A comparative analysis of voluntary codes of conduct in the Australian mineral and petroleum industries

Dr Tapan Sarker

Nora Gotzmann

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Centre for Social Responsibility in Mining
Sustainable Minerals Institute
The University of Queensland, Australia

csrm@smi.uq.edu.au
www.csrm.uq.edu.au

Research Team

Dr. Tapan Sarker, Research Fellow, CSRM
Nora Gotzmann, Research Assistant (former Summer Scholarship Student), CSRM

Centre for Social Responsibility in Mining (CSRM)

CSRM is a member of the Sustainable Minerals Institute, The University of Queensland, Australia.

Director: Professor David Brereton

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Executive summary

This paper provides a brief comparative analysis of the two main voluntary codes of conduct in the Australian mining and petroleum industries, namely the Minerals Council of Australia (MCA)'s *Enduring Value Framework* and the Australian Petroleum Production & Exploration Association (APPEA)'s *Principles of Conduct* and *Code of Environmental Practice.*

In particular, our analysis focuses on the integration of social sustainability elements within these frameworks such as: coverage of human rights, approaches to employee and community relations, systems of stakeholder engagement, community consultation and public reporting. Furthermore, we highlight key differences and similarities in the areas of framework development, reporting standards and compliance. Since 1996 the mining framework has undergone several significant changes that have resulted in the greater inclusion of social sustainability elements. The oil & gas sector on the other hand, has not shown such developments. This divergence in coverage of social elements is also reflected in the differential reporting standards stipulated by the frameworks. In relation to compliance, it is of note that whilst the mining framework stipulates specific sanctions for non-compliance, the oil & gas sector framework makes no such provision.

In part, such differences in the frameworks may be attributed to the different operational environments of the two industries. It is arguable for instance, that due to the geographic isolation of oil & gas operations, civil society interests in the integration of social sustainability elements is somewhat less pressing than for the mining sector. As the oil & gas sector is predicted to increase its on-shore operational activities in Australia, however, the case for a greater integration of social sustainability elements into the framework arguably becomes more pressing.

In light of these differences we conclude by suggesting that a more detailed comparative analysis of the two frameworks could assist in the sharing of learnings between the two industries with the view of improving integration of social sustainability elements into the oil & gas sector framework.

1. Introduction

This paper provides a brief comparison of the two main voluntary codes of conduct in the Australian mining and petroleum[1] industries, namely the Minerals Council of Australia (MCA)'s *Enduring Value Framework* and the Australian Petroleum Production & Exploration Association (APPEA)'s [2] *Principles of Conduct* and *Code of Environmental Practice.* In particular, our analysis focuses on the coverage of social, as opposed to economic or environmental and sustainability elements, although we recognise that these aspects are inextricably interrelated. Elements examined under the banner of social sustainability include: coverage of human rights, approaches to employee and community relations, systems of stakeholder engagement, community consultation and public reporting.

In the Australian context, both the mining and oil & gas sectors are increasingly subject to the social and regulatory pressures that contribute to the development and adoption of voluntary codes of conduct. As global mineral resources are rapidly depleted, mining operations are more frequently entering socially and environmentally volatile areas. This has lead to a correlative interest by NGOs and civil societies in corporate social responsibility (CSR) of operations (Brereton 2002: 2; MMSD 2002: 61; Peck and Sinding 2003: 131-2; Schiavi 2005: 8). Similarly, heavily publicised incidents of environmental damage in the oil & gas sector have led to a greater focus on environmental performance in the industry (Sarker and Burritt 2005b: 7). However, whilst there has been a push towards a greater corporate social responsibility in both sectors, there has been a divergence in the focus on social sustainability elements between the two sectors. In part, this divergence may be attributed to the geographic positioning of operations. As the oil & gas sector of Australia operates predominantly offshore, it appears logical that this sector has developed a greater focus on environmental sustainability elements than social ones as community impacts appear less immediate. As the oil & gas sector is

[1] Petroleum includes both oil and gas. The words 'petroleum' and 'oil & gas' have the same meaning for the study.

[2] For this research, Australian Petroleum Production & Exploration Association (APPEA) refers to the upstream or offshore oil and gas industry that supplies more than 95% of the oil and gas that Australia produces annually.

predicted to increase its on-shore operations, however, it will arguably become necessary for the sector to develop a greater focus on social sustainability elements.

