Mining industry perspectives on handling community grievances

Summary and analysis of industry interviews

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Acknowledgements

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Centre for Social Responsibility in Mining (CSRM)

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The Centre for Social Responsibility in Mining (CSRM) was established by The University of Queensland as a member of the SMI in response to growing interest in and debate about the role of the mining and minerals industry in contemporary society. CSRM's focus is the socio-economic and political challenges that confront companies, communities and governments when change is brought about by resource extraction. The centre's aim is to help build the capacity of these stakeholders to manage change in more effective ways. CSRM has global reach, with particular experience in Australia and the Asia-Pacific.

Corporate Social Responsibility Initiative (CSRI)

http://www.hks.harvard.edu/m-rcbg/CSRI/

Director: Jane Nelson

The Harvard Kennedy School's Corporate Social Responsibility Initiative (CSRI) seeks to study and enhance the effectiveness of corporate social responsibility. It is a multi-disciplinary and multi-stakeholder effort dedicated to exploring the intersection between corporate responsibility, governance and accountability, public policy, human rights, and international development. It aims to bridge the gap between theory and practice, encourage innovation, build leadership skills and support better understanding and constructive action between different sectors.

Foreword by Caroline Rees

Director: Governance and Accountability Program

Harvard Kennedy School's Corporate Social Responsibility Initiative

The global economic crisis is an acute reminder of the fact that the decisions and actions of private sector actors have an impact on a range of individuals and groups in society beyond their shareholders or commercial partners – namely, on their external stakeholders. This is true of all corporate sectors. But perhaps no sector has a more direct and tangible impact on its external stakeholders than the extractive sector.

Extractive companies are typically working in locations where they are taking over or operating near land and property belonging to communities, affecting water usage in the area and other environmental resources, bringing jobs and opportunities into the area, relocating families, affecting artisanal miners, generating public revenues and so on. These various impacts of extractives projects may be positive or negative, but they are never neutral. They therefore frequently engender tensions, conflict, grievances and disputes, and all the more so where there is a history of conflict in the region, independent of the industry, as is often the case.

Leading extractives companies have long recognised that this reality requires of them particular attention to their external stakeholders, to understand their concerns and expectations and to find ways to work with them to mutual benefit, mitigating the actual and perceived negative impacts of the company's presence. They have worked individually and through industry organisations such as the International Council on Mining and Metals to develop principles, policies and management tools to this end. However, even the leading extractive companies have found that they continue to be subject to protests, campaigns, lawsuits, and other forms of opposition from aggrieved stakeholders. Stakeholder engagement alone is not sufficient and not all conflict can be prevented. Yet assuming there is nothing more to be done is neither convincing nor satisfactory.

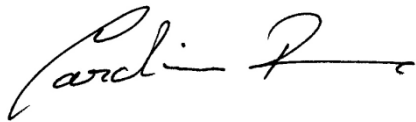It is perhaps surprising, therefore, that until recently there was little attention paid to the additional policies and processes needed to handle grievances effectively. The lack of practical guidance available, combined perhaps with a lingering aversion of many companies to a subject that was seen to imply failure, meant that grievance mechanisms for effective conflict management were getting short shrift.

In 2007, the CSR Initiative therefore conducted multi-stakeholder consultations that led to a set of principles for effective grievance mechanisms, which were highlighted in the 2008 UN report of the Secretary-General's Special Representative for Business and Human Rights, Professor John Ruggie. And over the last 18 months, various companies, industry groups and financing organisations have begun developing their own operational tools for grievance handling.

These are promising developments, but much still remains to be learned. It was with this in mind that the CSR Initiative welcomed the opportunity to collaborate with the Centre for Social Responsibility in Mining (CSRM) at the Sustainable Minerals Institute at The University of Queensland in an effort to understand better the challenges being faced by those within the extractive sector involved with managing conflict with communities.

The CSRM's reputation is well-known in the extractives community, and the Centre has produced a predictably rich and instructive report. Based on in-depth interviews with extractives company staff as well as experts closely familiar with their operations, the report brings out some fascinating patterns of experience that convincingly illustrate a range of barriers and opportunities when it comes to companies' own ability to improve their conflict management. Their research shows that the effectiveness of company-level grievance processes depends necessarily on a range of procedural, structural, staffing and cultural factors internal to the company, quite apart from those outside its control. Sharing this kind of learning is important if companies are to accelerate the process of finding viable, practical approaches to resolving disputes earlier and more effectively.

The CSR Initiative is indebted to the CSRM for their exceptional work and to the companies and experts who agreed to be interviewed. We look forward to building further on the findings in this report through field research planned for later this year. Meanwhile we strongly recommend the report to all those with an interest in advancing the effective management of conflict between companies and their external stakeholders. As witnessed by the many voices heard throughout this report, doing so is truly a win-win proposition for company and community alike and an opportunity to be seized.

Caroline Rees

Executive Summary

A significant body of literature exists about the effects and impacts of mining on local communities.[1] Less well understood are the internal dynamics and decision pathways *within* companies for handling grievances and disputes. As a first step towards addressing this knowledge gap, the Centre for Social Responsibility in Mining (CSRM) and the Corporate Social Responsibility Initiative (CSRI) agreed to collaborate on an exploratory research project. The primary aim was to build knowledge about the way mining companies function internally to handle community grievances and community-company disputes. The research covered a full range of disputes from day-to-day problems through to those that become high-profile legal cases and/or feature in media campaigns.

Questions that guided the research were as follows:

- How does the industry currently think about community grievances?
- What requirements are in place at the corporate-level in relation to grievance handling and to what extent are they implemented?
- What are the key grievance pathways within mining companies?
- In what ways is the industry focused on change in this area?
- What organisational barriers and enabling factors exist for responsible grievance handling by mining companies?

