is therefore the gap between the plans that are created to meet the international and national standards at the start of a mining project and the capacity and resources available to site-based environmental and social teams to implement and achieve the goals of these plans. This paper proposes that international standards need to focus on building competent mine site teams and representative multi-stakeholder processes to balance mine profitability and local development rather than expensive and ineffectual auditing processes by fly-in-fly-out external consultants.

1.2 Evolution of International Standards

Up until the 1970s, mining companies and governments relied largely on the argument that society needed the materials provided by mining for development and therefore needed to accept the negative impacts. This 'ethic of material provisioning' (Smith 2021) "emerged from a worldview that defines the "problem" of natural resources to be one of increased production to meet increasing consumer demand". Up until the 1970s the mining industry was generally not prepared to spend money to address what were considered externalities such as air pollution, water contamination, soil contamination, habitat and biodiversity loss, waste generation, health impacts, displacement of local communities, increased inequality and pressure on local infrastructure. However, several major mining disasters in the 1970s and the emergence of environmental activism drew attention to the massive environmental and social impacts of mining and how not every mining project can be justified (Smith 2021). In response to activist pressure, Environmental and Social Impact Assessment (ESIA) practice was developed in the US following the adoption of the 1969 National Environmental Policy Act (NEPA) (Vanclay 2020) which required Environmental Impact Statements to analyze "reasonable and foreseeable" impacts to not only environmental concerns, but also to social and economic attributes. Jessica Smith (2021) presented the case of two engineers-turned-lawyers working for AMAX Minerals Inc. who developed the first Environmental Impact Statement (EIS) for a mine in the US as a strategy

to change the conversation around controversial projects. She says they created a coordinated permitting process that also aimed to neutralize public opposition so that the focus was changed from 'whether' a controversial project should proceed at all to 'how' it should proceed by mitigating impacts. The techniques they developed invited greater public participation without fundamentally challenging either the power of the corporate form or the technical authority of engineers and applied scientists. Smith argued that "while EIA has been hailed for its potentially transformative power to democratize decision-making, the processes it generates are critiqued by social scientists for ensconcing the power of the state and corporate actors who stand to benefit from a project's approval". The practice of impact assessment and management is developer-dominated with the only negative agency afforded to communities framed as the power to resist the project, to enforce a metaphorical social licence, at considerable risks to their own wellbeing.

Mining companies commission industry consultants to prepare impact assessments to prove feasibility and secure a permit to operate the project. Mining industry consultants often refer to themselves as 'approvals consultants' in recognition of their role given it is extremely rare for an 'assessment' to recommend that the project does not proceed. Government regulators are tasked with reviewing these ESIA's and deciding whether to approve projects, however, given the complexity of impacts, they rely largely on the assessments undertaken by industry consultants. Government regulators are often under considerable political pressure to facilitate mining projects given the economic benefits of job creation and increased taxation and generally see their role as approving mining projects and attaching 'conditions' to address environmental and social impacts. Mining companies lobby governments to limit environmental and social regulations so that mines can be developed faster and cheaper. Given the relative weakness of mining regulations in most countries, and ongoing problems managing impacts on local communities and the environment, there has been pressure for more accountability of the mining industry through auditing against voluntary international sustainability standards by industry sustainability consultants.

Michael Cernea joined the World Bank in 1974 as its first in-house social scientist advancing to the position of Senior Adviser for Social Policy and Sociology, where he made significant contributions to integrating social and anthropological perspectives into the bank's work. He strongly advocated for "putting people first" and that the involvement of the non-economic social sciences, which study people, cultures and societies was vitally necessary. He helped the bank recruit anthropologists and social scientists who used Participatory Rural Appraisal (PRA) methods advocated by Robert Chambers (REF) to develop a more people-centred approach to projects and helped design the bank's first safeguard policies. The World Bank's Safeguard policies emerged in the late 1980s and early 1990s where new standards were enacted over time as 11 'Operational Policies' (OPs) and 'Bank Procedures' (BPs) to provide protections against particular risks (e.g., resettlement) and for particular groups (e.g., indigenous people) or resources (e.g., forests, natural habitats). The Board of Executive Directors

representing member states laid out the general principles of the safeguard policy to be adopted and bank management under the President prepared the actual text of the policy while external stakeholders including civil society were excluded from the process of developing the standards. In 2006, the IFC introduced its Sustainability Framework, which included a set of Performance Standards on environmental and social sustainability (Philipp & Riegner 2019). In 2012, the IFC updated its Policy on Environmental and Social Sustainability following an 18-month consultation process with stakeholders around the world. In August 2016, the World Bank adopted a new set of policies called the Environmental and Social Framework (ESF). While the bank did conduct wide stakeholder consultations on the development of both the ESF and IFC performance standards, the ultimate decision-making authority was the World Bank and IFC, and the standards development process was shaped by the bank's own priorities and objectives. A representative multi-stakeholder process requires shared decision-making power, and this did not feature in the development of standards. The World Bank and IFC standards are based on social and environmental experts studying the affected communities and developing specialist plans, such as EIAs, SIAs and Resettlement Action Plans (RAPs) to mitigate any harms which would be implemented by developers and monitored by bank staff and industry consultants. Ortiz & Aledo (2024) argued that while SIA practice uses selected sociological methods (surveys, focus groups, interviews, etc.), SIA does not use sociological theory to provide a framework to critically examine power dynamics, facilitating the deconstruction of inequalities and promoting social justice. They also argue that sociological theory also encourages a reflexive approach to knowledge production within the assessment process, acknowledging the influence of evaluators and the need for active involvement of affected parties and stakeholders. The standards of the international development banks do not give affected people any agency in the governance and decision-making process around the design of the project, whether harmful projects should proceed or a right to negotiate benefit-sharing in order to protect and enhance their wellbeing. According to the World Bank and IFC standards, affected people are only entitled to be 'meaningfully consulted' on the project, have no provision for funding for capacity building and independent advice to understand impacts and benefits, and if they are harmed by the developer are required to submit complaints initially to a developer-led complaints mechanism. Where projects are funded directly by the IFC affected people can lodge complaints with the World Bank's complaints mechanism, but this is not available for projects using the IFC standards as guidance where the IFC is not an investor.

1.3 Evolution of Standards in the Mining Industry

In 1999, nine of the World's largest mining companies initiated a research project, the Mining, Minerals, and Sustainable Development (MMSD) Project (IIED 2002), to explore the role of the sector in the transition to sustainable development following a series of major mining disasters. The MMSD process led to recommendations for reform of the mining industry and the implementation of multi-stakeholder processes and the importance of independent multi-stakeholder engagement and participatory analysis to address the interface between the mining sector and sustainable development.

The mining industry did not adopt the MMSD recommendations to adopt multi-stakeholder processes on mining projects. The MMSD did lead to the formation of the ICMM and instead the industry developed a range of voluntary industry standards, including the ICMM (Mining Principles), Mining Association of Canada (Towards Sustainable Mining), the Copper Mark and The World Gold Council Responsible Mining Gold Principles. These voluntary standards reinforced the top-down, expert-led approach, to addressing the impacts of mining. For example, regarding land access and resettlement, the MMSD report (IIED 2002 p25) concluded that “land use decisions should be arrived at through a process that respects the principle of prior informed consent arrived at through democratic decision-making processes that account for the rights and interests of communities and other stakeholders, while still allowing for the negotiated use of renewable and non-renewable resources.” However, a review of these four mining standards by the author found only a requirement for the preparation of a Resettlement Action Plan with no provisions for prior consent for (non-indigenous) affected communities. Szablowski & Campbell (2019) outlined how pressure on the extractive industries from transnational activist networks, Indigenous peoples’ movements, local communities and concerned publics has given rise to many new mechanisms to govern various aspects of the extractive industries, including financial transparency, security, human rights impacts, sustainability reporting, and environmental management. However, they found that “the extractive industries are also associated with substantive continuity in governance. They claim that pressures for change often translate into governance reforms that deliver little in the way of substantial change”.

In 2018, The International Governmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) commissioned an assessment of Voluntary Sustainability Initiatives (VSIs) (IISD 2018). The assessment found that content and level of obligation of the standards of the main mining groups, including the ICMM, and the IFC standards, were relatively weak. In 2024, Lead the Change produced a report: An Assessment of Third-Party Assurance and Accreditation Schemes in the Minerals, Steel and Aluminium sectors. The assurance criteria included multi-stakeholder and civil society co-creation, credible audits and accreditation, transparency of audit findings, corrective action plans, grievance mechanisms, ISEAL compliance and credible and comprehensive standard criteria (UNGP/ILO/UNDRIP/Paris Agreement). Using these criteria, the Lead the Change Report only scored the ICMM 1.25/10, The Copper Mark scored 4 /10 and Towards Sustainable Mining 3/10.

The Responsible Mining Foundation (RMF 2022) provided an evidence-based assessment of the economic, environmental, social and governance (EESG) policies and practices of 38 large scale-mining companies that operated more than 780 mine sites and together accounted for 28 percent of the world’s mining activity by value of production between 2016 and 2021. Unfortunately, the Responsible Mining Index (RMI) closed in 2022 due to the lack of independent long-term co-funding. During its operation the mine assessments of the RMI showed a lack of mine site evidence on some of the most basic ESG issues such as local employment, local procurement, water quality and grievances. In the final RMI report published in 2022, the majority of the 250 mine sites showed no

evidence of informing or engaging with local stakeholders on all but two of the fifteen issues assessed. The RMI index recorded a widespread lack of strategic action on community development among major mining companies with many taking something of a transactional approach to addressing mining-related socio-economic issues at the local level.

1.4 Social Performance in the Mining Sector

With the requirement to develop ESIAAs, came the need to implement environmental and social management plans, and industry created the role of environmental and social (E&S) manager to oversee management systems. Owen & Kemp (2017) refer to this as the 'communities' architecture' – community relations or social performance departments. The Social Practice Forum was founded in 2016 was established to provide active leadership on social performance. The author was one of the 13 founding members and also a member of the first stewardship group of the organization. The forum brings together experienced social performance practitioners, both industry social performance consultants and industry social performance managers, dedicated to promoting the advancement of social performance in six key areas including enabling and empowering stakeholders, improving the standards for social performance practice and advancing professionalisation of social performance practitioners.

The SPF members have produced a number of documents promoting social performance practice including an SP101 series of papers providing basic guidance on social performance (SPF 2021), an 'SPF Competency Framework' for Social Performance Practitioners (SPF 2020), and 'SPF Questions Boards Should Ask' (SPF 2024). According to the Social Practice Forum (SPF 2021) "Social performance is the sum of a company's interactions, activities and outcomes that can affect stakeholders". The documents produced by the SPF would generally align with the model of Environmental and Social Performance promoted by the CMSI members' standards where affected communities are framed as stakeholders on the project with only the right be engaged by the mining company and without agency in the decisions about the design of the project or on the assessment of impacts and benefits. In my experience it is challenging for social performance practitioners to critique the mining industry to raise standards while simultaneously marketing themselves for work to an industry which can be slow to accept internal critics Owen & Kemp (2017 p62) found that "community relations is typically subordinate in relation to almost every other organizational function; operates on the basis of short-term public relations assumptions rather than "evidence"; lacks in internal credibility; is mistrusted by managers from other disciplines; is most valued when the operation is under threat and in crisis or "firefighting" mode, and configured to achieve ad-hoc operational objectives, with few instances of long-term strategic funding". Regarding community relations (now termed social performance) practitioners, they found that "the profession is technically and institutionally weak. Bainton (2024) concluded that SIA has not been adequately or consistently applied in the mining industry, that the mining industry's record is poor, and instead of being a force for good that the mining

industry's record is poor, and instead of being a force for good, most mining projects have brought considerable harm to local environments and to local communities. Bainton found that SIA can inadvertently reproduce existing forms of disadvantage as the focus on the existing socio-economic conditions is underpinned by a primary focus on the social impact of the proposed mine rather than the wider social, cultural, economic, political context in which mining activities occur. The senior ranks of mining corporations are monopolized by technical and financial professions, supported by lawyers and communications specialists, who promote and protect the industrial interests of the business". Jessica Smith's (2021) research found that engineers who transitioned into sustainability consultants still held the belief that the structural position of consultants in relation to powerful mining companies meant their role was "designed to serve" and as one consultant put it "A client will push you right to the ethical edge of your credibility". Smith found that the consultants' studies, plans, and reputations were put to work in the service of their corporate clients. In Box 1 I present the views of a mining industry insider, Glynn Cochrane, who traced the rise and fall of social specialists in the mining company Rio Tinto.