This paper comprises two parts: background context and comparative analysis. As background context, we canvas briefly the definition of voluntary codes of conduct, their purpose and what factors commonly contribute to the development of voluntary regulatory initiatives. The subsequent comparative analysis then examines the two voluntary codes of conduct that are currently operational in the Australian mining and oil & gas sectors. Differences and similarities between the two codes in the development, incorporation of social sustainability elements, reporting standards and compliance will be discussed.

Our emerging hypothesis from this comparison is that the mineral sector's *Enduring Value Framework* has greater coverage of social sustainability elements than does the oil & gas framework, where the later is focused primarily on environmental, health and safety performance. We therefore conclude by suggesting that if learnings between these two industries are to be shared with the view of improving the integration of social sustainability elements in the oil & gas framework a more detailed comparative analysis of these two sectors is necessary.

2. Background context

2.1 What factors contribute to the development of voluntary codes of conduct?

Voluntary codes of conduct[3] can be defined as the self-regulatory arrangements administered by industry and professional associations designed to regulate the behavior of their members. In general, a voluntary initiative involves an industry level organisation, as opposed to the government or an individual corporation, setting voluntary codes of conduct for member companies (Gunningham et al. 1998). Amongst the first industries to develop voluntary codes of conduct was the chemical industry, in response to large scale disasters such as

[3] For the purposes of this paper the terms 'voluntary code of conduct' and 'voluntary initiatives' are used interchangeably. It is acknowledged however, that these terms are not synonymous as voluntary codes of conduct are but one sub-set of voluntary initiatives.

Chernobil and Bhopal[4]. As such, the adoption of voluntary codes of conduct in the Australian mining and oil & gas sectors is reflective of international developments across a wide range of industry sectors.

Prior research has indicated that both internal (corporate structure) and external (civil society, regulatory) factors contribute to the development of voluntary codes of conduct (Sarker and Burritt 2005a: 511). Rondinelli and Berry (2000: 80) for example, argue that internal corporate factors such as the nature of management, corporate organisational structure and the role of particular individuals are paramount in fostering CSR through the development of voluntary codes. A focus on internal corporate structures has been attributed to the growth of 'corporate citizenship', a concept that associates business profitability with environmental and social performance (Rondinelli and Berry 2000: 71). That is, these authors identify internally motivated institutional change in corporate culture as the key factor contributing to increasing self-regulation (Anton et al. 2004).

Key external factors that have been identified as contributing to the development of voluntary codes of conduct include pressures by civil society and changes in the regulatory environment. It is widely accepted that, since the 1990s, focus on corporate reputation and credibility regarding social and environmental performance has rapidly increased (Schiavi 2005: 5). To summarise, authors have identified the following factors as contributing to creating an environment which are conducive to the development of voluntary initiatives:

- Increasing momentum of NGOs supporting environmental and social issues (Brereton 2002: 2; Rondinelli and Berry 2000: 74; Sarker and Burritt 2005a: 511);
- Development and increasing use of electronic communications by various stakeholders (Brereton 2002: 2; Schiavi 2005: 5);
- A number of high profile environmental disasters fostering public mistrust of the mining and oil & gas industries (Brereton 2002: 2;

[4] The Chernobyl nuclear reactor accident occurred in 1986 in the former Soviet Union. The incident has been classified as the worst nuclear power plant incident in history rating at level 7 of the International Nuclear Event Scale. The Bhopal incident occurred in India in 1984. A Union Carbide plant leaked an estimated 27 tonnes of the deadly methyl isocyanate gas exposing around half a million people causing death, serious permanent ailments and ongoing pollution.

MMSD 2202: 17). For example Ok Tedi in PNG, the Exxon Valdez Oil spill[5] in Alaska in 1989, the North Sea oil spill in 1988 and the Kirki oil spill in Western Australia in 1991 (Elkington 1999; AMSA 2008);

- Changes in the regulatory environment - such as more stringent regulation, stronger enforcement, increasing legal and civil liabilities; but also a reduction of resources available to state institutions and a trend towards market based regulatory incentives (Rondinelli and Berry 2000: 75-77; Sarker and Burritt 2005a: 511);
- Increasing power and influence of multinational corporations (MNCs) - including an increase in offshore operations (Schiavi 2005: 5);
- Adoption and promotion of international sustainability initiatives such as the United Nations Rio Declaration and Agenda 21 (Brereton 2002: 3; Schiavi 2005: 5);
- Improved legal recognition of Indigenous land rights (Brereton 2002: 3); and
- Increasing costs and savings potential - such as the increasing costs of emissions control, greater savings from pollution prevention (Rondinelli and Berry 2000).