Key findings

a)   Grievance handling: On the industry's radar

Most interviewees believe that leading companies are better at responding to community concerns than they were five years ago, but acknowledged that company policy and practice for grievance handling often left communities with few options other than public protest and destructive behavior, largely borne from frustration over lack of acknowledgement or response to issues raised. Recognising that grievance handling has not received adequate attention in the past, the vast majority of company interviewees demonstrated a readiness for discussion and a strong

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[1] For example, see Chapter 9 of the International Institute for Environmental Development (IIED) report, *Mining, Minerals and Sustainable Development* (2002), available at http://www.iied.org/pubs/pdfs/G00901.pdf. Additionally, one of the most recent corporate reports on this topic is the Newmont Mining Corporation, *Community Relations Review* (2009) is available at http://www.beyondthemine.com/2007/?l=1&pid=470&id=471

appetite for information, and described a trend towards a more considered and deliberate approach to dealing with community grievances.

While it is not yet the norm in the industry, leading companies require something akin to 'formal grievance mechanisms' and 'dispute resolution processes commensurate to the level of risk'. Such requirements are (or will soon be) embedded in corporate-level social and/or community policies, standards or guidance. Many companies are also looking to build and strengthen skills and capacity, both amongst operations personnel and specialist community relations practitioners.

b) Inclusion of conflict within corporate frameworks, but a paradigm shift required

Mining companies have not always included 'conflict' as a core element in their sustainable development or corporate social responsibility frameworks. However, interviewees were largely aligned in their views about the link between mining and conflict; conflict was recognised as a pre-existing characteristic of communities, as well as being a direct outcome of a mining company taking an interest in a particular region or locality. In other words, conflict is an inherent part of doing business in this sector. More specifically on the issue of human rights, a few interviewees said that stronger linkages were starting to be made by mining companies between grievance handling and human rights within corporate-level policy frameworks. Notwithstanding these conceptual shifts, there was a view among several interviewees that the industry still needs to undergo a paradigm shift such that communities – not mining operations – are placed at the centre of the project development process; where the business considers everything from the standpoint of how it affects the community. Placing communities 'front and centre' of mining development would represent a fundamentally different approach than tends to characterise many relationships between mines and communities around the world.

c) Seeing room for improvement in assessment and analysis

Interviewees indicated that community relations methods and processes that seek to better understand local contexts, risks, impacts and development opportunities were evolving (e.g. social baselines, social-economic and political risk analysis and community engagement and development). They also acknowledged that there was much room for improvement, particularly in the area of social risk.[2] Several companies said they had experienced escalated disputes and

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[2] Industry interpretations of social risk continue to evolve. In this report, 'social risk' includes the risk(s) that the company's activities or operations pose to members of a community (including minority and marginalised

conflict because risk analysis had not adequately considered risk to the community from the company, as assessment methodologies had disproportionately privileged business risk and risk to corporate reputation.

Interviewees discussed many other topics that require further consideration and improvement, such as the industry's limited capacity to engage and dialogue with oppositional and disengaged stakeholders. Interviewees believe that an overemphasis on stakeholders who are largely supportive of mining operations is a risky strategy. Other dilemmas include the challenges of: establishing local-level relationships when the management team is on a fly-in, fly-out roster; embedding social and community considerations in the early stages of a project; and ensuring support of locally-based community relations staff when conflict escalates.

d)   Devolved responsibility and informal grievance processes

Currently, the industry's dominant approach is to devolve responsibility for grievance handling to operations or projects (rather than immediately elevating to the corporate level or an external party). Corporate offices rarely have direct responsibility for community grievance handling, other than in the case of escalated disputes, and are largely responsible for: setting the policy agenda; supporting operations in their implementation; and, providing assurance back to the corporate entity that compliance is being achieved.

Many operations have 'typically-followed' processes in place for handling grievances at the operational level, but this is rarely documented in a formal or written procedure; that is, operations understood but had not documented how issues would be handled when they arose.

At the operational level, the typical progression of a grievance was from a community relations officer to the department head to senior managers and the mine manager and from there to regional and/or corporate offices. Other departments tend to become involved when they are directly implicated or when a response or crisis team has been established. Dedicated cross-disciplinary teams or multi-stakeholder forums are usually only set up for escalated issues.

Interviewees explained that grievance handling pathways at the operational level depend on:

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groups). The identification of social risk would typically draw on knowledge and understanding built and shared through engagement processes and social baseline and impact assessment work. This interpretation of social risk includes but extends beyond risk to reputation and operations as a result of social and community impact, perception or action.

- the type of issue, which tended to reflect the organisational 'source' of the problem (e.g. environment, human resources, supply, exploration or operations etc.)
- the severity of the issue
- potential to affect operations or relationships.

e) Grievance handling integral to community relations, but not a CR responsibility alone

Interviewees described a clear relationship between grievance handling and community relations – grievance handling is integral to securing an ongoing social licence to operate (SLTO) and forms part of a suite of processes and practices that aim to build trusting relationships at the local level.

At the operational level, it is community relations practitioners who usually have front-line and face-to-face contact with aggrieved parties to understand their perspectives, concerns and issues. From there, it is (more often than not), community relations practitioners who work to resolve issues and, in the case of more complex issues, involve other departments and functions in seeking resolution. Interviewees indicated that many community relations practitioners still struggle to involve other departments in discussions about prevention or early intervention of community grievances; even departments that may be the source of the problem and/or in a strong position to contribute to timely resolution. Sites with formalised procedures said they were of great assistance when community relations sought to involve or hold other departments to account for responsible grievance handling.

f) Strengthening community relations – at all levels

A majority of interviewees reported that leading companies are focused on establishing a more deliberate and formalised approach to grievance handling. There was recognition however that many mine managers still find it difficult to consider community perspectives in key decision-making processes, along with operational priorities. Most interviewees said their companies are focused on building capacity at the operational level for specialist community relations practitioners, mine managers and operations personnel alike. Several interviewees reported that their company was also starting to focus on the need to ensure that community relations practitioners and managers have appropriate levels of authority and seniority to reinforce that community relations is integral to operations, rather than an adjunct.

g) The challenge of balancing competing priorities

Operations/production and community priorities

There continue to be competing concerns at the operational level where production goals dominate, sometimes at the expense of community priorities. Many community relations practitioners struggle to exercise influence internally, particularly amongst professions such as legal, public relations, operations and environment, the latter two of which have a more technical orientation than community relations professionals. Furthermore, many community relations personnel do not have authority commensurate with their responsibility or equal to their counterparts in operations or production. As a result, others within the business can (even if unintentionally) discount their contributions to understanding and/or resolving community-company conflicts.