Box 1: Case Study of a Mining Insider's Views on Mining: Glynn Cochrane, a senior advisor to Rio Tinto (1995-2015) who was responsible for initiating the design of policy and implementation of the company's community relations at greenfield and brownfield sites in over 60 countries, outlined his experiences in his book 'Anthropology in the Mining Industry' (Cochrane 2017). He traced the development Rio Tinto's communities' document The Way We Work and the building of strong site-based community relations teams which included many qualified social scientists and anthropologists including himself. However, following a prolonged cost-cutting process in the early 2000s he reported that by 2014 Rio Tinto no longer had a single senior social specialist in London or Australia who had lived and worked in developing countries for long periods and their 5-year community relations planning system was abandoned. He said that "cost-cutting sent a signal to the best and brightest graduate social scientists that the mining industry was not necessarily a place one could spend a career doing work which was appreciated and valued". He reported that without in-house capacity, Rio Tinto had to spend more money on the Big Five consulting firms who did not have strong community skills or specialized country knowledge". He reported that "Rio Tinto staff in the field without social science credentials and experience were unable to write tight terms of reference for consultants, unable to supervise the work closely, or unable to make good use of the reports that were delivered" and that "the Big Five consulting firms had the ability to suggest ways for a business to expand and, when that did not work, they could suggest ways to downsize and, when that did not work, could then, unashamedly, move on to their next assignment". Glynn

clearly presaged the problems that Rio Tinto would face with the reduction of social scientists with field experience in the company, particularly the destruction in 2021 of the 46,000-year-old Juukan Gorge rock shelters for an iron ore mine in Western Australia which led to the resignation of then-chief executive Jean-Sebastien Jacques and two deputies. Glynn believed that the focus on mining

companies should be on developing careers for applied social scientists to develop strong community relations instead of superficial 'social performance' approaches saying (Cochrane 2017 p177) that "Beyond sounding a little pretentious, what would be the point of a local company talking about social performance? Very little".

Social practice consultants have a significant challenge in preventing negative outcomes for communities when the mining standards provide no real countervailing force in terms of agency for communities, independently moderated forums, independent advice or peer review or a requirement for binding agreement-making. In developing the E&S performance approach to projects the mining industry has engaged in what Bruce Harvey (2013) termed "in-reach", where he argued that mining companies need to focus on their own internal performance and not on 'social development' which he framed as an 'out-reach' activity that was not the responsibility of the mining industry. He believed that the mining industry should focus on the generation of local employment and building of professional capacities and promoting shared infrastructure and a more limited focus on issues of wider community development. However, clearly the mining industry creates many serious impacts on local communities which include land acquisition and resettlement, impacts on Indigenous Peoples, influx, conflict, etc which require significant social development expertise to develop solutions, including re-designing projects. As reported by Cochrane (2017), following the collapse of commodity prices in 2013, the mining industry returned to a focus on profits, and this led to most companies cutting staff on their sustainability teams with some eliminating them altogether. There is clear evidence that the mining industry's environmental and social performance approach to managing impacts as set out in the industry standards of the ICMM, TSM, TCM and WGC have failed to address the serious impacts of mining and it is clear that focusing on consolidating these standards will not address the failings of the approach.

1.5 Human Rights

The growing number of alleged human rights abuses on the part of business had earned a strong UN response (Cochrane 2017). In 2011 and as part of the Global Compact group of initiatives, Professor John Ruggie, the UN's Special Representative on Human Rights, laid out what companies were expected to do in the Guiding Principles on Business and Human Rights (UNGPs) with the state duty to protect and companies to respect human rights and "remedy" human rights wrongdoing (OHCHR 2011). Cochrane argues that "Inevitably, there were questions about the competence of business to fulfil this role and how the private sector would be able to avoid appearing to be prosecutor, judge, and jury in matters where its own performance was in dispute". The UN (2024) has recently published a set of principles to guide critical energy transition minerals towards justice and equity including respecting human rights, safeguarding biodiversity, justice and equity, benefit-sharing, responsible mineral value chains, transparency & accountability and international & regional cooperation. The actionable

recommendations include liaising with the relevant bodies in the United Nations system on the enforcement of human rights, environmental, governance, social and climate safeguards and a framework for disclosures and comprehensive, independently verified due diligence on the mineral sector's environmental, social and governance performance. The ICMM guide on Human Rights Due Diligence explains that “the difference between human rights and social performance is that human rights due diligence also includes workers in the value chain while social performance is the management of risks and opportunities relating to socio-economic benefit sharing, social investment, and employment creation, which strictly speaking fall outside of a rights-based framework”. “And while social performance may consider issues related to security, the environment, and resettlement, a human rights lens offers a perspective on vulnerability that a social performance function may miss”. The challenge of human rights due diligence is that there is no process proposed to empower local communities in the process of developing projects in order to avoid or minimize harm, only limited support after the harm is done.

1.6 Negotiated Agreements

In 2015, together with the other two directors of Intersocial at the time, I co-authored a book ‘Land Access & Resettlement: A Guide to Best Practice’ (Reddy et. Al 2015). The guidance recommended that mining companies adopt a negotiated agreement-making approach to acquiring land and resettling people for projects. However, the approach outlined in the book did not require affected communities to be provided with independent advice on impacts and benefits and still held the risk of significant power imbalances. The approach recommended in the book was broadly aligned with the environmental and social performance approach advocated by the IFC standards which ‘encourages’ negotiated agreements for land acquisition and resettlement (but does not require them). The approach advocated in the book did have elements of a multi-stakeholder process including early and continuous engagement with stakeholders, transparency and collaborative problem-solving. However, there were limitations including the final decision-making power often remains with the project proponent and there still may be power imbalances, where the interests of the more powerful mining companies can dominate the process. A representative multi-stakeholder process would require more equal distribution of decision-making power by ensuring that affected people had access to independent advice at each stage of the process.

1.7 Multi-stakeholder Mining Standard

The only mining standard to emerge through a multi-stakeholder process is the Initiative for Responsible Mining Assurance (IRMA) standard. IRMA's current board is comprised of nongovernment organizations (Human Rights Watch, Earthworks), businesses purchasing minerals and metals for resale in other products (Mercedes-Benz, Microsoft), affected communities, mining companies (Anglo American, ArcelorMittal), and labor unions (IRMA 2024). IRMA is the only standard for the mining industry that requires new mines to obtain ‘Broad Community Support’ (BCS) through local democratic

processes or governance mechanisms, or by another process or method agreed to by the developer and the affected community (e.g. a referendum). The IRMA standard also requires developers to identify capacity gaps in the local community and to offer appropriate assistance to facilitate effective stakeholder engagement and to provide an effective grievance mechanism that meets the UNGP effectiveness criteria including the recognition that “(for an operational-level grievance mechanism) Since a business cannot, with legitimacy, both be the subject of complaints and unilaterally determine their outcomes, these mechanisms should focus on reaching agreed solutions through dialogue. Where adjudication is needed, this should be provided by a legitimate, independent third-party mechanism”. The IRMA standard was ranked highest for content and level of obligation by the IGF and scored highest (7/10) in the Lead the Change assessment of mining standards.

While the IRMA standard is governed by a multi-stakeholder process the requirements of the standard are mostly aligned with the environmental and social performance standards with limited requirements beyond the IFC standards. The key differences are that IRMA states a requirement for Broad Community Support from affected people for the project and the mining company is meant to provide finance so that the affected people can get independent advice. In practice, most of the projects being audited are up and running so these requirements are likely not assessed and IRMA if they don't meet all the requirements IRMA is awarding them IRMA50, 75, 100 for the level of compliance with the projects. IRMA is also not failing projects who don't meet the standards but requiring them to get reassessed in a process of continuous improvement. However, this is likely to result in mining projects continuing to implement process which don't meet project-based representative multi-stakeholder processes.

1.8 What doesn't work for Mining Companies and Affected People?

As the first social scientist in the World Bank, Micheal Cernea realized that if the organization was to realize it's mission to 'end extreme poverty and boost shared prosperity on a liveable planet'. In his edited book 'Putting People First: Sociological Variables in Rural Development' the authors make it clear that for projects to succeed the basic factor in development is to empower people, and that “noneconomic social sciences, which study people, cultures, and societies, are vitally necessary” (Cernea 1985, p3). He argued that the absence of sociologists or anthropologists in technical settings means that many programmes remain socially under-designed and register a higher rate of economic, technical, and sociopolitical failure. In the same volume Uphoff (1985) argued that without procedures for introducing participation “a psychology of dependency” which is the “antithesis of development will be the outcome”. On mining projects, the baseline for the SIA is often undertaken over a period of two or three weeks by a national environmental consulting firm, with a term of reference developed by a social performance consultant who flies into the project for a few days to conduct 'key informant interviews' and to participate in a few focus group discussions. The international expert then goes back to their home city and writes and SIA and/or RAP which is presented to the company as a blueprint to address all the social and resettlement impacts of the project. The mining industry social performance

practice suffers from what Robert Chambers (2017) attributed as a key problem in the development sector of “a widespread phenomenon of biases of experience and perception in which to varying degrees of strategic ignorance, shortage of time, convenience, accessibility, and stage management combine, is rural development tourism, the brief visit by the urban-based person.” He defines ‘strategic ignorance’ as “the deliberate act of not knowing or ignoring certain information” and argues that incentives and disincentives related to career advancement and funding contribute to biases, myths, and blind spots that continue to distort the understanding and effectiveness of development efforts. At a session I attended on SIA at the IAIA annual conference in Malaysia in 2023 industry and impact assessment professionals explored the utility of SIAs in industry. The industry sustainability leaders expressed their frustration with expensive consultants flying in to prepare large documents that largely gathered dust on the shelves while they continued to fire fight problems with local communities. There was consensus that SIA is not contributing to practical solutions to social issues on mining projects. I agree with Vanclay and Esteves (2024) who stated that “with the last 20 years understanding in this field, that the terms ‘SIA’ and ‘social performance’ can be used interchangeably” given both processes deny affected people agency in the development of mining projects in their territories. What both SIA and social performance have in common is a governance process that excludes affected people from any agency in the design of projects or the assessment of impacts and the development of mitigation measures. Cernea envisaged that by brining non-economic social scientists or anthropologists into projects that they would empower communities and develop plans that would enable people-centred development outcomes.