Cumulatively, these factors have created an environment in which both mining and oil & gas operations must work harder to legitimise their activities by, for example, documenting performance in order to gain access to resources (Peck and Sinding 2003: 131-2). Whilst both industries have been impacted by such external factors, some differences between the two sectors should also be noted. As the Australian oil & gas sector operates predominantly offshore it makes sense that stakeholder scrutiny of social corporate sustainability elements are attributed less attention than environmental or economic ones. Both industries acknowledge this divergence in levels of stakeholder scrutiny as well as the likelihood of change in the

[5] The Exxon Valdez oil incident alone spilled 11 million gallons of oil into the Gulf of Alaska that caused the death of 400,000 animals (Bradford 1990). Total clean up costs of the Exxon Valdez oil spill exceeded US$ 3 billion, which caused the global offshore oil and gas industry a serious image problem (Patten 1992; Elkington 1999). In USA, the "Oil Pollution Act 1990" was signed into law in August 1990, largely in response to rising public concern following the Exxon Valdez incident.

future. As the oil & gas industry is predicted to increase its onshore operations external stakeholder scrutiny and focus on social sustainability elements are likely to gain more attention. In response to such changes, it is a logical progression for the oil & gas sector to increase its focus on social sustainability elements within its voluntary framework.

2.2 What is the purpose and effect of voluntary codes of conduct?

The most commonly stated purpose of voluntary codes of conduct is the improvement of environmental and social performance. For example, both the voluntary frameworks compared below include improving performance in their statements of purpose. However, research has indicated that the underlying purpose of adopting voluntary codes of conduct is centered on the improvement of corporate image rather than performance (Gunningham and Sinclair 2001: 4, 2002: 134; Rondinelli and Berry 2000: 74, 81; Storey et al. 1997). Schiavi (2005: 8) for example, suggests that "improved performance' is not the principle goal of these initiatives – they are about reputation, trust, credibility, relationships with stakeholders, and access to new sites". Similarly, Brereton (2002: 11) argues that although motivations for signing up may vary, typically "mining companies sign-up to these schemes because of the reputational benefit to be derived from participating". Thus, issues of credibility, reputation and the desire to protect a 'social license to operate', rather than ensuring an actual improvement in performance, have been identified as the key factors contributing to the development of voluntary codes of conduct (Schiavi 2005: 3, 7).

Such findings are supported by the fact that the development and adoption of voluntary initiatives is driven primarily by larger, more reputation- sensitive companies and their representatives rather than small operators (Brereton 2002: 17). It appears that due to greater image sensitivity, larger companies in particular benefit from differentiating themselves from more poorly performing competitors through the adoption of voluntary initiatives (Peck and Sinding 2003: 136; Schiavi 2005: 8). Continued access to resources and gaining competitive advantage over poorer performers within the industry, have therefore also been identified as

primary benefits to be gained from the adoption of voluntary initiatives. Furthermore, factors such as gaining preferential treatment by government regulators are becoming increasingly important.

The multi-dimensional relationship between voluntary initiatives and the regulatory environment has been identified as an important emerging factor contributing to the development of voluntary codes of conduct. It has frequently been argued that avoidance of government regulation is a key motivating factor for the development and adoption of voluntary initiatives. More recently however, it has also been suggested that both in theory and practice, demonstrating a commitment to go 'beyond compliance', through the adoption of voluntary initiatives may lead to differential and preferential treatment by government regulators thereby reducing regulatory burdens for those party to the initiative (Delmas and Terlaak 2002: 5; Peck and Sinding 2003: 131; Rondinelli and Berry 2000: 74). These arguments appear to be consistent with some of the factors identified below that contributed to the development of the two Australian codes of conduct. Schiavi for instance, suggests that the main reason for the development of the mining framework was the recognition by industry that it must 'self-regulate or be regulated' in response to government and civil society pressure to improve social and environmental performance (2005: 5). However, it would be simplistic to view the development of voluntary codes of conduct as a one-way, exclusively corporate driven strategy designed to avoid government regulation. Firstly, some companies may prefer higher standards of government regulation as this provides a safety net that levels the playing field between operators (Schiavi 2005: 10). Secondly, it is arguable that voluntary initiatives are at least in part driven by the increasing reliance of government on market-based incentives and initiatives (Sarker and Burritt 2005a: 511). Gunningham et al. (1998) for instance, argue that the increasing regulatory overload is likely to become counterproductive and that shrinking taxes and an ideological swing against government intervention make direct regulation politically and economically unattractive. Greene (2002: 5) explains the linkages between voluntary initiatives and domestic laws as follows: some commentators emphasise the need for "a strong underlying regulatory regime to encourage the