Technical and relational methodologies

Mining companies continue to grapple with the application of largely technical approaches from established disciplines (such as mining, geology, health and safety and environment) to community relations. Risk assessment, incident investigation and root cause analysis are cases in point. These methodologies remain underutilised for community grievance handling. Several companies are actively strengthening these methodologies so they are more appropriate for community relations and are better linked to broader business strategy. Refining these methodologies will help bridge the language divide that is clearly limiting the ability of community relations personnel to influence internally, particularly as grievances escalate and are elevated within the organisation.

Local and global focus

Mine site personnel tend to focus on particular contexts, not universal dilemmas. They want to know how overarching principles translate to *their* reality and they need support from corporate offices, external advisors, colleagues and others in finding locally-based solutions as their first priority. Interviewees emphasised the need to ensure that guidance being developed at the international level is relevant to people at the local level – within both companies and communities alike – so that the ensemble of stakeholders are encouraged to engage constructively in applying high-level principles on the ground, within the many and varied contexts in which the mining industry operates.

Flexible dialogue and formal procedure

Some interviewees gave a caution on the trend towards formalisation, arguing that it may inadvertently decrease space for innovative local solutions and dialogue, which is essential to effective 'on the ground' grievance handling. In this emerging area, a balance needs to be struck between formalisation (through set procedures and certain minimum requirements) on the one hand, and flexibility and adaptability in finding some form of resolution on the other.

h) Greater awareness of constraints and enabling factors for responsible grievance handling

During the course of the 32 interviews, interviewees shared many practical strategies, solutions and learnings from past mistakes in grievance handling. Experienced mining company employees and advisors clearly found that some strategies work and others do not. Table 1 on page 38 provides a full account of those learnings. The list below highlights key enablers and obstacles to responsible grievance handling:

What works:

- an organisational culture that supports a focus on community perspectives
- a dedicated pathway for complaints and grievances
- a grievance mechanism established in the context of a broad-based engagement process that aims to establish trusting relationships
- collaboration with local people and others about how best to handle grievances, before they escalate
- taking a principled approach, including, at a minimum: transparency, accessibility, timeliness, fairness and a simple/reliable recourse mechanism
- considering the surrounding context, not issues in isolation
- understanding the problem, do not just solve the issue
- build socialing competencies of community relations practitioners as well as senior leaders
- a community relations function with structural power and formally recognised authority.

Worth noting is that the factors identified above are most likely to work if they are done together; just doing one (e.g. establishing a CR function with structural power) won't necessarily lead to better grievance handling as a 'stand alone' improvement.

What does not work:

- failure to plan for conflict because of an assumption that it can be avoided, or that it can be handled 'on the fly'
- failing to provide communities with a mechanism to lodge issues; otherwise there is a risk that communities will resort to violent or destructive behaviour to get a response
- relying on negotiation and position bargaining, rather than also including dialogue to build mutual understanding
- ignoring or refusing to engage 'least trusted' groups on grievance handling processes
- a disconnected and isolated community relations function
- having an incumbent leadership that will not accept legacy issues as part of their own management responsibilities
- limited prior knowledge through lack of analysis and due diligence
- words without action
- third parties who impose processes ill-suited to the local context.

Next Steps

Some companies are clearly focused on trying to address gaps in the area of responsible grievance handling. For example, the industry is strengthening its policy frameworks and has indicated that it is increasingly focused on building skills and capacity both amongst operations personnel as well as community relations practitioners. It will be important that operations are supported in the implementation of new (or recently augmented) policy requirements to ensure that processes are not applied mechanically but developed in dialogue with local people and appropriate to the local context. Also important is that implementation is monitored and evaluated by everyone involved to ensure that policy is both being applied and is in fact achieving what it set out to do.

Rigorous and constructive research grounded in local realities and operational-level practice remains important within mining contexts. The potential for the research agenda to contribute to improved outcomes for companies and communities is significant. Such research could focus on company, case and issue-specific research, in order that knowledge is built collaboratively and learnings are shared amongst a range of stakeholders.

1 Introduction

Improving the way companies handle community grievances is firmly on the mining industry's agenda. Many leading companies are in the process of introducing or augmenting corporate-level requirements and operational procedures in this area. There is increasing recognition within some companies that dedicated grievance mechanisms which suit the local context, embedded within an inclusive program of sensitive engagement and a systematic approach to community relations, can reduce the risk of social conflict and increase the likelihood of smooth project development, operation and closure.