However, while the industry initially embraced social scientists on projects in the early 2000s, following the great drop in mining commodity prices which occurred during the 2008-2009 financial crisis, for example as Glenn Cochrane has outlined in his book at Rio Tinto, mining companies cut back social departments significantly. Social scientists were replaced by industry insiders; engineers, environmentalists, lawyers, geologists, communications staff, etc. and more transactional social performance practices became dominant. This ‘in-reach’ has led to a lack of understanding of social development problems around mining projects and a focus away from empowering local communities. When local communities don’t have agency in the governance process for developing mining projects then there is no trust. The social performance framing of ‘social licence’ implies that the only agency that communities can exercise is that of the threat of protest, which further erodes trust, and leads to a focus on up-front cash compensation and short-term CSR solutions which results in a psychology of dependence. The major challenge on mining projects is the lack of replacement land for people dependent on farming.

The social performance approach doesn’t admit this is a problem requiring a rethink of the project design or the provision of long-term safety nets but instead seeks to deflect by proposing alternative

livelihoods programmes known not to be effective to get the project approved and to leave the affected people facing long-term impoverishment.

The focus on auditing against standards by industry consultants responsible for the design of weak social performance approaches to projects in the first place isn't going to solve the challenges facing mining projects. The mining industry will play the standards game by hiring expensive external consultants to undertake internal assessments to identify 'gaps' in approaches in preparation for audit visits. Site-based teams, instead of focusing building relationships with affected communities through partnerships and agreements, will spend time preparing reports on auditor's metrics and stage-managing audit visits. None of this costly process will tackle the core challenges of how mining companies can jointly resolve complex social problems with affected people, governments and other stakeholders.

1.9 What Works for Mining Companies and Affected People?

A fair and equitable approach to mining projects which empowers affected people to share their knowledge and builds their capacity to understand the impacts of mining projects and what benefits can be gained through representative multi-stakeholder agreement-making process is the way forward. Smyth (2023) presented the case of the Ahafo South Goldmine in Ghana as an example of the empowerment of affected people through agreement-making. Newmont in 2004 had been keen to improve its reputation as a socially responsible company through the development of its first projects in Ghana – especially after controversies surrounding its operations in Peru and Indonesia, where there had been environmental issues and community conflict (Henisz and Gray 2012). Newmont failed to reach agreement with communities neighbouring its Minas Conga project in Peru and serious community protests eventually led to the company abandoning the project (Downs et al. 2020). The Resettlement Close-Out Audit for the Ahafo South Project (Barclay and Salam 2015) found that Newmont Ghana Gold Limited (NGGL) had in place a strong resettlement management team (in-house and consultant) with robust external monitoring that was able to adapt resettlement and livelihood restoration measures to evolving circumstances. In the view of the auditors, this was a critical success factor for the Ahafo resettlement programme. The first resettlement phase was led by an anthropologist with significant resettlement experience and his values of putting people first were strongly reflected in the approach of negotiating agreements with the affected people and designing a more holistic resettlement process. Prior to land acquisition in 2004–2005, Newmont chose to negotiate a range of agreements directly with the traditional leaders and the affected people by establishing committees. The Resettlement Negotiations Committee (RNC) was formally established with an independent moderator (a retired chief of police from the area who was respected by the local communities for his independence). The community representatives were freely chosen by the affected people, who could change their representatives if they did not agree with their recommendations. These committees fostered strong community solidarity and were lively forums for debate. Initially, women were reluctant to voice their views, but the moderator created a slot for them to provide their input and over time most

fully participated in the discussions. In contrast to Social Licence to Operate (SLO) approaches which provide the affected people with no formal decision-making powers, community agreements are written documents that are intended to express specific binding commitments made between the firm and stipulated community actors (Sosa and Keenan 2001). Communities see these negotiated agreements, which are more common in Australia and Canada with Indigenous Peoples, to mobilise formal legal mechanisms to hold extractive firms to their commitments (O’Faircheallaigh 2010). However, O’Faircheallaigh (2017, 1190) also notes that ‘agreements, if negotiated between parties characterised by great disparities of power, will enshrine this inequality.’

The voluntary move by some mining projects to seek broad-based community consent has been termed ‘FPIC by extension’ by Owen and Kemp (2019, 147). They claim that this demonstrates a recognition by the industry of pressing challenges, including the need to address the unequal playing field for customary landholders, negotiate on impacts and benefits, align industry practice with the business and human rights agenda, and build a global framework for integrating locally held notions of rights and entitlement with internationally defined norms and social safeguards surrounding the spread and dynamic presence of capital (Owen and Kemp 2017, 147). Through the RNC, Newmont negotiated agreements with the affected communities on a final set of RAP packages including resettlement sites, housing and infrastructure, crop and land compensation, support for the vulnerable, and livelihood restoration. The RAP packages were renegotiated for each phase of resettlement, and this led to incremental improvements in some areas including larger houses and the sealing of the roads in the resettlement sites due to the impact of dust. While the outcomes of the Ahafo Project are contested, it is clear that Newmont made a significant commitment to undertaking an international-standard land acquisition and resettlement process which went beyond IFC standards, and which can provide a model for the mining industry for negotiated agreement-making with affected people.

The experience of complaints mechanisms on World Bank-funded projects provides valuable insights into what works in terms of resolving disputes on projects. Concentric Alliance (2023) undertook an evaluation of the Compliance Ombudsman Advisor (CAO) which reviewed 100 assessment and 53 dispute resolution processes on projects funded by the World Bank Group. The review highlighted how useful the dispute resolution was for creating trust between affected communities and developers using mediators who through their neutrality had been excellent in striking the correct balance and tone between the parties. If developers were required to negotiate agreements up-front with the key elements of the CAO mediation process - Joint fact-finding, capacity-building, mediators, and participation by NGOs and CSOs – trust could be built, and power differences reduced. This would involve up-front mediation to promote agreement-making and to protect affected people from threats and harassment. If a complexity analysis was undertaken of each project as part of the initial design phase, then complex cases which risk impoverishing affected people could be redesigned or stopped.

Koenig (2006) pointed out that genuine participation helps to secure local consensus and reduces conflicts, negative social impacts, and delays later in the process.

O’Faircheallaigh (2023, p285) explained how Indigenous agency has been fundamental in advancing domestic and international recognition of Indigenous rights, how Indigenous peoples have negotiated agreements that change the distribution of costs and benefits in fundamental ways and have created their own impact assessment (IA) processes to help overcome the weaknesses of regulatory EIA. He explained how the Atacameño peoples in Chile and many Aboriginal people in Australia and Canada wish to capitalize on the economic opportunities provided by mining, while at the same time achieving protection of water and other environmental and cultural resources essential to their livelihoods and well-being. Carling & Bloomer (2023) from the Business and Human Rights Resource Centre outlined how Shared Prosperity Agreements are becoming more common in the renewable energy sector providing examples from the wind, solar and geothermal sectors in Kenya, Canada and New Zealand. These projects, in their view, hold the promise of the ‘Triple Win’: communities and workers gain decent livelihoods, long-term revenue streams, environmental protection, and control over the projects within their communities; investors and companies gain stable and conducive investment environments; and our planet gains rapid transition action towards re-establishing a stable climate.

1.10 Fair and Equitable Project Approaches

In 2024, a group of international experts in land acquisition and resettlement launched the Dulin Declaration on Fair and Equitable Land Access (FELA 2024) at the annual conference of the International Association of Impact Assessment. The Declaration proposes a new approach to projects where communities are treated as equal partners in the process to reach agreement on impacts and benefits and if and how projects can proceed to achieve a Just Transformation. The FELA Declaration is framed by six principles: Rights & Recognition, Fair Procedure, Fair Distribution, Planning & Resources, Power & Context, and Remedy & Accountability and twenty-six recommendations for implementation of fair and equitable projects.

Fair and Equitable project approaches address the key issues which determine the outcome for affected people and the environment on projects:

Wellbeing – fair and equitable project approaches focus on the overall wellbeing of affected people and the environment and not a more limited focus on economic and physical displacement. The IFC Standards and Social Performance approaches do not present any holistic framework for conceptualizing or communicating the impacts of projects on people and planet. The FELA approach uses the Sustainable Wellbeing Framework which was first developed by the author as the Social Framework for Projects in 2015 (Reddy et al. 2015) and later evolved into the current version (see Smyth & Vanclay 2024).

Box. 2: The Sustainable Wellbeing Framework – an Equitable DFDR Framework

The Sustainable Wellbeing Framework (SWF)



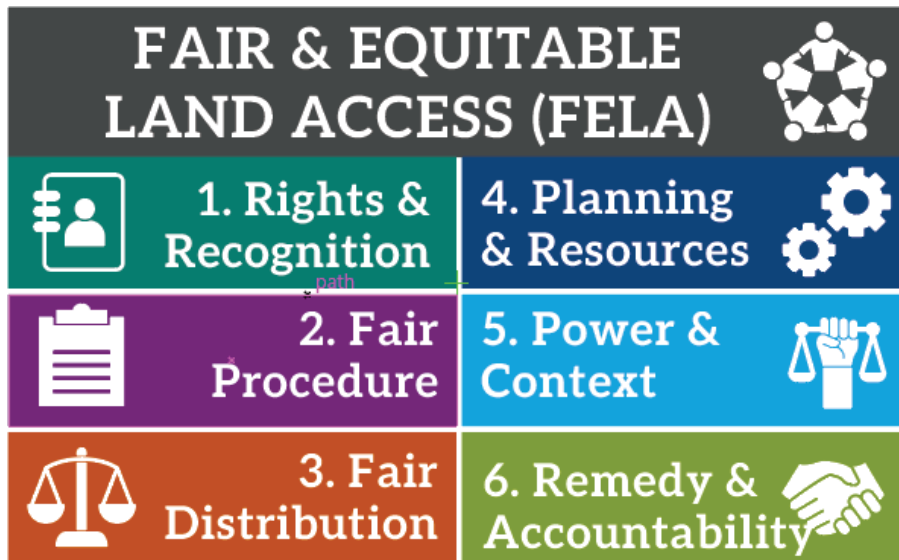
The SWF has the following components:

- A central objective of enhancing the wellbeing of people and planet. The wellbeing of people and the planet is central to all international sustainability standards. This values not only impacts on people but also impacts on biodiversity and the environment which are valued for their existence regardless of whether these resources are valued by local people.
- The eight interrelated SWF categories represent all the factors that contribute to the well-being of people and the planet: People, Community, Culture, Livelihoods, Infrastructure, Housing, Living Environment, and Nature.
- The nested presentation of the eight interrelated SWF wellbeing categories in the three sustainability pillars: Social, Economic and Environmental.

[Smyth & Vanclay \(2017\)](#)

Governance: In the fair and equitable projects approach, affected people have agency with inclusive decision-making powers on projects through their own cultural processes or supported through independently moderated stakeholder forums with the provision of advice. This approach has already been implemented on many projects internationally.

Box. 3: The Dublin Declaration on Fair and Equitable Land Access (FELA)



Principle 1 Rights & Recognition: Recognize the rights, knowledge, and agency of affected people, and their right to enhanced wellbeing.

Principle 2 Fair Procedure: Promote inclusive decision-making through a fair and transparent procedure from the outset and throughout the lifecycle of the project.

Principle 3 Fair Distribution: Ensure a fair distribution of impacts and benefits and align with the Sustainable Development Goals.

Principle 4 Planning & Resources: Ensure high standards of professionalism and planning and sufficient resources to improve the lives of affected people and their communities.

Principle 5 Power & Context: Address power differences and contextual factors.

Principle 6 Remedy & Accountability: Ensure remedy and accountability through access to Grievance Redress Mechanisms, remediation, and legal recourse.