development, participation in and continued evolution of effective voluntary initiatives. Without a credible threat of regulation, the argument goes; few companies will invest in a voluntary initiative requiring significant behavioural change. As an important corollary, voluntary initiatives can help foster better regulation. Through widespread acceptance and application, voluntary initiatives may take on some legal status of their own".

Findings on the relationship between voluntary initiatives and improved environmental and social performance vary. While some argue that improved performance is a secondary outcome of voluntary initiatives as companies are pushed 'beyond compliance' (Sarker and Burritt 2005b: 2; Schiavi 2005: 11) others are more skeptical and suggest that there is no, or at best a very limited, correlation between the adoption of voluntary initiatives and improved performance (Peck and Sinding 2003: 133). Proponents of the former view argue that where voluntary initiatives are appropriately situated within the regulatory framework they can play a vital role in improving performance (Brereton 2002: 21; Sarker and Burritt 2005b: 13). The latter view is supported by those who argue that the only way to effectively address under performance is through government regulation (see views expressed in Schiavi 2005: 9).

These arguments are in part based on the recognition that those companies driving voluntary initiatives are usually already high performers (Brereton 2002: 13) whereas laggard companies are unlikely to participate in such initiatives and their performance will therefore only be effectively improved through regulation (Schiavi 2005: 11). These arguments link back to findings that the underlying purpose of voluntary initiatives is not to improve performance but rather, to create avenues of communicating performance to stakeholders thereby maintaining and enhancing corporate image (Delmas and Terlaak 2002: 5; Schiavi 2005: 9).

3. Comparative analysis of the Australian minerals and oil & gas industries codes of conduct

3.1 The Australian Minerals Council's *Enduring Value Framework 2003*

The *Enduring Value Framework* (EVF)[6] replaced the *Australian Minerals Industry Code for Environmental Management* in 2004. EVF seeks to "assist the industry to operate in a manner which is attuned to the expectations of the community, and which seeks to maximise the long-term benefits to society that can be achieved through the effective management of Australia's natural resources".

The EVF predecessor, the *Australian Minerals Industry Code for Environmental Management,* was adopted in 1996 in response to NGO and government pressures that the industry must improve environmental and social performance (Greene 2002: 10). The Code was subsequently developed in to the EVF through extensive stakeholder review processes in 1999 and 2004[7]. Notably, this transition from the Environmental Code to the EVF framework led to the greater incorporation of social sustainability elements in addition to environmental concerns.

The EVF framework has an international heritage. First and foremost the framework is based on the International Council on Mining & Metals (ICMM) sustainability principles, which canvas economic, environmental and social elements. Detailed implementation guidance elaborates on the specific content of the principles and their implementation in an operational context.[8] Since 2002 adoption of the EVF has been a condition of MCA membership. By adopting the framework members commit to "progressively implementing sustainable development principles and

[6] Details of the framework and associated implementation guidance can be found on the MCA website: http://www.minerals.org.au/enduringvalue/enduring_value (accessed on 11/07/08).
[7] See MCA website at: http://www.minerals.org.au/enduringvalue (accessed on 11/07/08).
[8] See, for example, the *Enduring Value Summary Booklet, Guidance for Implementation, Self-Assessment Protocol* and further guidance documentation such as the Industry-Government developed Leading Practice Program handbooks, for example, *Community Engagement and Development.* Available at: http://www.minerals.org.au/enduringvalue/enduring_value (accessed on 11/07/08).

practices, and transparently reporting their performance to the community"[9] . Members are required to publicly report site level performance on an annual basis using the GRI, the GRI Mining and Metals Sector Supplement or a self-developed reporting metric. Persistent and unaddressed non-conformance with the framework can result in withdrawal of MCA membership.

