

Social License to Operate: Revisiting the Concept

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First Use of “Social License” to Discuss Extractive Sector Issues

- March 1997, World Bank Conference on “Mining: the Next Twenty-Five Years
- Presentation by Jim Cooney on “Emerging Themes in Managing Political Risk”

Globalization: New Challenges to the Mining Industry in the Late 1990s (1)

New openness to capital investment in mining

- Developing countries compete to attract foreign investors in mining, but fiscal and regulatory regimes often undeveloped
- History of political instability in many countries, with sudden changes of policy towards resource extraction
- Mineral resources often located in the most remote regions of developing countries, where central government authority is very weak

Globalization: New Challenges to the Mining Industry in the Late 1990s (2)

Communications revolution= immediate connectivity

- “Remote” is no longer “isolated”
- Mining companies fall under constant scrutiny by global critics, whose access to information is rapidly growing
- Local communities begin to communicate globally with potential allies among NGOs, academics, the media

Two Track Mine Approval Process

Government Permit

- Maintain good relations with political leaders and comply with laws and regulations

or

- Face costly fines and possible legal suspensions of operations

Social License

- Maintain good relations with community leaders and comply with local expectations

or

- Face costly conflicts and possible forceful suspensions of operations

“Social License” was not introduced as an ethical concept, but as a term in

“Pragmatic political risk management” that refers to:

- The power imbalances in many developing countries between the central government and remote communities around mine sites, and
- The growing power of communities, as augmented by their global allies, to affect the cost of mining operations

Three Markers of “Social License” in the Original Meaning of the Term

1. An on-going structured process of consultation between a mining company and the local communities, together with their allies
2. A “precautionary approach” (beyond regulatory compliance) to deal with low probability but potentially high impact environmental disasters
3. A mutually agreed plan to optimize the economic benefits from a mine to local communities within a long term future vision

The meaning of “Social License” has evolved and today may refer to....

- Corporate social responsibility
- Sustainable economic, environmental and social development
- Community rights and entitlements
- Social justice: distributional and procedural fairness
- Evolution in the decision-making power of government
- A new social contract that legitimizes corporations by redefining their obligations to society, or
- Any broad public policy issue that is not addressed in government approval processes for industrial projects

Social Responsibility defined by ISO

“Responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behaviour that

- contributes to sustainable development;
- takes into account the expectations of stakeholders;
- is in compliance with applicable law and consistent with international norms of behaviour; and
- is integrated throughout the organization and practised in its relations.”

ISO 26000 “support[s] an organization’s social licence to operate” (International Standard ISO 26000 Guidance on Social Responsibility, 2010)

Sustainable Development

“Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”

- an on-going process for integrating and harmonizing the environmental, socio-cultural, economic and governance dimensions of the reality around a mining project, which implies
- on-going engagement with local communities about current impacts and future needs, which is the process of sustaining a social license to operate

Community Rights and Entitlements

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their **free and informed consent** prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.” (UNDRIP 2008)

- Social license implicitly recognizes all communities as having an equivalent right to FPIC

Social Justice: Distributional and Procedural Fairness

- What share of the benefits and risks from a mining project should go to investors, communities, governments, employees....?
- What is a generally acceptable process for deciding the distribution of benefits and risks?
- Obtaining a social license implies a fair process of consultation with communities on benefits and risks as a matter of social justice.

Devolution in the Power of Government to Make Resource Development Decisions

- Eminent domain is more difficult to impose, as public opposition acquires increasing effectiveness.
- Consultative processes are under public pressure to broaden the scope of issues to be considered.
- The principle of “subsidiarity” implies bottom up decision-making and strengthening of community capacity to make decisions in its own best interest.
- Social license = subsidiarity = devolution.

Social Contract for Business Corporations

To maximize profits for investors

....within the constraints of:

- Laws and regulations
- Public perception
- Ethical convention

And for some leading mining companies....

- Sustainable development > Social license

A Future Social Contract for Mining Companies ?