In Table 1. the Principles of Fair and Equitable Land Access (FELA) are compared with the Social Performance Approach of the IFC Standards.

Table 1: Comparison of the Principles of Fair and Equitable Land Access (FELA) with the Social Performance Approach of the IFC Standards

<p>FELA Principle 1: Rights & Recognition: recognize the rights, knowledge, and agency of affected people, and their right to enhanced wellbeing.</p>	
<p>FELA Approach</p> <p>An approach centred on the agency of affected people so that their local knowledge is valued leading to better project design and implementation processes.</p> <p>FELA recognizes the rights of women and men of all ages and capacities to define their own objectives and strategies for developing their wellbeing, including the right to say no to projects which are harmful to their wellbeing and also the right to negotiate significant development benefits where the agree to support a project</p>	<p>Social Performance/IFC Standards</p> <p>The SP/IFC standards promotes a developer-led where industry E&S performance consultants spend short periods of time in communities and gather information to develop management plans to be implemented by the developer. This technological approach limits the participation of affected people to ‘meaningful consultation’ which often results in their knowledge and agency being suppressed and often leading to poorly designed projects with negative outcomes for local people. Affected people (except indigenous peoples) have no right to say no to harmful projects.</p>
<p>FELA Principle 2: Promote inclusive decision-making through a fair and transparent procedure from the outset and throughout the lifecycle of the project</p>	
<p>FELA Approach</p> <p>FELA requires that a multi-stakeholder process where responsible entities, including developers and sponsoring agencies, must provide sufficient information, opportunity, financing, and resources to empower all affected people, commensurate with the level of project impacts, to enable them independently to represent their own interests, values, knowledge, and priorities in dialogue and negotiation regarding the project and their terms and conditions on which it may proceed.</p> <p>FELA requires that lenders, governments, and projects must establish a policy of zero tolerance of any threats, intimidation, or violence against affected peoples, their representatives, and/or</p>	<p>Social Performance/IFC Standards</p> <p>The SP/IFC standards promote a unilateral developer-led process where local communities have no agency in the process to select and design process and project governance process provide no right to dialogues, only developer-led consultations which often result in poorly designed projects which cause harm to affected people. The IFC standards do not require developers or sponsoring agencies to provide any capacity sharing of affected people or funds so they have access to independent advice on impacts or benefits. Only Indigenous Peoples are provided with FPIC on projects.</p> <p>The SP/IFC standards do require that affected people area protected from threats and intimidation; however, no safe spaces are provided for multi-stakeholder dialogue. This leads to situations where local communities may not trust the</p>

<p>human rights defenders. By requiring a multi-stakeholder dialogue process this provides a safer space to voice concerns about the project.</p>	<p>process and be forced to protest which can create risks of retribution from the developer or local security or paramilitary forces. The stakeholder mapping undertaken by industry consultants to prepare Stakeholder Engagement Plans can be shared with developer security departments, and potentially local security forces, where local community members who voice opposition to the project can be branded as troublemakers and suffer harassment, imprisonment, injury or death.</p>
<p>Principle 3: Ensure a fair distribution of impacts and benefits and align with the Sustainable Development Goals</p>	
<p>Social Performance/IFC Standards</p>	
<p>FELA requires that before project approval is given, potentially affected people should have participated in identifying and weighing-up the distribution of all the anticipated economic, social, cultural, and political costs of resettlement against the distribution of likely project benefits. Understanding the full costs is essential to determine whether the project is appropriate, viable, has an adequate business case, and is in the broader public interest. Affected people should be part of the decision-making about projects that relate to these assessments.</p>	<p>The SP/IFC standards focus on environmental and social impacts and assume that the economics of the project are justified in the initial approval process. The IFC standards do not require a multi-stakeholder process or any analysis of the equitable distribution of impacts and benefits. There are no requirements for assessing the considered the principles of distributive justice and equity and whether the proposed positive impacts of job creation or tax generation outweigh the potential negative environmental and social impacts of the project.</p>
<p>FELA requires that during project preparation and implementation, independent analysts, in consultation with affected people, must identify the structural and power constraints to equitable decision-making, achieving gender equity, and to the equitable distribution of the benefits from the resettlement process. Together, they should recommend supporting measures in cooperation with the affected people.</p>	<p>The IFC standards are largely based on the assumption that the developer is committed to the implementation of the standards but evidence from projects point to developers taking a minimalist approach in order to save the additional costs of environmental and social protections. There is no requirement for an assessment of the political economy analysis of the project and the power differences between the developer, government and the affected people. This enables developers to enter isolated territories and deprived communities without any requirement to empower the affected people to understand the project impacts or benefits leaving them vulnerable to harmful projects.</p>

Principle 4: Ensure high standards of professionalism and planning and sufficient resources to improve the lives of affected people and their communities.	
FELA Approach	Social Performance/IFC Standards
<p>FELA requires that developers and governments should provide evidence that competent teams with social scientists exist to support a FELA process and have appropriate social expertise and field experience in community development, and skills such as gender equity, sustainable livelihood enhancement, innovative land access, benefit sharing strategies, cultural and heritage transformation, etc.</p> <p>FELA requires that sufficient funds must be provided to enable a proper planning process that can address all impacts, provide for agreed benefits, and for contingencies. Also, adequate resources must be provided so that affected people can access independent expertise. Sufficient funding must be available to address any necessary remedial action throughout the project cycle.</p> <p>FELA states that the timeframe for planning, implementation and follow-up of FELA must be sufficient to allow affected people meaningful engagement and shared or devolved decision-making in options assessment, project planning, and negotiations on their preferred objectives, strategies, and outcomes. There must be sufficient time for implementation, verification, and remediation (which may take up to 10 years).</p>	<p>The SP/IFC recruits Environmental and Social (E&S) staff and hires E&S consultants to oversee the implementation of projects. In their advertising they state that either an environmental or social qualification, together with projects experience, is required to fulfill these roles. This has increasingly led to non-social experts being hired to oversee projects which has resulted in an underestimation of the social and livelihoods impacts of projects which have resulted in harm to affected people.</p> <p>The IFC standards require that the developer provides a budget in the case of resettlement, but not for the management of all project issues. It is commonly the case that the costs of addressing environmental, social and economic impacts are significantly underestimated by developers leaving implementation with inadequate resources. The IFC standards do not require that any independent advice on impacts and benefits is provided to affected people.</p> <p>The IFC standards do not provide a clear requirement for the duration of support to affected people, and it is common for developers to consider the payment of cash compensation or the provision of replacement housing as meeting their commitments to meet the standards. Generally, implementation teams are provided with inadequate budgets to even address the minimal requirements of the standards.</p>
Principle 5: Address power differences and contextual factors.	
FELA Approach	Social Performance/IFC Standards
<p>FELA requires project developers to consider potential socio-political</p>	<p>The IFC has recently developed a Draft Guidance on Contextual Risks but there</p>

<p>impacts by conducting a political scan to identify the power brokers and to determine whether equitable negotiations with affected people can be undertaken. Steps must be taken to ensure that there is no corruption throughout the whole process.</p> <p>FELA states that a project's environmental, social, cultural, political, and economic impacts may be categorized either as 'complicated problems' (i.e. can be resolved by good practice) or as 'wicked problems' (i.e. cannot be easily resolved). For wicked problems, a FELA process would recognize that linear, expert-led plan approaches will not work, and an inclusive, transdisciplinary approach will be required, including questioning whether the project itself is justified and appropriate. FELA requires project developers, together with local communities, to proactively assess contextual factors, and be prepared to reassess and potentially redesign or reconsider projects if these factors are found to be particularly hazardous for the affected people.</p>	<p>is no requirement for the developer to utilize this guidance or conduct a political or contextual risk analysis.</p> <p>The IFC standards do require developers to categorize projects depending on the level of E&S risk (A+/A-, B+B-, C, etc.). However, when a project is considered as category A and having high levels of risk the approach is still to assume that the impacts can be addressed through the mitigation hierarchy. Evidence from project reviews demonstrates that certain project contexts have wicked problems and projects themselves can create wicked problems such as landlessness, displacement of informal settlements, etc. which cannot be resolved, and which can lead to human-rights harms. It is extremely rare for industry consultants to prepare project assessments which recommend that the project be refused on the basis of these wicked issues.</p>
<p>Principle 6: Ensure remedy and accountability through access to Grievance Redress Mechanisms, remediation, and legal recourse.</p>	
<p>FELA Approach</p>	
<p>FELA states that there must be multiple channels available to affected people and communities to access remedy, including</p>	<p>the IFC standards provide for a wholly developer-led grievance management process which means that people who are harmed by the project must submit a</p>

company-level grievance mechanisms for household-level, non-systematic grievances; independent fact-finding; mediation; and compliance and arbitration processes to enforce legal agreements between affected communities and project developers, and the environmental and social requirements in investment or procurement contracts. These non-judicial grievance mechanisms should not preclude access to justice through judicial or administrative action. FELA states that affected people and communities must be given access to independent lawyers to support them through any necessary contracting, mediation, arbitration, and other remedial processes.

complaint to those that they are claimed that are harming them without any right to independent recourse. The only recourse open to affected people outside of the grievance mechanism is to take the developer to court but this can be costly and ultimately ineffective. Where the project is funded by the IFC then the affected person can submit a complaint to the IFC complaints mechanism, the CAO, however, if the IFC are not involved in the project and the developer is just claiming IFC standard compliance, or if the IFC has withdrawn from the project later then the recourse mechanism is not available to the affected people.

The full Sustainable Wellbeing Framework integrates both the wellbeing categories of the original Social Framework for Projects, and the governance principles adopted in the Dublin Declaration on Fair and Equitable Land Access (FELA). The approach to integrating the Sustainable Wellbeing Framework on projects is presented in Figure 1 and the project process which integrates the Sustainable Wellbeing Framework and the FELA principles and recommendations is presented in Figure 2.