3.2 The Australian Petroleum Production & Exploration Association's 'Principles *of Conduct 2003'* and '*Environmental Code of Practice 1996'*

"APPEA introduced its self-regulatory 'Environmental Policy' and 'Principles of Conduct' in order to communicate and explain its shared core values to industry, regulators, and the communities in which they operate. The 'Principles of Conduct' provides the basis for achieving the APPEA mission of a legislative, administrative, economic and social framework which efficiently and effectively facilitates safe, environmentally and socially responsible oil and gas exploration, development and production" (Sarker and Burritt 2005b: 11).[10]

Development of the *APPEA Environmental Code* was initiated by the industry in 1977 and it has since been regularly updated to incorporate industry advances. As the name suggests, this Code focuses primarily on environmental concerns, rather than economic or social elements.

By and large, APPEA's nine *Principles of Conduct* mirror the ten ICMM principles upon which the mining framework is also based. However, in the oil & gas sector these principles are only stated as broad guidelines rather than specific principles to be implemented.[11] Implementation of sustainability principles is instead provided by the *Environmental Code*. Members are encouraged to adopt the Code, but APPEA membership is not contingent upon doing so. Adoption of the

[9] See, http://www.minerals.org.au/enduringvalue/sig/how_to_become_a_signatory (accessed on 11/07/08).
[10] Details of the framework and associated implementation guidance can be found on the APPEA website: http://www.appea.com.au/index.php?option=com_content&task=blogcategory&id=145&Itemid=203 (accessed on 11/07/08).
[11] See, *APPEA Principles of Conduct Explanatory Notes.* Available at: http://www.appea.com.au/content/pdfs_docs_xls/Publications/CodeOfConductfinal.pdf (accessed on 11/07/08).

Code is couched in terms of generating 'continuous improvement'. Environmental assessment can be made using the ISO 14000 Standard or an internally developed metric. As adoption of the Code is purely voluntary there is no sanction for non-compliance.

3.3 Key comparative factors

The following table (Table 1) gives a snapshot view of some key areas of comparison between the two voluntary codes by highlighting both similarities and differences across selected areas of analysis.[12]

Table 1: Key Comparative Factors

Particulars	**MCA's Enduring Value Framework**	**APPEA's Principles of Conduct and Environmental Code**	**Remarks**
Statement of purpose	"Assists the industry to operate in a manner which is attuned to the expectations of the community, and which seeks to maximise the long-term benefits to society that can be achieved through the effective management of Australia's natural resources."	Aims to facilitate self-regulation consistent with the APPEA mission to "Achieve a legislative, administrative, economic and social framework which efficiently and effectively facilitates safe, environmentally responsible, socially responsible and profitable oil and gas exploration, development and production."	While the EVF has an emphasis on meeting societal needs as they are identified by community stakeholders, the APPEA framework focuses on meeting legislative and regulatory environmental requirements.

[12] The information used in this table is compiled from the following sources: *Enduring Value Summary Booklet, Enduring Value Guidance for Implementation, Enduring Value Self-Assessment Protocol* and the MCA website. Accessible at: http://www.minerals.org.au/enduringvalue (accessed on 11/07/08); *APPEA Principles of Conduct and Explanatory Notes, APPEA Code of Environmental Practice* and the APPEA website. See, http://www.appea.com.au/index.php?option=com_content&task=view&id=12&Itemid=256 (accessed on 11/07/08).

Key principles	1. Ethical business practices 2. Sustainable development 3. Uphold fundamental human rights 4. Risk management 5. Health and safety performance 6. Environmental performance 7. Conservation of biodiversity 8. Responsible product design 9. Contribute to community development 10. Effective and transparent engagement	1. Ethical business practices 2. Sustainable development 3. Foster economic growth 4. Risk management 5. Health, safety and environmental performance 6. Conservation of biodiversity 7. Contribute to community development 8. Respect the rights of workers 9. Open and effective engagement	These are by and large analogous. Both are based on the 10 ICMM sustainability principles.
Coverage of social elements	Economic, environmental and social aspects are covered by the *Enduring Value Framework*.	Economic, environmental and social aspects are covered in the core *Principles of Conduct* whilst the *Environmental Code* focuses primarily on environmental elements.	As implementation of sustainability principles in the oil & gas sector is governed by the *Environmental Code* rather than the *Principles of Conduct* it is arguable that environmental factors are attributed greater attention in this framework. In contrast, the mining sector code evinces a more holistic approach to sustainability by covering all three areas.