While there are clear business benefits and efficiency arguments for improving community grievance mechanisms, the industry is also responding to the international debate about business and human rights, encapsulated in the April 2008 report *Protect, Respect and Remedy: A Framework for Human Rights* by Professor John Ruggie[3], the United Nations Special Representative of the Secretary General on Business and Human Rights. This report illuminates the need for more effective access to remedies to protect local people from corporate-related human rights harm and establishes a minimum number of principles for designing effective grievance mechanisms. These principles were elaborated through multi-stakeholder consultations conducted by the Corporate Responsibility Initiative (CSRI) in 2007 and are set out in the first Guidance Tool on the issues for companies and their stakeholders.[4]

The issue of remedy is particularly important for communities affected and impacted by large-scale development, such as mining. The mining industry's peak body, the International Council on Mining and Metals (ICMM) is currently drafting a guidance document on operational-level grievance mechanisms, as is the International Finance Corporation (IFC). The IFC's Compliance Advisor Ombudsman released a guidance document in 2008, focusing on designing and implementing grievance mechanisms for large-scale development projects.[5] In fact, a range of guidance documents are available that relate to conflict and extractives industries, with direct applicability to mining.[6]

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[3] http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf
[4] http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper_41_Rights-Compatible%20Grievance%20Mechanisms_May2008FNL.pdf
[5] http://www.cao-ombudsman.org/html-english/documents/implemgrieveng.pdf
[6] For example International Alert's *Conflict Sensitive Business Practice: Guidance for Extractive Industries* (2007) available at: http://www.international-alert.org/pdfs/conflict_sensitive_business_practice_all.pdf and CommDev's *Community Development and Local Conflict: A Resource Document for Practitioners in the Extractive Sector* (2008) http://commdev.org/content/document/detail/1801/.

1.1 Method and scope

Consolidating industry contacts from CSRM and CSRI, data were gathered through 32 individual and confidential interviews conducted between November 2008 and February 2009.[7] Two CSRM researchers interviewed 18 senior mining company employees working in the general domain of corporate social responsibility from across 10 multinational companies. Of the company personnel interviewed, nine were from corporate or regional offices and nine from the operational level. One industry representative and nine senior external advisors/consultants to the industry with expertise in community grievance handling also participated. Two interviewees were from the oil and gas industry, providing a point of comparison. Researchers also interviewed an independent representative with a unique insight into mining company responses to escalated community grievances. Across the whole sample, eight females were interviewed. All interviews were between one and two hours in duration and conducted in English, most by telephone.

Discussions related to mining operations across a range of mineral commodities (e.g. gold, copper, coal, iron ore, and others). Interviewees mostly referred to projects that were in operation, but they also drew from their experiences or knowledge of projects in exploration, feasibility, construction, mineral processing and/or closure. Interviewees referred to operations located in Africa (South, Central and West), the Middle East, South and North America, Asia and Australia.

Key themes and observations that emerged from interviews are presented in this report. Use of the NVivo8™ qualitative data software package enabled some quantification of qualitative information.[8] Wherever possible, de-identified quotes are used to support the analysis and present data in the 'voice' of interviewees.[9] A total of 97 quotes have been included in the document from 26 of the 32 interviewees. It is important to note that the analysis is based on interviewee perceptions and perspectives rather than independently verified information. This report deliberately focuses on internal organisational dynamics and as such presents only an industry perspective (largely of leading companies). Community and third-party perspectives are not captured. The report concludes by advocating a practice agenda in this area and further research at the local level, which will be essential for determining a way forward for different projects and operations around the world.

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[7] See Appendix 1 for a list of individuals and companies who participated in the research.

[8] The following terms are used throughout the document:
- vast majority = > 90% of interviewees
- most/many, dominant/broad view = > 60-90% of interviewees
- half = 50% of interviewees
- a few/several = < 20% of interviewees

[9] Each interviewee was allocated a random 3 digit code indicated in brackets after each quote. Minor adjustments have been made to some quotes to aid comprehension. This practice was kept to an absolute minimum.

Questions that guided the research were as follows:

- How does the industry currently think about community grievances?
- What requirements are in place at the corporate-level in relation to grievance handling and to what extent are they implemented?
- What are the key grievance pathways within mining companies?
- In what ways is the industry focused on change in this area?
- What organisational barriers and enabling factors exist for responsible grievance handling by mining companies?

Sections 2-6 of the report address each of the five research questions in turn.

Note: This report excludes full consideration of the role of business in conflict zones.[10] The United Nations and other concerned bodies recognise that business has an important role to play in contexts where armed conflict is or has recently been active.[11] However, such circumstances require deeper consideration than enabled by the methodology used here.

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[10] In contemporary international relations discourse, "conflict zone" is a contested term. However, it frequently refers to a region within one or more states, not necessarily described by state boundaries, which is experiencing escalated armed conflict between opposing groups, not manifestly affiliated with particular national militias, where large numbers of vulnerable civilians are adversely affected or harmed. Frequently, a variety of non-state actors are involved in "conflict zone" activities. Actors include but are not limited to large humanitarian agencies, the media, private multi-national companies, as well as UN and NATO bodies. See Mackinlay, J. (2001). *Cooperating in the Conflict Zone*. Available at: http://www.nato.int/acad/fellow/99-01/mackinlay.pdf

[11] United Nations (2004). *Security Council Discusses Role of Business in Conflict Prevention, Peacekeeping, Post-Conflict Peace-Building*, http://www.un.org/News/Press/docs/2004/sc8058.doc.htm

2 How does the industry currently think about community grievances?

> *This section presents interviewee perspectives on the language and terminology being used within companies around the issue of grievance handling, interviewee reflections on the characteristics of community-company dispute and conflict and the determinants of a company's approach, both internal and external. The section also provides interviewee opinion on the emerging international focus on grievance handling.*

2.1 Language and terminology

Interviewees used a range of descriptors to refer to unresolved matters between the community and the company including: feedback, concern, complaint, grievance, dispute, issue and conflict. There was variation in the use of these terms. Some had specific definitions and preferences:

> *"Typically you differentiate between a complaint (a less severe dispute) and a grievance (a more severe dispute) and then a conflict (the most severe)." (247)*

Others used the terms interchangeably.

> *"We use dispute, grievances, complaints - whatever. We get them all and are happy with whatever." (123)*

Some companies preferred to avoid divisive language.

> *"We try not to use the words 'dispute' and 'conflict' in our [corporate] communication. We talk about issues management rather than conflict resolution. There is no sinister reason for why that is. Conflict is to a more opposing party; with the connotation of aggression." (398)*

Several interviewees believed there was a tendency to overuse positive language.