Sustainable Wellbeing Framework

Nature - Biodiversity, Land & Water Bodies

- Biodiversity, genetic resources, etc.,
- Connection with nature (biophilia)
- Key nature components (individual/common): forests, rivers, the ocean, cropland & pasture, etc
- Benefits of nature: crops, livestock, fish, wild foods, timber, freshwater, traditional medicines
- Tenure arrangements for land & common property
- Competing land-use demands & speculation
- Minerals, materials and resource efficiency

Living Environment - Measuring Change

- Climate change impacts
- Pollution: Quality of Environment
- Indicators for air, water, soil & vegetation
- Nuisance factors: noise, dust, vibration, blasting, flaring & light, traffic etc
- Effluents and waste management
- Landscape aesthetics & natural features
- Risk of natural/man-made disasters
- Recycling and the circular economy

Housing - Homes & Assets

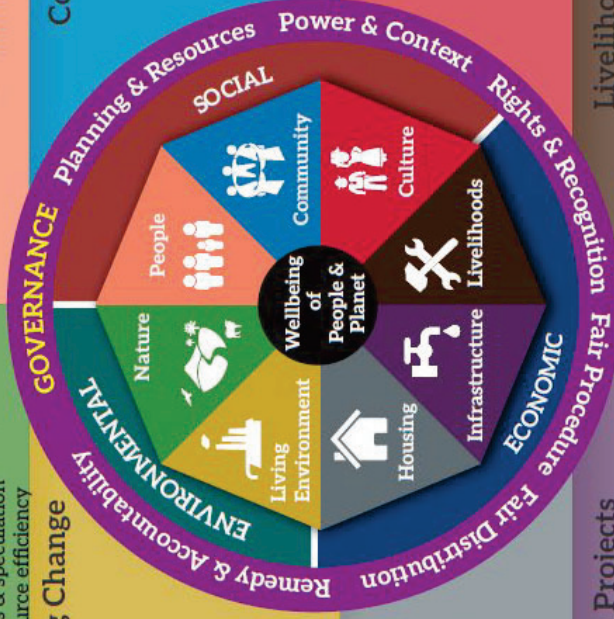
- Family home & plot - property price trends
- Business & rental structures
- Household and business assets, vehicles, etc.
- Temporary housing
- Informal housing and speculative building
- Spatial planning and zoning

Infrastructure - Services & Projects

- Utilities: water, energy, sanitation, etc.
- Public & social services: health, education, roads, drainage, rubbish collection, markets, policing, banking, communications/internet, agricultural extension services, religious, enterprise support, social, childcare, elderly & recreational facilities
- Quality of services & ongoing funding & maintenance arrangements
- Industrial developments associated with manufacturing, mining, oil & gas, renewable energy, economic zones,

People's Capacities, Abilities & Freedoms to Achieve Their Goals

- Fundamental human rights, health (including mental health) & food security
- Poverty, inequality, marginalization & intersectional impacts
- Capacity to work & support needs (children, elderly, disabled)
- Household strengths - education, skills, indigenous knowledge, entrepreneurship
- Equality, class/status, gender divisions, empowerment & equal opportunities
- Aspirations, fears, expectations and anxieties
- Leisure, sports, recreation & volunteering
- Changing generational relationships & needs - gender/age
- Support from relationships, family, community, neighbourhood and civil society
- Self-reported levels of happiness, democratic participation & life expectancy



Community/Social Supports & Political Context

- Family & social, traditional, economic & political networks, institutions & processes, governance & corruption
- Social cohesion, in-migration & out-migration
- Sports, religious, social & business groups and linkages
- Government agencies, civil society, laws & human rights
- Safety, hazards, security, conflict & crime
- Media - radio, newspapers, television, internet and privacy
- Community perceptions of project, conflict & legacy issues
- Access to decision-making/independent advice/grievance/remedy mechanisms

Culture - Traditions & Place Attachment

- Indigenous & traditional peoples
- Cultural & religious structures, ceremonies and festivals
- Shared customs, beliefs, values and taboos
- Place identity and attachment
- Archaeological sites & tangible & intangible heritage
- Creative expression: writing, language, music

Livelihoods - Assets/Activities & Economic Development

- Inequality - equitable access to benefits
- Savings, debt, (micro)credit access and inflation
- Stores of food, seeds, tools, households goods & valuables
- Wage-based livelihoods: formal & informal employment, labour rights & working conditions,
- living wages, child & forced labour and local content
- Land & water-based livelihood activities: cropping, sharecropping, livestock, fishing, hunting & gathering & legal small-scale mining
- Enterprise-based livelihood activities: sale of goods & services, technology, rental properties, tourism and local procurement
- Illegal activities: corruption, drug sales, illegal mining, fishing, sex-work, theft/crime, speculation, smuggling & poaching
- Other livelihood supports: bartering, unpaid work, labour-sharing, caretaker, project compensation, remittances, welfare, pensions, dowries & gifts

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Fair & Equitable Land Access (FELA) Process

178 Project construction/operations - Monitoring & Adaptation

Outcomes: Social: People - enhanced health, food security, skills/education & happiness
 Community: maintain social cohesion, limit conflict; **Culture:** Protect tangible/intangible culture
Economic: Livelihoods - Improved employment, business & land/water-based livelihoods
Infrastructure: Improved infrastructure & services; **Housing** - Improved housing & tenure
Environmental: Living environment - enhanced environmental indicators;
Nature - Protect habitats/biodiversity vs trade-off access to land
 Evaluate/document outcomes and share/embrace set-backs/learning
 Periodic review of agreements/adaptive management - close-out audit (5-10yrs)

7 RAP/LRP Implementation

Ongoing dialogue - community/project/government
 Construct resettlement housing/infrastructure
 Sign-off entitlements and pay compensation
 Moves, demolition & salvage
 Livelihood improvement programmes/allowances
 Co-monitoring of wellbeing impacts & benefits
 Compliance audits - remedy issues during implementation
 Grievances & Remedy - independent recourse
 Support to vulnerable people & wider community dev

6 Implementation Management Systems

Sustainability team to co-implement agreements
 Workplans - tasks, activities & responsibilities
 Review planning and resource commitments
 Capacity-building communities - financial management
 Grievance management with independent recourse
 Measures to support vulnerable people/groups
 Co-monitoring of wellbeing impacts with communities

5 Community Agreements/ Consent?

Multi-stakeholder forum to make decision on project with moderation & independent advice
 Broad Community Support/FPIC - Sign community MOU & individual agreements
 No Go - redesign, relocate or abandon project

1 Project Scoping and Preliminary Design

Professional Planning & Resources (team, scale, schedule, budget)
 Conceptual design - maps/areas of influence - directly/in-directly affected people
Power & Constraints - scan of governance and contextual challenges/influx & speculation
 Categorize project & potential context/outcomes as simple/complicated/complex
Recognition & Rights - Gap analysis: National standards, laws & regulations vs international
 Implications of regional development planning, CIA & SEA & community development plans
 Consider equally women & men of all ages and minority groups at every step
 Check of FPIC or Broad Community Support for engaging in dialogue on project or rejection

2 Dialogue for Community Agreements

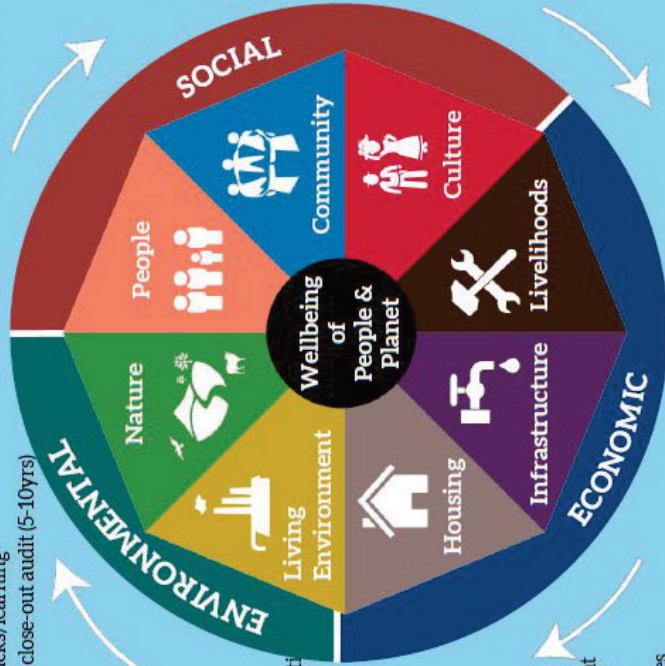
Fair procedure - dialogue commensurate with project impacts
 Simple projects - standard operating procedures
 Complicated/complex projects - moderated stakeholder forums
 Inclusive dialogue: communities, NGOs, government and developer
 Community dialogue plan with independent advice to affected people
 Grievance/accountability mechanism with independent recourse
 Consider women/men, youth, host communities, informal owners/users
 vulnerable groups and Indigenous Peoples and Local Communities

3 Wellbeing & Asset Baseline Studies

Co-research wellbeing baseline studies with affected people
 Co-design monitoring indicators & approach (SWF)
Specialist studies: community wellbeing/development profile
Benchmark projects to develop Theory of Change (ToC)
 Preliminary project design to avoid/minimize impact
 Community capacity-building with independent advice
Project asset surveys - decision on cut-off date for entitlements
Entitlements & Compensation - undertake independent valuation to determine entitlements and compensation
 Livelihood improvement feasibility studies/benchmarking
 Houses co-designed with local communities

4 Wellbeing Impact Assessment & Management Plans

Co-design wellbeing impact assessment/risks/opportunities
 Fair distribution of impacts and benefits through agreement making
 Management plans with resource commitments - independent peer review
Livelihood improvement programmes based on viability assessment/benchmarking - Theory of Change
 Physical resettlement site to maintain cohesion and consider host communities
 Maximize local procurement & employment



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2 Discussion on the CMSI

This note outlines the evolution of sustainability standards in the mining industry in response to demands for accountability for the major positive and negative economic, social and environmental impacts of mining projects on the wellbeing of people and the environment. A key theme running through the development of approaches to mining impacts was the mining industry and investors framing the issues narrowly in their interests by dominating the process and only affording other stakeholders and advisory role. The mining industry participated in a representative multi-stakeholder process, the MMSD project in 1999-2001, however the report was never implemented. A more recent representative multi-stakeholder initiative, IRMA, has also been ignored by all but a few mining companies. The CMSI is fully controlled by the mining industry with a consultative approach to the other key interest groups. The Stakeholder Advisory Group does not have any mandated representatives from Indigenous Peoples, affected communities or civil society but individuals from these groups acting in an individual capacity. In the absence of a representative multi-stakeholder approach it is not surprising that the content of the standard also advocates for developer-led approach at project sites where affected communities are only entitled to 'meaningful stakeholder engagement' with the terms of the engagement fully dictated by the mining company.

Up until the 1970s, mining companies and governments relied largely on the argument that society needed the materials provided by mining for development and therefore needed to accept the negative impacts. However, major mining disasters in the 1970s and growing activist pressure led to the requirement for EIAs to assess environmental, social and economic impacts. The industry embraced this process which was framed around enabling projects to move forward in a developer-led approach with requirements to mitigate negative impacts. A major industry of environmental and social consultants emerged to serve industry need to conduct impact assessments to secure project approvals. The World Bank developed standards based on social scientists on projects identifying social impacts and development management plans to mitigate impacts. The mining industry initially involved social scientists on projects but with a relentless focus on cost-cutting in the industry the industry created an environmental and social expert role to manage these risks. This led to non-social scientists dominating the new social performance industry where external industry consultants prepared SIAs and social performance management plans to address social impacts. Without social scientists involved in mining projects the local communities were framed as a risk which needed to be managed by the industry. Affected communities were treated as just another stakeholder on their own territories with only the right to be consulted on management plans being prepared by industry consultants visiting the project area for short periods. This social performance approach has led to ongoing serious negative outcomes for affected people who are often impoverished in the process of developing mines while having to suffer a range of social, economic and environmental impacts.

In 1999, nine of the World's largest mining companies initiated a research project, the Mining, Minerals, and Sustainable Development (MMSD) Project (IIED 2002), to explore the role of the sector in the transition to sustainable development following a series of major mining disasters. The MMSD process

led to recommendations for reform of the mining industry and the implementation of multi-stakeholder processes and the importance of independent multi-stakeholder engagement and participatory analysis to address the interface between the mining sector and sustainable development. The MMSD did lead to the formation of the ICMM and instead the industry developed a range of voluntary industry standards, including the ICMM (Mining Principles), Mining Association of Canada (Towards Sustainable Mining), the Copper Mark and The World Gold Council Responsible Mining Gold Principles. These voluntary standards reinforced the top-down, expert-led approach, to addressing the impacts of mining. Industry insiders have repeatedly pointed out that the mining industry needs to build competent and experienced social teams to build trust with local communities and co-design effective strategies to develop profitable mines and sustainable communities.