Implementation guidance	*Enduring Value Summary Booklet* – elaborates on the principles *Guidance for Implementation – Self-Assessment Protocol* – optional guidance to assessment against the ten principles.	*Principles of Conduct Explanatory Notes – Environmental Policy* – enshrined in the *Code of Environmental Practice.*	The mining framework guidance is more comprehensive in that it provides greater detail on the content of principles and practical implementation.
Other tools	*Resource Database* – guidelines, links and case studies highlighting leading industry practice in sustainable development implementation *Leading Practice Program* – handbooks on improving best practice.	*Policy papers* – on specific issues *Environmental Incident Database – Environment and Safety Alert System* – sharing learnings with the aim of reducing incident recurrence.	Both frameworks stress the importance of sharing learnings through disclosure of case studies and developing best practice documentation.
Membership	Being a signatory to EVF is a condition of MCA membership.	Adopting APPEA codes and policies is not a condition of membership.	The mining sector clearly creates greater pressure to adopt the voluntary framework.
Reporting requirements and applicable standards	Global Reporting Initiative (GRI) provides principles and indicators against which organisations can measure and report on economic, environmental and social performance.	ISO 14000 – environmental management system.	Whereas the ISO is strictly an environmental management standard the GRI covers social and economic sustainability dimensions in their own right.
Effects of non-compliance	Membership of MCA may be withdrawn.	None specified.	The mining sector clearly creates greater pressure to adhere to the voluntary framework.

3.4 Comparative discussion

In this section we seek to elaborate on the above table by focusing on the selected areas of comparison, *development, coverage of social elements, reporting standards* and *compliance.* From a comparison of the two voluntary frameworks across these areas it becomes apparent that overall the mining framework has a greater incorporation of social sustainability elements and takes a more pro-active stance on implementation and building industry pressure to adhere to the stipulated standards. It is suggested therefore, that this is the more progressive framework of the two. Thus, an exchange of learnings between the two sectors could be beneficial for developing the oil & gas sectors response to the sector's emerging need for a greater focus on social sustainability elements.

3.4.1 *Framework development*

As outlined above, both the MCA and APPEA environmental codes of 1996 were developed primarily in response to external pressures from civil society and the regulatory environment. The desire to avoid regulation has been identified as a key factor driving the development of both environmental codes (Schiavi 2005: 6). The motivations for adopting the codes also share common elements reflecting the desire of both the industries broadly, and the vested interests of individual companies to use the opportunity provided by the voluntary codes to improve reputation through the disclosure of good and poor performance (Schiavi 2005: 6). As outlined above, such differentiation between good and poor industry performers through voluntary disclosure is a key driving factor in the development and adoption of voluntary codes.

Despite these similarities between the two 1996 environmental codes, there are several points of divergence both in the formulation and design of the codes and in subsequent developments. Firstly, it appears that the development of the mining sector's voluntary environmental code and subsequent EVF has involved more comprehensive stakeholder engagement than the oil & gas environmental code. Both the 1999 and 2004 review processes that developed the EVF involved extensive internal and external stakeholder engagement by the MCA including representatives

from government, industry, consultants, NGOs, community groups and industry related organisations. In contrast, the oil & gas environmental code has been more exclusively industry designed and driven. Secondly, whereas the oil & gas environmental code was last revised in 1996, the mining sector has since completely reviewed its sustainability framework by replacing the environmental code with the EVF. The result is that the mining framework now has a much greater coverage of social sustainability elements and a greater focus on implementation, reporting and addressing non-compliance than does the oil & gas sector.