> *"Some operations don't talk about problems, they talk about challenges, or opportunities. That's just positive spin. At the end of the day, that will backfire. If you have a grievance and the company messed up, you want the screw up to be acknowledged. You don't want to hear from the company that they have a challenge because they destroyed your livelihood. That is not an opportunity to build a better livelihood. Language is important. By using soft language you can create more grievances."(725)*

Interviewees observed that the recent take up of 'grievance' language indicated a maturation of the industry's approach to community relations.

"I think language precedes action and precedes performance and we are getting to that point now. We are starting to have conversations that I would have been very surprised to see the industry having even 12 months ago." (921)

2.2 Interviewee perspectives about community-related grievances, dispute and conflict

There was broad acknowledgement among interviewees that large-scale mining is inherently conflictual, where the short and long-term costs of conflict to the company and the community can be extensive, enduring, and obstructive.

"Mining involves massive movements of capital and materials in all different contexts. The reality of many [large-scale] operations … is that the structural character of what happens when you put a mine in a remote area is that it will produce conflict. It is so inherent in the kind and sizes of movements and impacts on the economies and societies that they enter into." (115)

The vast majority of interviewees believed companies should be prepared to handle grievances as a matter of course and recognised some fundamental gaps in the industry's current approach.

One of the challenges interviewees said that companies face in handling grievances is the different ways that grievances can come to the fore.

"Many issues blow over … some you can deal with then and there, and it's resolved ... Others follow a more classic pattern where we hear about a clearly stated issue and it boils up … There are also wild-card issues that we don't foresee … and rapidly evolving issues … so how to develop a grievance process to deal with that range is inherently difficult." (115)

There are a range of grievances that emerge from smaller matters at the local operation through to larger-scale, escalated media and legal campaigns that affect the corporate entity and its global reputation. Interviewees observed that once a community grievance had 'scaled up' or escalated from an essentially 'private' grievance, between individuals or groups in a community and the company, to a public issue or one that involves other actors, such as NGOs, it was difficult to de-escalate. One interviewee conceptualised an explanatory framework:

"[I see grievances in] a matrix of crescendoing issues of grievances from minor 'one-tier' problems related to operations all the way through to major issues involving policies and procedures [that necessitate] looking at possible outcomes, many of which are predicated on long-term solutions to things." (662)

Interviewees spoke about a variety of grievances, most of which related either to issues of environment, land use and access, compensation, livelihood, amenity, physical resettlement, employment and/or development equity.

Many interviewees said that a common characteristic of community grievances was that they were highly emotive.

> *"I think that community-company disputes are so emotive because they impact on people's way of life, or their perception of entitlement or lifestyle." (015)*

Community-company disputes are often represented in the media as the classic *"David and Goliath" (455)* contest. However, company representatives did not always agree with this characterisation.

> *"I am not from the school which contrasts the relations between an all-powerful mining company and a weak, disorganised, unknowing community. It has never been my experience that local communities are as powerless as some contemporary commentators make out." (711)*

The media plays an important role in bringing public pressure to bear on poor performing mining companies. However, several interviewees expressed frustration that the media could sometimes be quite unhelpful to the resolution of disputes.

> *"One of the real challenges is that opponents characterise the issue in the most inflammatory language possible so that it gets attention around the world as a big organsiation stepping on the rights of the individual, despite the realities on the ground that we [in the company] have put a lot of effort into finding ways to engage, but our opponents remain unreceptive." (107)*

There was frustration that constructive dialogues and positive outcomes are rarely profiled in the media.

> *"Sometimes it's very difficult to get the message through the media – people with signs making noise and the threat of conflict makes more exciting stories than people sitting in rooms trying to have conversations." (107)*

At the same time, most interviewees acknowledged that company policy and practice for handling community grievances often left communities with few options other than public protest and destructive behaviour.

> *"That's invariably where we have had problems – when things go on far too long, stay unresolved and then get out of hand. In the end, as well as dealing with the fundamental problem, you are dealing with people who are doubly pissed off because they've been ignored.*

Each asset or business unit should have a publicly available, credible grievance mechanism so that issues are surfaced before they have time to escalate. If we can deal with the problem before it is amplified, we're better off." (123)

A few interviewees said that one of the most difficult engagements is with groups and individuals who are ideologically opposed to mining, where the only point of engagement is around 'no mining' or when groups refuse to engage with the company in any sort of dialogue, often because engagement would validate the very presence of the mine.

"There are certain groups that believe that mines should not exist. Their goal and predicate to any conversation is 'shut the mine down' ... They are interested in wiping out the enemy ... that's a difficult place to start a discussion." (107)

Interviewees explained how community groups and companies can have completely different perceptions about problems, disagreements and evidence. Different standpoints can often be the root cause of the problem.

"Take the chemistry of the environment. Scientifically, the company's actions may not have anything to do with the complaints, but try and explain that to traditional villagers. First, they don't believe you because you work for the company and, second, they cannot understand what you are saying anyway. Possibly, even more importantly, they have a system of belief that tells them what the explanation is that the company can't possibly understand either. So there is a question of evidence which is specific and cultural." (711)

Interviewees discussed many other aspects and characteristics of community grievances. Several mentioned that companies can easily become embroiled in *inter* and *intra* community conflict, particularly if they are not aware of local dynamics, and can inadvertently ignite latent tensions and exacerbate an existing hostile situation. Several made the point that lack of clarity about the company's sphere of influence and responsibility makes dealing with some community grievances complex, especially where legacy issues and previous mine owners were implicated. Interviewees described situations where communities outside the immediate impact area had campaigned against the mine, or taken action, such as by blocking roads or destroying equipment, because they perceived that they were not adequately benefiting from the mine.

Most interviewees believed that, in recent years, companies had become more focused on processes that seek to establish a better understanding of local contexts, risks, impacts and development opportunities (such as socio-economic and political risk analysis and community engagement and development). Most interviewees also believed that companies were fundamentally better at responding to community concerns than they were five years ago. That said, while companies involved in the study may have processes in place to identify and address social and community relations issues pre-emptively, only a few have formal structures or

procedures for dealing with grievances that were not foreseen or predicted through these processes.