The focus of social performance on external experts auditing plans and strategies developed by external experts is leading to a focus on audit performance instead of building community relationships. In my experience, site teams are frustrated with the constant demands to prepare metrics for sustainability and audit reporting which can take up 50% of the resources of the social team on some sites. Having worked as a resettlement project manager on a mining project for three years, I am aware of the considerable time that goes into staging audits in terms of gathering information and showcasing the best side of the project. This can involve having external consultants conduct a pre-audit to ensure the site is prepared for a full audit. Ultimately, the social performance model of external consultants flying in for short periods of time to countries and regions they have little knowledge of and preparing studies and management plans to facilitate project approvals adds limited value to the project. E&S consultants are preparing social management plans to satisfy national regulators and international banks and often exaggerate positive impacts and understate negative impacts. The site-based social team often have limited expertise in applied social science to manage the complex social development problems caused by mining projects. Mining companies are spending their resources on auditing rather than on resourcing site teams to participate in representative multi-stakeholder processes on mining projects where the focus is on capacity-sharing with local communities to develop long-term partnerships to develop profitable mining projects and to develop local communities based on their knowledge and aspiration.

The mining industry needs to rethink the unilateral development of the Consolidated Mining Standards with only consultation with a limited number of stakeholder members who don't have mandates from their stakeholder groups. A fair and equitable approach to mining projects which empowers affected people to share their knowledge and builds their capacity to understand the impacts of mining projects and what benefits can be gained through a multi-stakeholder agreement-making process is the way forward.

In 2024, a group of international experts in land acquisition and resettlement launched the Dulin Declaration on Fair and Equitable Land Access (FELA 2024) at the annual conference of the

International Association of Impact Assessment. The Declaration proposes a new approach to projects where communities are treated as equal partners in the process to reach agreement on impacts and benefits and if and how projects can proceed to achieve a Just Transformation. The FELA Declaration is framed by six principles: Rights & Recognition, Fair Procedure, Fair Distribution, Planning & Resources, Power & Context, and Remedy & Accountability and twenty-six recommendations for implementation of fair and equitable projects.

Fair and Equitable project approaches address the key issues which determine the outcome for affected people and the environment on projects:

- **Wellbeing** – fair and equitable project approaches focus on the overall wellbeing of affected people and the environment and not a more limited focus on economic and physical displacement. The IFC Standards and Social Performance approaches do not present any holistic framework for conceptualizing or communicating the impacts of projects on people and planet. The FELA approach uses the Sustainable Wellbeing Framework which was first developed by the author as the Social Framework for Projects in 2015 (Reddy et al. 2015) and later evolved into the current version (see Smyth & Vanclay 2024).
- **Governance:** In the fair and equitable projects approach, affected people have agency with inclusive decision-making powers on projects through their own cultural processes or supported through independently moderated stakeholder forums with the provision of advice. This approach has already been implemented on many projects internationally.

3 General Issues with the CMSI Approach

The Consolidated Mining Standard is compromised in both adopting a mining industry-led consultative process to develop the standard instead of a representative multi-stakeholder process and then also proposing as a standard which doesn't enable affected communities (with the exception of Indigenous Peoples) to have any agency in the process of designing projects or mitigation measures or any right to benefits-sharing outside industry CSR approaches to employment, local content and voluntary contributions.

Issue: Lack of a representative multi-stakeholder design and governance process – the process to develop the CMS is a unilateral initiative by the mining industry which excludes key stakeholder groups such as affected community representatives, civil society, labour unions and Indigenous Peoples. The CMSI states that the Stakeholder Advisory Group representatives are acting in an individual capacity and therefore don't have the mandate to represent their stakeholder group. This means that key stakeholder groups are not represented in the development of the proposed mining standard.

Recommendation: Discontinue the current process and re-formulate the whole initiative and bring the other stakeholder groups into the process so that a multistakeholder co-governance model can be established which brings together the whole mining industry and representatives from key interest groups such as Indigenous Peoples, affected communities, labour unions and civil society.

Issue: The IRMA progressive mining standard already exists which was established through a multi-stakeholder process, and which has a multi-stakeholder co-governance model.

Recommendation: The IRMA standard already exists and could also be strengthened to require a representative multi-stakeholder governance process for the development of new mines using the principles of Fair and Equitable Land Access (FELA).

Issue: The CMS is proposing three levels of performance: foundational, good practice and leading practice. While the justification for a foundational level of practice might be to encourage mining companies with lower standards to come on board, the outcome will be that many companies will claim adherence to the CMS just by reaching foundational level. An example is for resettlement the foundational practice does not even require a management plan to be prepared, only a grievance mechanism after the harm is done. This does not even meet minimum human rights requirements and would have the impact to continue with existing damaging practices. The foundational level will result in a considerable decline in standards in the mining industry and have the opposite impact of bringing the poor performers into the process.

Recommendation: Eliminate the foundational level and have all mining companies aim to achieve good practice using the same model as IRMA 50/75/100.

Issue: The CMS is proposing an optional leading practice level. The good practice level is the target for achievement and the leading practice level is optional. It is clear that many of the requirements under leading practice should be under good practice.

Recommendation: Eliminate the Leading Practice Level and, similar to most other standards, for example IRMA, just have one good practice level so it is clear what needs to be achieved - with the same process as IRMA 50/75/100.

Issue: Frequency of Audits Every 3 years seems arbitrary.

Recommendation: For social, the frequency of external assurance events should be driven by risk in some instances, yearly external assurance is appropriate, for instance if significant gaps were identified during the last review period that require the implementation of complex gap-closures measures. In other instances, for lower risk processes, every five years might be appropriate.

Issue: The CMS does not require a representative multi-stakeholder dialogue structure at site providing local communities with independent support to assess impacts and benefits. This exacerbates the major power differences between mining companies and local communities and can result in significant abuses as there is no significant countervailing pressure to the mining company.

Recommendation: Require a representative multi-stakeholder dialogue processes to reach binding agreements with local communities commensurate with the scale and complexity of both the project context and project impacts and provide commensurate support to local communities to understand impacts and benefits and to participate in an agreement-making process.

Issue: The CMS is largely modelled on the ESIA approach where the mining industry engages industry consultants to secure project approvals with the same consultants conducting auditing. The CMS is enabling mining companies to select their assessors. Environmental and social experts have considerable discretion in interpreting impacts and if they are required to market strongly to industry then they will likely bias the audits to the industry to win more auditing work.

Recommendation: Several experts have made recommendations on how to reduce bias in impact assessment and auditing (see Smyth 2021). Solutions to address this imbalance: an independent panel of consultants that would be randomly allocated to projects to minimize collaboration and consultants signing a statement of compliance against best practice (with censure measures).

Issue: The CMS and current approaches by mining companies are not grounded in social theory or applied practices.

Solution: The Dublin Declaration on Fair and Equitable Land Access (FELA) provides a framework of six principles and 26 recommendations to provide a strong theoretical framework grounded in applied sociological practice for the mining industry.

Issue: Assurance Provider Requirements – the standard states that it is important to the credibility of the Consolidated Standard that only qualified, competent and independent Assurance Providers perform external assurance. The qualifications state that the provider must hold a university degree in a relevant field and/or demonstrate technical experience in a relevant field. This opens certification to industry insiders who have performed roles on projects without having any supporting qualification such as environmental consultants, engineers and geologists claiming to be social performance experts.

Recommendation: Specify that social assessors have both a required social science qualification and experience in applied social science in the field. Mining companies should not be able to select auditors as this will put pressure on auditors to bias audits in favour of the industry in order to win more audit work. The auditors should be selected through a transparent random selection process so that mining companies cannot select auditors they believe will be more industry friendly.

4 Discussion on Detailed Issues with the CMS

Issues with the Performance Categories in the standard

Performance Area (PA) 1.1: Board and Executive Accountability

Foundational level – requirement is just to identify an individual from senior management to be responsible for corporate-wide sustainability practice and performance.

Recommendation: The requirement should be for senior management to comprise a senior social manager on projects with complex social impacts.

PA1.1: Good Practice: There is no requirement to have a qualified and experienced social manager sitting on the executive management committee on mining projects with complex social impacts. This means that social impacts will not be prioritized on the project.

Recommendation: On projects with complex social impacts there should be a qualified and experienced social manager represented on the senior-level facility management team.

PA1.1. Leading Practice: There is a requirement to have a Sustainability Committee of the Board.

Recommendation: that the board needs at least one member competent in complex social or environmental impacts.

PA1.2 Sustainability Reporting

Good Practice: Only double-materiality reporting (impacts from the facility) is required in leading practice

Recommendation: Double-materiality reporting needs to be a requirement of good practice.

PA 1.4. Risk Assessment

Good Practice: Recommendation that external stakeholders, particularly affected communities and civil society need to be engaged in the risk assessment process through dialogue processes on the project.

1.5 Crisis Management and Communications

Recommendation: Good Practice: 1.d. Relevant stakeholders needs to include local communities and civil society.

PA 4: New projects, expansions and resettlement

PA 4.1: Risk and Impact Assessments of New Projects and Expansions

Foundational practice: Recommendation: ESIA should conform with all IFC PS (not only PS1) regardless of if there are jurisdictional regulations. This foundational practice contributes nothing to the standard.

CMS covers avoidance, consultation, baseline, grievance handling. However Foundational expectations in 4.2, in so far as they relate to the planning of resettlement, need to be aligned with basic tenets in IFC PS5 including as a minimum:

- identify adequate replacement housing (or cash compensation where appropriate), livelihood restoration support and relocation assistance to enable affected individuals to improve or restore standards of living and livelihoods.
- Prioritise land-based compensation options where land-based livelihoods are affected.
- Recognize displaced persons who have no legal right to the land or assets they occupy and use.

Where land acquisition is government responsibly, developer to collaborate to achieve outcomes consistent with the Practice or implement supplementary measures.

PA 4: Good Practice: There needs to be provision of supports to affected communities to fully understand project impacts through providing resources for them to hire independent experts. Where significant negative impacts are identified then the project should be redesigned or if the impact cannot be mitigated based on feasible measures established through benchmarking by competent independent experts of expected outcomes, then the project should not proceed.

With regards to GP1, this should go beyond the development of a RAP/LRP e.g. ‘implement relevant provisions in IFC PS5 for Land Acquisition and Involuntary Resettlement’. Incidentally, this would obviate the need for GPs 3, 4, 5, 7, 8 and 9 as these are all covered by PS5.

In addition, suggest including a GP statement (could be Leading Practice) that the principles and approaches in CMS need to “consider situations in which and acquisition is negotiated and/or expropriation is not an option”. [with reference to IFC PS5 Good Practice Handbook (p16), this enables due consideration for the potential adverse impacts that might arise from land acquisition and the appropriate disclosure of information, consultation and the informed participation of those affected]

The inclusion of GP 6 as part of a resettlement standard as these benefits may not be equally accessible to all affected households (e.g. project employment), sets unrealistic expectations among broader community members, takes away Project developer focus from resettlement mitigations, creates the impression that benefits are appropriate mitigations.

PA 4.2: Land Acquisition and Resettlement

Foundational Practice: Note foundational practice does not require the facility to mitigate the impacts of impacts on wellbeing from land acquisitions, restrictions and resettlement. This does not meet basic human rights standards, and this foundational level needs to be removed from the standard.

PA 4.2: Good Practice

Recommendation: 1. The standard should require compliance with all of PS5 (development and implementation) and not just the development of a RAP to IFC PS5.

The standard should go beyond PS5 and require a negotiated agreement with independent support for the affected people in line with IRMA.

Recommendation 1: The standard should require a multi-stakeholder dialogue forum with access to independent advice on impacts and benefits for affected people.

Recommendation: 8. The requirement should be the improvement of livelihoods and wellbeing of affected people.