As indicated previously, this divergence in the coverage of social sustainability elements may in part be attributed to the different operational environments of the two sectors and the requisite divergence in stakeholder pressure and scrutiny necessary to urge the industry towards the integration of social sustainability elements. Due to the geographic isolation of most oil & gas operations, it is arguable that stakeholder pressures, for example by a local community surrounding a mine site, are simply not as immediate as they are in the mining sector. Such factors could also explain the different levels of stakeholder engagement in the review of the frameworks as again, the diversity and immediacy of civil society interests in the incorporation of social sustainability elements are arguably not as pressing in the oil & gas as they are in the mining sector.

3.4.2 *Coverage of social elements*

By 'social' elements of sustainability we refer to issues such as coverage of human rights, approaches to employee and community relations, systems of stakeholder engagement, community consultation and public reporting. It is important to acknowledge that these elements cannot be considered in isolation as they clearly have environmental and economic dimensions. However, for present purposes we focus on how these elements are articulated in terms of participation, communication and engagement approaches. The differences between the two frameworks in their coverage of social elements are evident particularly when examining the guidance and explanatory documentation associated with the implementation of the key principles.

For example, principle three of the mining framework is to "uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by activities". The APPEA equivalent is principle eight: "respect the rights and dignity of our workforce, and deal fairly with our workforce, suppliers and the communities in which we operate". Whilst these may appear reasonably similar at first instance, upon examination of the guidance documentation it is arguable that principle three has a wider scope and application than principle eight. Both principles focus first and foremost on the fair treatment of workers (including remuneration, work conditions and anti-discrimination). Principle three however, also covers cultural and human rights training of staff, minimisation of involuntary resettlement and respecting the culture and heritage of local and Indigenous communities. The implementation of principle three is stated in pro-active language, that is, members are 'to uphold' the stated principles. The APPEA explanatory notes to principle eight on the other hand, are retrospective and less strongly worded, stating simply that "APPEA members respect all variety of culture, customs and values at its operation sites and in industry dealings with others." It is arguable, that to 'deal fairly' with workers and communities is a more subjective standard than to 'uphold fundamental human rights' as such rights are more easily identified and delineated (through for example international and national human rights instruments) than is the general concept of 'fairness'.

The respective principles focusing on industry involvement in the economic and social development of communities also show some divergence in approach. Both principle nine of the EVF and principle seven of the APPEA principles stress the need for appropriate and ongoing systems of stakeholder engagement, maximising local capacities and participatory development. However, it is arguable that APPEA adheres to a more traditional 'needs-based' framework of community development whereas the EVF framework is moving towards adopting a more community focused, or community 'rights-based' framework of engagement[13] .

[13] For a useful introductory explanation and discussion of these two concepts see, Ellis, *A. Rights-Based Approach to Development: An Exploration of Cultural Relativism and Universality in Human Rights* (2006). For a more detailed exploration see, Office of the United Nations High Commissioner, *Frequently asked Questions on a Human Rights-Based Approach to Development Cooperation* (2006).

'Needs-based' development frameworks are characterised by a more paternalistic approach to the industry-community relationship that usually identifies industry as the 'giver' and the community as the 'receiver' of social and economic development benefits generated through the relationship (Ellis 2006: 3-4). That is not to say that such an approach has no recognition of the value of reciprocity, active participation or cultural sensitivities. APPEA principle seven for example, clearly identifies the importance of 'mutually beneficial relationships', participation in the formulation of development strategies, public consultation and culturally appropriate access to community engagement strategies. However, this approach does tend to view industry members as those who provide and define the forums and means of engagement thereby limiting community agency in determining rules of engagement. A 'rights-based' framework of community development on the other hand, characterises industry and community as more equal participants in the development process (Ellis 2006: 3-4). EVF principle nine for example, frames industry involvement in community development in terms of 'contribute to', 'in collaboration with', and through partnerships. Such language indicates that communities are attributed a more active role in the design of, and participation in, engagement and development strategies.

The two frameworks appear to have a very similar definition of 'effective engagement' in terms of reporting and disclosure to communities and other stakeholders. For example, principle ten of the EVF and principle nine of the APPEA principles both highlight the importance of public reporting, providing timely and accurate information and ongoing engagement through active consultation with communities.

3.4.3 *Reporting standards*

Use of the EVF *Self-Assessment Protocol* that guides assessment against the ten framework principles is optional. However, signatories to EVF are obligated to ensure progressive implementation of the ICMM principles and elements, public reporting of site level performance (on a minimum annual basis, using either the GRI, the GRI Mining and Metals Sector Supplement or a self-developed metric) and

regular assessment of the systems used to manage operational risks (again using either an internal or external assessment metric) [4].