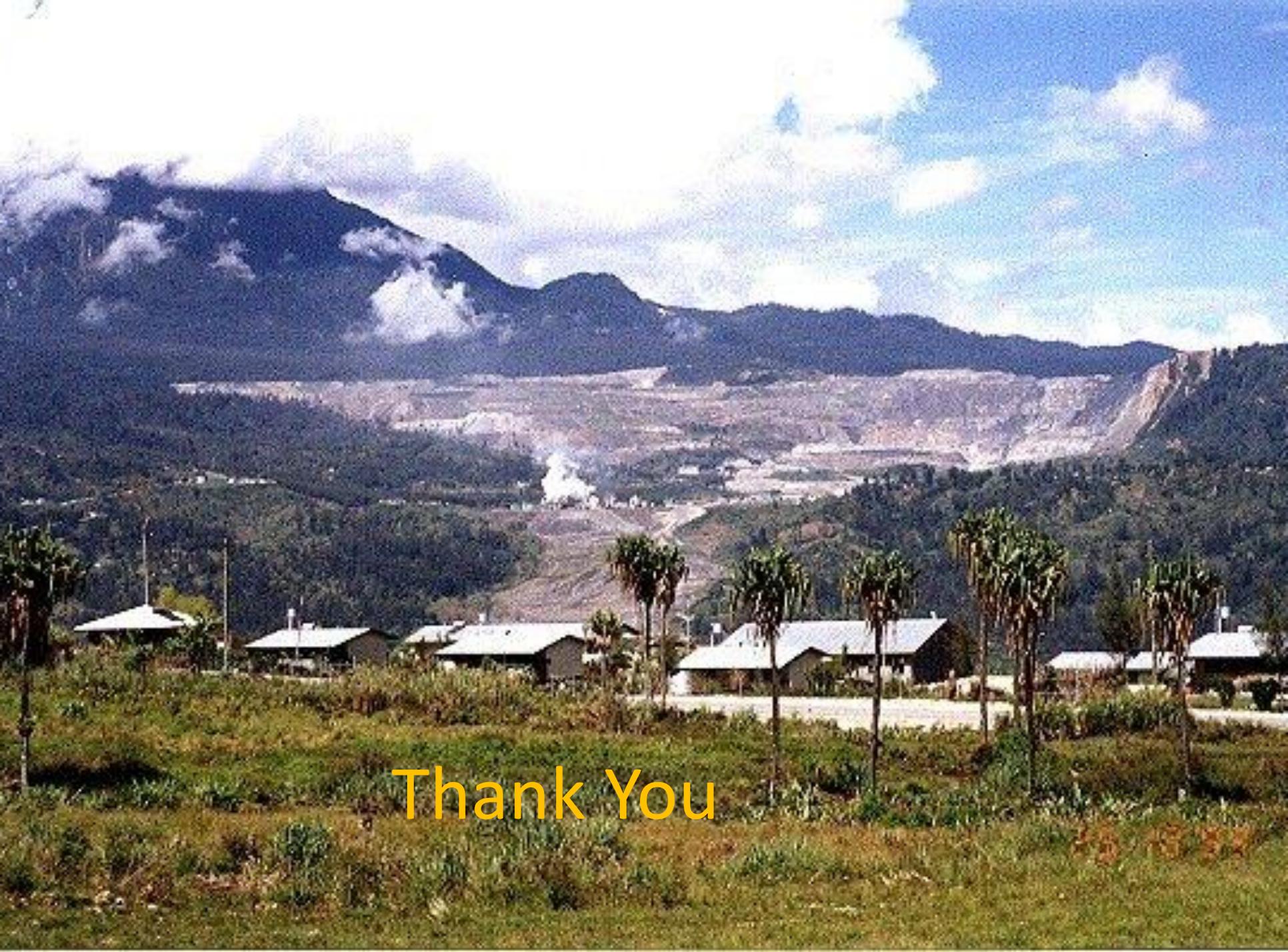
To optimize the distribution of benefits/risks for
investors, communities, governments, employees....

...within the constraints of:

- Laws and regulations
- Public perception
- Ethical convention

Any issue not addressed in government project approval processes





Thank You