Recommendation 9. The requirement should be for independent expert monitoring of the land acquisition and resettlement process and not only an internal review.

PA 4.2: Leading Practice

LP1 (livelihood restoration) / LP2 (security of tenure) – those are at least GPs? With regards to LP2, I would say ‘offer options to obtain security of tenure’ instead of ‘legal title’ since the latter could be interpreted as only meaning single ownership. There might other appropriate forms in the local context e.g. communal titles, long-term leasing arrangements etc.

Agree with LP3 IF this is caveated e.g. “formally assess the need for an external completion audit based on the scale/complexity of resettlement”. I would also consider merging this with LP4. [NB *Unless I’m mistaken, PS5 does not formally require but states ‘may be necessary to commission an external completion audit’. In my experience, there are circumstances where an external review may not be required e.g. small-scale resettlements, temporary/reversible impacts.*]

Performance Area 5: Human Rights

Good practice 4. The requirement to implement a grievance mechanism in line with the effectiveness criteria of the UNGPs is important – however, the requirement to have independent adjudication needs to be spelled out clearly.

Recommendation: The process to remedy impacts needs to be spelled out more clearly and include the involvement of independent experts. A Corrective Action Plan needs to be agreed with resources and a timeframe and jointly monitored by the company, community and independent expert.

Performance Area 12: Stakeholder Engagement

This needs to be reclassified as community dialogue and stakeholder engagement – we need to consider affected people as a special interest group and not just stakeholders with an interest in the project.

Foundational practice is too basic – need to just focus on achieving good practice.

Good Practice: Meaningful stakeholder engagement is not sufficient. There needs to be effective dialogue with local communities supported by independent experts and civil society. Supporting dialogue process is not adequate – these dialogue processes need to be independently-moderated, affected people provided with independent advice and with the aim of negotiating agreements on impacts and benefits or a no-go decision on the project if impacts are too serious.

Performance Area 13: Community Benefits and Impacts

13.1 Identify and Address Community Impacts

Good Practice. 1/2/3. The word ‘engage’ is weak. The developer is funding industry consultants to assess impacts as part of a project approval process. The rights-holders cannot participate effectively in the assessment of impacts without independent support.

What is classified as ‘leading practice’ to complement an independent review of the classification of impacts and mitigation measures needs to be good practice as per comment on Good Practice in Stakeholder Engagement

13.2 Community Development and Benefits

Good practice needs to require community dialogue with independent advice to negotiate impact and benefit agreements with affected people covering ‘ring fenced’ benefit-sharing, local employment and local procurement in binding agreements with targets and periodic reviews.

Performance Area 14: Indigenous Peoples

14.1. Managing Engagement, Impacts and Opportunities with Indigenous Peoples

Good Practice needs to be framed as community dialogue and not ‘meaningful engagement’. The commitment to UNDRIP needs to not only prevent and account for possible adverse impacts on IP rights but to ensure that FPIC underpins all decision-making for the project at each step including exploration, design, permitting and operations.

For 7. There needs to be a clear statement that when IP agreement – there is no such thing as ‘full agreement’ with IPs – there is either agreement through their traditional governance processes or ‘no agreement’. For example, in Peru all the IP community must give permission for the sale of Indigenous communal land.

All ‘Leading Practice’ should be Good Practice.

Performance Area 15: Cultural Heritage

FP2: Might be important to specify that traditional owners are ‘relevant’ in the case of living cultural heritage. When dealing with palaeontology, archaeological finds, does this fall under ‘users of cultural heritage’? Additionally, this should be informed

Missing important GP (aligned with IFC PS7): *where the risk and identification process determines the chance of impacts to CH, retain competent professionals to assist in the identification and protection of CH*

Performance Area 17: Grievance Management

17.1 Grievance Mechanism for Stakeholders and Rights-Holders

There is considerable repetition in this section – there should be a clear statement that the Grievance Mechanism needs to have an independent recourse process in accordance with the UNGP’s effectiveness criteria:

*“For an operational-level grievance mechanism, engaging with affected stakeholder groups about its design and performance can help to ensure that it meets their needs, that they will use it in practice, and that there is a shared interest in ensuring its success. **Since a business enterprise cannot, with legitimacy, both be the subject of complaints and unilaterally determine their outcome, these mechanisms should focus on reaching agreed solutions through dialogue. Where adjudication is needed, this should be provided by a legitimate, independent third-party mechanism”.***

There needs to be an external review of the grievance mechanism and remedy measures with independent recourse in Good Practice.

5 Conclusion

The mining industry has embarked on the Consolidated Mining Standard Initiative with an objective to bring together the best of four of the most widely used standards. However, based on assessments by the IGF and Lead the Change and the RMI assessment of mining projects and the authors experience of working in the mining industry, these four standards are among the weakest in the mining industry. The CMSI standards as presented will only lead to an expanded focus on social performance and huge spending on industry consultants. The industry needs to rethink the approach to Indigenous Peoples and affected communities and properly resource qualified social teams to develop partnerships through a fair and equitable process of agreement-making on projects. The Dublin FELA Declaration provides

six principles and twenty-six recommendations for a fair and equitable approach to the development of mining projects which will enhance outcomes both for the mining industry and for affected people.

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7 Appendix B: Comparison of IFC and Draft CMS with Fair and Equitable Project Approaches.

There are effectively two broad approaches proposed to mining projects reflected in the current mining standards – social performance (IFC, CMS, etc.) vs community-centred (IRMA, FELA) which are summarized in the table below:

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
Standards Development	Developer/financier-driven – other stakeholders only have a right to comment but no decision-making power.	The process of developing the CMS is driven by the mining companies driving the four mining standards. The stakeholder advisory group are selected to give the impression of a multi-stakeholder process, but all are just acting as individuals and don't represent any organizations. None of the key interest groups such as Indigenous Peoples or mining community representative groups have any decision-making power.	Multi-stakeholder process with each key interest group having a governance seat in the process.
Expropriation in the public interest.	IFC PS5 is silent on the public interest, with no requirement to test the public interest of each project. PS5 requires efforts to “avoid, and when avoidance is not possible, minimize displacement by exploring alternative project designs”.	CMS is silent on Expropriation but focuses on ‘involuntary resettlement’ which implies that the process has the backing of the state to, and communities don't have any decision-making power. This is despite the fact in most cases that the government leaves the mining company to negotiate land access and the power differences between the	Definition of public interest includes specific Development Forced Displacement and Resettlement (DFDR) costs to communities in each project case. FELA Principle 3: “Understanding the full costs is essential to determine whether the project is appropriate, viable, has an adequate business case, and is in the broader public interest.

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
	<p>Regardless of people's preferences, IFC allows projects with DFDR to proceed, providing adequate mitigation is planned. This applies except for Indigenous Peoples facing relocation under the scope of PS 7, where FPIC is required.</p>	<p>company and communities are very high.</p>	<p>Affected people take part in the decision-making about projects that relate to these assessments." To proceed, projects must achieve consent from any DFDR-affected people, together with negotiated agreements on their terms. Commercial projects must negotiate agreements with communities. The IFC has no effective guidance on FPIC and recent presentations from the World Bank using case studies from Russia and Nepal by CCC consultants portray FPIC as three rounds of consultations facilitated by industry consultants to determine community development funds and not consent for projects which were already constructed. The Guide to FPIC Written by Cultural Survival (2023) and First Peoples Worldwide, with support from the Securing Indigenous Peoples' Rights in the Green Economy (SIRGE) Coalition represents the principles of</p>

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
<p>Forced eviction.</p>	<p>IFC permits forced evictions if carried out in accordance with law and the requirements of PS 5.</p> <p>PS 5 defines forced evictions as “the permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or lands which they occupy without the provision of, and access to, appropriate forms of legal and other protection.”</p> <p>For those without legal title, the client will offer a choice of options for adequate housing with security of tenure so that they can resettle legally without having to face the risk of forced eviction.</p>	<p>CMS does not mention forced eviction or any mechanisms to limit companies limiting forced eviction except for a general commitment to respect human rights. There is still a risk that a government could forcibly evict people on behalf of a mining company.</p>	<p>Fair and Equitable Land Access (FELA), particularly the requirement for legal and technical support.</p> <p>FELA does not permit forced eviction. Regardless of their land tenure status, the consent of the affected people is required before any eviction or relocation from their homes and/or lands.</p> <p>This accords with internationally agreed human rights e.g. as expressed in UN 1998 Guiding Principles on Internal Displacement which require the free and informed consent of those to be displaced prior to displacement (Principle 7 3 (c)). Principle 6 states that “every individual should have the right to be protected against arbitrary displacement.”</p> <p>UN 2007 states: “The right of affected persons, groups and communities to full and prior informed consent regarding relocation must be guaranteed (56 (e)).”</p>

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
<p>Review of project alternatives including a No-Project Alternative, prior to project or sub-project approval or extension..</p>	<p>Review of project alternatives, including a No-Project alternative, is not mandated in IFC's PS 5. Only once the decision is made to proceed with DFDR, then "decision-making processes related to resettlement and livelihood restoration should include options and alternatives, where applicable".</p> <p>PS 7 on Indigenous Peoples requires that "the client will consider feasible alternative project designs to avoid the relocation of Indigenous Peoples from communally held lands and natural resources subject to traditional ownership or under customary use" unless FPIC permits otherwise.</p> <p>Overall, IFC requires "full and detailed justification for any proposed alternatives....as part of the site-specific environmental assessment.</p>	<p><i>CMS Text: Environment and social impact assessment (ESIA):</i> A process for predicting and assessing the potential environmental and social impacts of a proposed project, evaluating alternatives and designing appropriate preventative, mitigation, management and monitoring measures and plans.</p> <p>Standard ESIA process which is developer-driven and ESIA's don't take alternatives, cumulative impacts or no-project options seriously – i.e. recommendation is always for the project to proceed with conditions.</p>	<p>Potentially affected people participate in review of project land access needs, options, and alternatives, including a No-Project alternative. Their knowledge on local environmental and social issues generally is respected in this review. Where project impacts are not acceptable to local communities then a project should not proceed (No-Project alternative).</p> <p>The review of alternatives encompasses social, cultural, political and economic dimensions.</p>

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
	<p>This justification should demonstrate that the choice for any alternative performance level is protective of human health and the environment,” but DFDR health impacts may be overlooked.</p> <p>PS 8 requires specific assessment of alternatives to removing cultural heritage.</p>		
<p>Avoiding and minimising DFDR.</p>	<p>PS 5 requires efforts to avoid and minimise DFDR only through alternative project designs. Potentially affected people are generally absent from any efforts made to avoid or minimise DFDR.</p>	<p>Recommends mitigation hierarchy which includes requirement to avoid – however, the standard RAP process normally comes after the project has been designed and the resettlement is baked-in to the design, so the RAP is really designed to facilitate the project.</p>	<p>Potentially affected people enabled to represent their own interests, values, knowledge, and priorities in dialogue and negotiation on efforts to avoid and minimise DFDR.</p>
<p>Intangible losses</p>	<p>IFC’s PS 5 is silent on the question of addressing intangible loss.</p> <p>PS 8 defines intangible losses in the context of cultural heritage.</p>	<p>CMS PA15: Cultural Heritage</p> <p>Good practice is limited to identifying cultural heritage and where cultural heritage impacts are unavoidable, develop and implement in collaboration with affected traditional owners and users,</p>	<p>FELA requires developers and appropriate government agencies to address any material, tangible losses as well as any immaterial, intangible losses of social, cultural, psychological, or political capital that are essential to attachments to place, sites, networks,</p>