2.3 Determinants of a company's approach to handling community grievances

There are many different and wide-ranging determinants of a company's approach to handling grievances. Interviewees emphasised the following variables, which are then discussed below:

- organisational factors (e.g. leadership, structures and corporate culture)
- history of the company, asset and individuals employed there
- severity/significance of the grievance and risk to operations, corporate reputation and community
- host culture approach to conflict
- host community's history with mining
- constitutional, legal and regulatory frameworks
- social norms and industry standards.

Organisational factors are considered in more detail in forthcoming sections. However, organisational culture, structure and leadership – particularly at the operational level – were the most often cited factors determining a company's approach to community relations and grievance handling. On the issue of leadership, one interviewee observed:

> *"Mining is a vertical industry … the management style and leadership [at the level of operations] has a lot of influence in the way that standards and policies are determined on the ground." (659)*

In terms of corporate culture:

> *"Until companies have addressed that cultural issue about if you have a problem it's best to open up and talk about it, then things won't change. If the culture is 'I don't want to hear about it', or 'You deal with it', or 'I only want to hear about it after it's solved' then there is a problem. That's the biggest constraint." (582)*

Interviewees also observed that the history of the company, asset and key staff could influence an organisation's approach to grievance handling. There seemed to be a heightened sensitivity within companies to the importance of dealing with community-company disputes if there had been prior experience with such issues, either at their site or at a similar operation elsewhere, although heightened sensitivity did not always translate to the development or use of a formal grievance process or mechanism.

Ownership arrangements also influenced a company's approach. Several cases were cited where legacy issues from previous owners had been the source of the complaint, rather than actions of the current owners. Interviewees indicated that some pre-existing issues had been exacerbated by a lack of awareness of the depth of community discontent on particular issues. The stage of the operation was also an influencing factor. The more advanced stages (i.e. construction and operation) generally saw an increase in the volume of grievances, but not necessarily in level of their complexity.

One of the major factors that determined the company's response to grievances was the degree to which community issues were tied to production outcomes. The higher the severity/significance of the issue and the threat to the business and/or the community the more resources were invested in resolution. So, where operations faced protests and roadblocks that were disrupting operations, management's motivation to address issues or put grievance handling systems in place was stronger.

Interviewees explained that sometimes the host culture's approach to conflict can set the context for how the operation deals with grievances. Some cultures focus on talking through issues until a resolution can be found whereas others are more confrontational.

> *"In Peru it's pretty much a place where there are high levels of what Peruvians call social conflict. Communities organise and stakeholder groups and political activists organise and opposition politicians organise – you name it. They put on demonstrations, they block roads and they have social conflict. So, no matter how good at management we are, there is always the risk of social conflict in Peru." (374)*

Interviewees also spoke about the varied legislative and regulatory frameworks in which mining companies operate. The dominant view was that these frameworks heavily influence a company's approach to handling community grievances. Some countries have legal and/or constitutional frameworks that serve to hold companies to account and provide recourse for aggrieved parties. Several interviewees commented, however, that while legal frameworks provide structure, formality and orderliness, litigation can split communities in ways that are very unpredictable, particularly if they have never experienced a judicial process before. Many interviews indicated that the threat of litigation serves as a motivator that forces operations to focus on resolution of issues. Largely though, interviewees regarded litigation as an indication of a breakdown in relationships and a failure of grievance handling processes.

Some countries require mining companies to engage with local communities as part of project development processes, including specific guidelines for Indigenous peoples. These jurisdictions also tend to have regulatory and permitting requirements with provisions for dealing with

environmental concerns, which means that some basic grievance processes, such as an environmental hotline, are mandatory, and monitored by the relevant regulatory authority.

> *"[In Australia] In terms of where it fits at the site level, it has been driven largely out of the environmental performance area, which has for a long time set up community complaints hotlines largely driven out of requirements such as environmental impacts processes at the planning phase or out of licencing requirements. Over time … there has been quite a bit of refinement of those mechanisms. But I still think that they are at a pretty low level of sophistication." (921)*

Other interviewees noted that some jurisdictions facilitate the establishment of formal community-company agreements with Indigenous peoples. Many interviewees note that these agreements have been helpful when they contain provision for dispute handling.

> *"In Canada, [formal] agreements [between companies and First Nation communities] nominate a process for resolving issues. Not always, but it's becoming pretty standard. That's not the case in many developing countries – it's the exception." (247)*

Interviewees mentioned various external standards and norms which influenced organisational approaches to dealing with community grievances. The most often cited determinant was the *International Finance Corporation's (IFC) Environmental and Social Standards* and associated requirements.[12] A few interviewees mentioned the *Voluntary Principles on Security and Human Rights*.[13] Professor Ruggie's aforementioned report *Protect, Respect and Remedy* was also cited.

> *"After the Ruggie Report, a Board member asked whether there was a grievance mechanism in place. There was not… He said that this is just not okay. As a big company, it is simply not acceptable not to have a dispute resolution mechanism." (725)*

Further research would be required to understand which of these factors, and others, are more prominent in particular contexts and why.

2.4 Interviewee perspectives on the emerging international focus on grievance handling

Despite broader questions about how mineral companies will adjust and adapt in the current economic downturn, there was a strong view amongst interviewees that the mining industry's more deliberate focus on handling community grievances is not a 'fad'.