The nine *Principles of Conduct* of the oil & gas sector are not accompanied by implementation or reporting specifications. The *Explanatory Notes* to the Principles give broad policy directions rather than specific implementation guidance. The standards of assessment stipulated by the *Environmental Code* are a mixture of self-determined standards, industry standards and the ISO 14000 environmental management standard.

The most notable point of convergence in relation to reporting standards is that both frameworks allow for the use of self-developed assessment metrics as companies deem appropriate. In terms of the external standards applicable, it is again of note that the standards stipulated by the mining framework have a greater focus on social sustainability elements than that used by the oil & gas sector. Specifically, the GRI framework encompasses economic, environmental and social sustainability indicators whereas the ISO 14000 Standard is an environmental management standard.[14] Some authors have suggested therefore, that the GRI framework is a more progressive sustainability assessment framework (Greene 2002: 13). The 2005 pilot version of GRI Mining Sector Specific guidance has the additional advantage of not only covering both environmental and social sustainability elements but also being explicitly and specifically designed for the particular industry[15].

3.4.4 *Compliance*

By making adoption of the EVF framework a condition of membership and providing for the possible disqualification of membership for non-compliance, the mining framework clearly has a greater focus on compliance than does the oil & gas code. This difference is reflected also in the language surrounding compliance. APPEA guidance for example, frames adoption and implementation of the

[14] For details of the two standards see the respective websites. GRI available at: http://www.globalreporting.org/Home (accessed on 15/07/08). ISO Standards available at: http://www.iso.org/iso/iso_14000_essentials (accessed on 15/07/08).
[15] Note that there is as yet no such GRI Supplement for the Oil & Gas sector.

Environmental Code in terms of 'encouraging continual improvement' and information sharing.[16] This contrasts with EVF language that stipulates the need for 'progressive implementation', public reporting and sanction for non-compliance.[17].

It should be noted however, that despite this stronger language it is arguable that in reality, sanction for non-compliance with the MCA framework also remains limited. Firstly, withdrawal of membership remains the only sanction for non-compliance and secondly, to our knowledge, there is no evidence that such a withdrawal of membership for non-compliance has occurred to date.

A possible explanation for this difference in compliance requirements is that the EVF framework has undergone a much more comprehensive review since 1996 than has the APPEA framework and that such reviews have incorporated societal and regulatory expectations that are increasingly focused on compliance. The precise reasons for the different focus on compliance between the frameworks however were outside the scope of the study and are yet to be examined.

4. The case for further research

This paper has sought to provide a brief comparative overview of the two voluntary codes of conduct that are currently applicable in the Australian mining and oil & gas sectors. In 1996 both these codes focused on environmental concerns and were open for purely voluntary implementation by member companies. Since then the framework of the mining sector has undergone significant changes that have seen the greater incorporation of social sustainability elements, public reporting according to progressive sustainability indicators and industry pressure to implement and adhere to the standards stipulated by the framework. These developments contrast sharply with the oil & gas sector which retains the 1996

[16] See for example, *APPEA Code of Environmental Practice.* Available at: http://www.appea.com.au/content/pdfs_docs_xls/PolicyIndustryIssues/environment/1996EnvCode.pdf (accessed on 11/07/08).
[17] See, for example, the *Enduring Value Summary Booklet, Guidance for Implementation* and *Self-Assessment Protocol.* Available at: http://www.minerals.org.au/enduringvalue/enduring_value (accessed on 11/07/08).

standards and with these an almost exclusively environmental focus. As indicated in the above discussion, both industries are subject to increasing pressure (both from internal and external stakeholders and factors) to place greater emphasis on environmental and social performance. However, factors such as the different operational environments of these two industries have contributed to a greater push to integrate social sustainability in the mining sector than the oil & gas sector. In the future, it is likely that factors such as the predicted increase in onshore operations of the oil & gas sector will contribute to a greater level of stakeholder scrutiny of social sustainability performance in the oil & gas sector. It is suggested therefore, that a more detailed comparison of the developments in these two sectors could provide key learnings that may be shared across the two sectors with the view of assisting the oil & gas sector in developing a greater incorporation of social sustainability elements into its voluntary framework.

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