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		mitigation measures that aim to maintain the cultural heritage's value and functionality.	knowledge, skills, heritage, language, or identity.
Project Design in relation to DFDR	Developer-led by technical industry experts focused on maximizing production and profitability. DFDR impacts and costs may be overlooked in fine-tuning project design (mine siting, choice of technology, scope, etc).	Standard developer-led process with industry consultants running ESIA process offering affected people only 'meaningful engagement'.	Co-design recognizes local knowledge alongside expert industry consultants. Responsible entities, including developers and sponsoring agencies, must provide sufficient information, opportunity, financing, and resources to empower all affected people, commensurate with the level of project impacts, to enable them independently to represent their own interests, values, knowledge, and priorities in dialogue and negotiation regarding the project and their terms and conditions on which it may proceed.
Engagement	'Meaningful consultation' with affected people through public meetings, focus groups, surveys and interviews. Use of 'social licence' terminology which implies community		Multi-stakeholder dialogue forums to assess impacts and benefits focused on reaching agreements and consent. Binding agreements which are not only monitorable by communities but subject

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
	<p>permission is required but project will proceed regardless.</p>		<p>also to community checks, with remediation for communities where warranted.</p>
Impact assessment	<p>Developer-led commissioning of industry consultants to prepare ESIA's for permit approvals. No independence in assessment of impacts. Industry impact consultants fully dependent on developers for work. They may conduct "reconnaissance" among potentially affected people without informing them of likely impacts. Scope of "impacts" may be narrow, and their assessment may be rushed.</p>	<p>Developer-led commissioning of industry consultants to prepare ESIA's for permit approvals. No independence in assessment of impacts. CMS 'Good Practice' text: Environment and social impact assessment (ESIA): A process for predicting and assessing the potential environmental and social impacts of a proposed project, evaluating alternatives and designing appropriate preventative, mitigation, management and monitoring measures and plans</p>	<p>The FELA process focuses on a wellbeing impact assessment encompassing economic, social and environmental impacts and benefits co-developed by the mining company and affected people supported by independent experts.</p>
Consent for local communities	<p>No local community consent required (only for Indigenous Peoples)</p>	<p>No local community consent required (only for Indigenous Peoples)</p>	<p>Any project-affected Indigenous Peoples must be allowed to give or withhold their Free, Prior and Informed Consent. Dialogue procedures for Broad Community Support (greater than 80%) should be implemented for all affected</p>

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
Consent for Indigenous Peoples	IFC's FPIC for IPs is separately included in PS 7.	Requires compliance with IFC PS7 FPIC requirements.	communities. These are integral to the FELA. Broad Community Support required through representative democratic processes resulting in binding agreements.
Setting Objectives	Resettlement objective setting follows lender requirements rather than peoples' needs and priorities. The objective (PS5) "to improve, or restore, the livelihoods and standards of living of displaced persons", permits a restoration bottom line for livelihoods and living standards, even if the people fall below the national poverty line and any related national standards. The objective (PS5) "to improve living conditions among physically displaced persons through the	Good practice is only to prepare a RAP in compliance with IFC PS5 for 'involuntary resettlement'. For foundational practice there is no requirement for any RAP just access to a grievance mechanism: Foundational Practice: Provide people potentially affected by displacement with access to a grievance mechanism (see Performance Area 17: Grievance Management).	Developer support empowers the affected people to formulate their own development objectives for their enhanced future livelihoods, housing, and wellbeing. Objective-setting moves beyond compensation for restitution and encompasses wider social, cultural, and political rights, not just housing or economic rights. In case of differing interpretations of what constitutes "adequate" measures, the people's view prevails over that of developers.

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
	provision of adequate housing with security of tenure at resettlement sites” may raise differing perspectives between the people and the authorities on what constitutes “adequate” housing.		
Setting time-bound measures and actions, and monitoring and evaluation plans.	Resettlement plans follow lender templates rather than peoples’ needs and priorities. Monitoring and evaluation indicators are geared to lender objectives and may be less than thoroughly followed during and after project implementation.	For grievances good practice there is no external reporting on types of grievances and resolution outcomes.	Community-initiated objectives and measures may go beyond lender Resettlement Plans templates and formats. Support empowers the affected people to formulate their own developed objectives for their enhanced future wellbeing; as well as to design appropriate and acceptable programs, including strategies, measures, mechanisms, processes, outcomes, indicators of success, and means of verification.
Land access and security	PS 5 aims to “improve living conditions among physically displaced persons through the provision of adequate housing with	CMS only requires livelihood restoration with livelihood improvement only required in leading practice.	The project should investigate and include project land access strategies that might be suggested by affected people to maximise their land security

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
	<p>security of tenure at resettlement sites". Further, IFC requires the client to offer such people "choice of replacement property of equal or higher value, security of tenure, equivalent or better characteristics, and advantages of location or cash compensation where appropriate".</p>		<p>and ownership status. This may apply not only to re-housing sites but also to land required for livelihoods.</p>
Livelihood Impacts	<p>Provide opportunities for livelihood restoration (improvement is optional) and if options are not available provide cash compensation and training.</p>	<p>Provide opportunities for livelihood restoration (improvement is optional). No mention of what to do if options for land-based options are not available or if there are no feasible livelihood restoration options available.</p>	<p>Provide proven livelihood improvement programmes based on benchmarking and a theory of change and community co-design. If livelihood improvement is not feasible then redesign project to remove impacts and if not possible do not proceed with project – otherwise this is a human rights abuse.</p>
Benefit-sharing	<p>PS 5 requires the client to "provide opportunities to displaced communities and persons to derive appropriate development benefits from the project" but benefit-sharing approaches and mechanisms are not specified or mandated, Voluntary</p>	<p>CMS PA13 refers to Community Impacts and Benefits but the focus is on employment, procurement, community development (CSR). There is no mandatory sharing of project profits required.</p>	<p>Mandatory benefit-sharing as negotiated by affected communities focused on fixed contributions to local development funds through binding agreements to address inequality.</p>

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Resettlement with Development	<p>benefit-sharing focused on employment, local procurement and community development/CSR programmes where affected people have limited decision-making powers.</p> <p>IFC does not discuss or mandate Resettlement with Development. The objective to enhance or improve livelihoods and living standards is not mandated. Additional investment financing over and above replacement-rate compensation is not mandated.</p> <p>Resettlement with Development as defined by researchers assigns the lead role in resettlement planning to technical experts. Such experts, not necessarily the affected people, define “development” in each case.</p>	<p>Good Practice requirement is to prepare a RAP to IFC standards.</p>	<p>With FELA the people define their own objectives, programs, and outcomes. FELA requires outcomes of enhanced well-being among affected people in accordance with their own priorities; benefit-sharing and additional investment as negotiated by affected people. The affected people are enabled to define their own development outcomes, rather than following opinions of “resettlement experts”.</p> <p>Resettlement can proceed if it fulfils the development objectives of affected people. Focus on wider wellbeing impacts on affected people and on developing flourishing communities.</p>

Approach	Social Performance (IFC, CMS)	CMS Requirements	Multi-stakeholder & Community Centred (FELA Approach)
Involuntary vs Voluntary Resettlement	Only land acquisition and resettlement framed as involuntary requiring protection of the standards. Negotiated agreements to purchase land not considered for standards protection. This results in power imbalances where developers negotiate land purchases at disadvantageous terms and impoverish affected communities.	Only land acquisition and resettlement framed as involuntary requiring protection of the standards. Negotiated agreements to purchase land not considered for standards protection. This results in power imbalances where developers negotiate land purchases at disadvantageous terms and impoverish affected communities.	All land acquisition and resettlement considered involuntary whether negotiated agreements or not – this provides the protection of the standards in all cases.
Human Rights	Focused on minimum human rights – do no harm.	Requires respect for human rights but not on the right to participate in decision-making about project development, design or assessing impacts and benefits.	All human rights including the human right to development from projects including the right to participate in defining development priorities in terms of social, cultural, economic, and political rights.
Financing the community-led program.	IFC is silent on the question of financing for community costs associated with resettlement preparation.	No funds are required to support the community to access advice on impacts and benefits or to negotiate agreements.	Sufficient funds must be provided to enable a proper FELA planning process that can address all impacts, provide for agreed benefits, and for contingencies. Also, adequate resources must be provided so that affected people can access independent expertise. Sufficient

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Timeframe for community-led program.	IFC PS 5 requires a schedule for Resettlement Plans but makes no other determinations.	No mention of schedule or a sufficient timeframe.	funding must be available to address any necessary remedial action throughout the project cycle.
Grievances	Developer-led grievance process. No independent recourse.		The timeframe for planning, implementation and follow-up of FELA must be sufficient to allow affected people meaningful engagement and shared or devolved decision-making in options assessment, project planning, and negotiations on their preferred objectives, strategies, and outcomes. There must be sufficient time for implementation, verification, and remediation (which may take up to 10 years).
			Grievance process involving independent recourse with access to independent expertise. Affected people and communities must be given access to independent lawyers to support them through any necessary contracting, mediation, arbitration, and other remedial processes.

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Remedy	Developer-led grievance process and only effective access to remedy if lenders are not involved is to take court cases which can be very ineffective given domestic legislation seldom covers all project impacts.	Developer-led grievance process and only effective access to remedy if lenders are not involved is to take court cases which can be very ineffective given domestic legislation seldom covers all project impacts	Binding agreements involve a commitment to binding arbitration processes with access to funding for independent legal advice and financing for remediation.
Competence & Expertise	Reliance on industry consultants who have a close relationship with developers – approval consultants.	No requirements for competent social staff on mining projects. For assurance requires assessors who have a qualification and/or technical experience which opens up auditing to consultants without the required social competencies.	Requires independent experts and processes to ensure bias is minimized. Focuses on capacity-sharing with affected people.
Planning & Resources	Industry consultants commission elaborate management plans, but developer doesn't prove they have the human and financial resources to implement the plans. Generally, a short timeframe which does not facilitate proper dialogue or agreement-making. If the asset is sold to a company that doesn't subscribe to the IFC standards and	Fully developer and industry-consultant driven process. If the asset is sold to a company that doesn't subscribe to the CMSI standards then the affected people have no way of enforcing remedy or accountability for harm done.	Requirement for developer to demonstrate that they have sufficient funds and human resources to implement the project to international standards and a timeframe to ensure agreements can be negotiated and management plans fully implemented and adapted. Should the asset be sold then the existing agreements are binding on the new owner.

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	<p>the IFC have exited their loan agreement, then the affected people have no way of enforcing remedy or accountability for harm done.</p>		
Power & Context	<p>International standards assume the goodwill of the developer in a fully developer-led process. No consideration of political or contextual factors which might compromise the process of minimizing impacts and maximizing benefits to the communities.</p> <p>IFC standards do not consider human rights protectors and do not create safe spaces for dialogue and for communities to air grievances in an independently moderated process.</p>	<p>The CMS assume the goodwill of the developer in a fully developer-led process. No consideration of political or contextual factors which might compromise the process of minimizing impacts and maximizing benefits to the communities.</p> <p>The CMS mentions protection of human rights defenders but offers no safe space for independently moderated dialogue for communities to air their grievances. Developer-led stakeholder mapping processes risk involving community relations staff in intelligence gathering on ‘troublemakers’ with information shared with company security departments who may share it with local security forces putting</p>	<p>Consider political and contextual factors which might compromise the project outcomes – conflict, extreme poverty, natural resource degradation and avoid projects that will exacerbate these (wicked) problems.</p>

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		community members at risk of retribution.	