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[12] http://www.ifc.org/ifcext/sustainability.nsf/Content/ EnvSocStandards
[13] http://www.voluntaryprinciples.org/

"Certainly the issue [of grievance handling] has popped up on the radar screen in the last 2-3 years and is the 'issue du jour' right now … In CSR things typically build from one level to the next. The field keeps getting moved further and further down the road. So as things become the norm in the industry, you push deeper … I don't see this focus [on grievance mechanisms] going away." (662)

The vast majority of interviewees supported a stronger focus on grievance mechanisms in international debate and research, but several said that this would only be helpful if outputs (e.g. research, policies, frameworks, standards and tools) were relevant at the local level; that is, among mining operations and local and affected peoples. In other words, *both* operations people and community people need to see a benefit to participating in a collaboratively-developed grievance mechanism informed by current best-practice guidelines. One interviewee cautioned:

"There is a real danger that a very convoluted set of policies, instruments and guidelines are developed at an international level. But much of this has to be implemented at the site level, and that's where it falls apart. There you are talking about different people, different conversations and there are things like language, discourse, thinking and assumptions that don't translate … operations people, community people who are very traditional in their ways of thinking need to be able to create something using the good intentions of the international framework … the last thing we all need is a fancy grievance mechanism that actually undermines relationships because people are thrust into a set of conversations that they are not accustomed to having." (226)

A few interviewees were already concerned that the interpretation of the international debate inside companies was tending towards a focus on procedural considerations, rather than where grievance handling sits within a broader approach to the relationships between companies and affected communities.

"Some people think it's about getting the software that enables you to actually log the complaints and follow up … and that it's about not dropping anything along the way. This is very important, but it's not just about the process of getting the complaint and investigating it. It is about building relationships … and building trust in the [grievance] process; that's where some sites just don't know where to begin" (494)

Interviewees emphasised that the current focus on grievance mechanisms must not result in diminished attention to community engagement more generally. A balance needs to be struck between establishing trust in a grievance process and building trust in relationships more broadly. In practice, each tends to support and reinforce the other. Interviewees argued that grievance mechanisms are not the only way to engage a community, and in fact should not be the primary method of engagement and relationship building. The ultimate aim is to build relationships

between the company and the community around common concerns so that grievances are dealt with proactively and lessons are learned, thereby assisting future dispute prevention.

What is obvious from interviews is that company perspectives, at least amongst those interviewed, on what *should* be done are far more aligned with the global debate and normative standards than one might expect from high-profile cases described by the contemporary media. Almost all interviewees said that application of policy in practice is, fundamentally, the industry's biggest challenge.

3 What requirements are in place at the corporate-level in relation to grievance handling and to what extent are they implemented?

The section describes grievance mechanisms as an emerging focus within companies and presents interviewee insights on the status of corporate-level policy frameworks and project-level procedures.

3.1 Conceptual placement of community grievance handling within corporate-level policy frameworks

Overall, it was difficult to get clarity about exactly how grievance handling is related to concepts like sustainable development. A few interviewees argued that this was due in part to the industry's tendency to present sustainable development in largely positive terms that focus on opportunity and benefit, rather than social harm.

> "To embrace dispute resolution [in the community domain], the industry would have to better acknowledge the negative impacts of mining. The whole political discourse of mining is still at the place where it talks positively, without tackling the ugly bits." (115)

Overall, there was a strong view that the current approach to grievance handling was determined much more by site-level relationships than by any coordinated corporate-level strategy.

There was wide-spread agreement among interviewees on the relationship between grievance handling and community relations. Responsible grievance handling was considered absolutely integral to the suite of activities that aim to build and maintain relationships with local and affected peoples and other stakeholders.

> "Grievance and dispute resolution is embedded in our community relations framework. We firmly believe that our relationships with communities are the best guarantor of our ability to operate and/or to avoid and survive conflict. The robustness of our relationship with our communities and key stakeholders is really important." (563)

Another interviewee said:

> "Disputes are a sub-set of relationships. How disputes are resolved must be in line with how relationships are created, maintained or destroyed." (226)

There was also a very firm view that the focus should be on preventing grievances. One interviewee argued that:

"No matter how good a grievance procedure, it won't resolve problems if the basics [i.e. social analysis and community engagement] are not taken care of." (711)

In fact, at times, it was difficult to steer the discussion towards the topic of a grievance mechanism because many interviewees were more focused on refining those processes (mentioned above) that seek to prevent grievances arising in the first place. Overall, interviewees indicated there was always room for improvement when it comes to local-level relationship building. There was a majority view that building strong relationships means that issues are more likely to be resolved or remedied before using the *"port of last call" (009)*; that is, a grievance mechanism.

Grievance handling was also strongly linked to risk management, with several interviewees describing mechanisms a as a key risk mitigation measure.

"One of the reasons for having a grievance mechanism is to try to find ways to minimise risk and protect the company, actually." (711)

It was clear from interviews that risk assessment was largely dominated by business risk and risk to reputation. Several argued that a broader understanding of social risk, incorporating the risk of the business to the community (including minority and marginalised groups), was increasingly carrying more weight in decision-making processes among leading companies. However, building social risk into risk methodologies and frameworks and getting operations to consider social risk was an ongoing challenge:

"[The risk framework will consider risk to community] if it's done right … and it isn't always done right. [The operation] is going through some interesting changes right now. That's one breakthrough that they have made recently. At their first pass, their risk analysis tended to focus on the risks to the company. But now they understand that there is not only a risk to the company, it's the risk from the company to all aspects of the community and identifying the most vulnerable groups in the process." (494)

Interviewees indicated that current risk assessment methods did not always consider human rights, the cumulative nature of low-level risks or the potential for chronic issues to escalate under certain circumstances.

In particular, the issue of human rights was seldom mentioned as a driving consideration for handling grievances. One interviewee suggested that the current debate and discussion about grievance mechanisms was likely to eventually culminate in the view that local communities have a right to a grievance mechanism:

"It will be interesting to see if access to a grievance mechanism becomes a human rights issue. Do you have a right to a grievance mechanism? Should a company be doing this

because of a commitment to sustainable development or because people have a right to a good grievance mechanism? This is not an argument we are seeing widely yet, but it's likely to come." (432)

From an organisational structure perspective, companies tended to position social and community relations either within (a) communication-orientated departments, or (b) technical ones:

"The basic space seems to sit between government/public affairs, where we talk about community relations as part of public relations. The second one is more technical and seems to put community relations in the health, safety and environment space. These are the two sorts of residencies that I see the social grievance or community grievance as being slotted within companies. Sometimes it's slotted between the two, which is rather uncomfortable. They both have their advantages and disadvantages."(582)

3.2 Corporate-level policy requirements

Views about the importance of responsible grievance handling are not always matched by clear corporate-level frameworks.

"Big companies are fairly advanced in their thinking as to why it's important. However, to some extent they are all far behind formalising the whole thing." (226)

Another interviewee said:

"There is recognition that it's important to formalise expectations and document [grievance] procedures, so we're definitely starting to see that. To what extent? It's probably only a few companies." (432)

Nevertheless, there was a definite trend towards formalisation and/or augmentation of existing policy requirements. Interviewees observed that formalisation in this area, while currently limited in scope, was part of a wider movement towards professionalising community relations.

A number of companies require operations to have something akin to an 'appropriate complaints mechanism', including, at a minimum, a complaints register, and sometimes a 'dispute resolution process commensurate to the level of risk'. None of the companies represented in this study prescribed exactly what mechanisms or processes should involve, although several provided some general guidelines. Interviewees explained that it would be impossible to prescribe processes or models because of the sheer diversity of community and operating contexts (just as processes for community engagement are not prescribed).

Implementation of corporate-level policy at the operational level is highly variable.

"All sites are supposed to have complaints/incident registers where they record, diarise, include investigation and follow up, and record closure on an issue once satisfaction has been reached. It's a nominal system to the extent that it's done properly. It's audited, but it's not perfect at every site." (531)

Where specific corporate-level requirements or guidance exist, in all cases they formed part of social or community relations policies, standards or requirements that also relate to stakeholder or community engagement, communication and social analysis such as baselines and impact assessments.

"The standards themselves have dimensions that lead through stakeholder engagement and analysis. There are certainly a lot of processes that need to be in place. But we don't specify what that program should be. Dispute resolution is kind of at the end [of those standards]. We don't give much guidance about what a credible process might be." (123)

Other than establishing a grievance mechanism, there were few specifically mentioned mandatory requirements. Use of third parties or third-party mechanisms, for example, was not formally mandated by any company, although corporate advisors (both external and internal) described how they actively encourage the involvement of third parties where appropriate. Several companies had guidelines that support the use of third parties not only when disputes escalate, but also pre-emptively.

"If something escalates, we bring in third parties. Often times it's not about complaints or incidents, when we are anticipating inter- and intra community conflict. On this project, the regional manager has called together an advisory committee to help us on issues to watch out for." (531)

Whether formal requirements for grievance mechanisms were in place or not, most companies involved in the study treat complaints as incidents, as they would health, safety and environmental incidents, where rankings determine internal reporting requirements, company responses and necessary investigations.

"There is a global requirement that all complaints must be logged and investigated in the same way as a safety incident." (494)

Interviewees indicated that the frequency and quality of incident investigations for community grievances is very inconsistent, largely because incident investigation methodologies are geared towards physical events rather than relationship issues, and also because there is limited experience within community relations regarding the use of these methodologies.

It is worth mentioning that where corporate-level requirements exist, grievance mechanisms will form part of the scope of an organisation's internal auditing/assurance process. However, such

processes do not require detailed assessment or evaluation of effectiveness, alignment with best practice principles and/or appropriateness of the processes used, or the mechanism itself.

3.3 Site-level processes and procedures

This section explores two aspects of site-level grievance handling. Firstly, the extent to which projects and operations have established dedicated pathways for handing community grievances, or whether they are absorbed into broader engagement processes. Secondly, the extent to which 'typically-followed' processes for handling grievances are formalised in any way, for example through a written procedure, flow chart or explanatory document.

Overall, there was a very low level of formality to grievance handling at the project or operational level. Interviewees indicated that most sites have some sort of method for handling community concerns, although levels of formality, consistency and effectiveness varied. However, few sites had documented these processes. Dedicated processes or pathways for community complaints and grievances were rare unless there were permitting, licensing or regulatory requirement to do so.

> *"I don't think it's that common to have a formal grievance mechanism in place. There are complaints registers, but to the point of a grievance mechanism with processes attached, no."*
> *(432)*

Interviews surfaced one formally documented project-level procedure. This site had a formal company-community agreement in place. The procedure reflects the intent of these overarching documents, but was not embedded from the outset. Several other project-level procedures were reportedly in draft, including one procedure that focused on dealing with community protests.

Interviewees mentioned several examples where formal community-company agreements, usually with Indigenous peoples in Australia or First Nations people in Canada, and with other community groups, such as in Ghana, included reference to agreed dispute resolution processes. A few of these agreements contained high level commitments to local-level resolution wherever possible and nominated a dedicated pathway or multi-stakeholder forum for handling difficult issues. However, operations with formal agreements with clauses relating to conflict resolution did not always have a corresponding site-level procedure in place.

Whether formal or informal grievance mechanisms were in place or not, most interviewees described processes through which issues were raised as part of a broader approach to engagement, such as day-to-day interaction, community forums and committees, surveys and social research, development work etc. As issues are identified, they are dealt with through existing processes, such as corrective action databases and departmental action plans. Interviewees

argued that the better the engagement strategy, the higher the likelihood that issues would be identified and addressed early.

> "[B]roader stakeholder engagement is the work of the entire community relations team. The more that is done, the less there is to do when managing a specific conflict or roadblock. With regard to the roadblock, if your community relations team is experienced and knows what's going on, they know what the 'back stories' are. So, there's this other third thing happening … there has to be a deep understanding of what the dynamics are" (374)

Operations with a dedicated mechanism and documented procedures (including those in draft) were able to articulate key advantages of a more formalised approach. One said:

> "[Having a formal mechanism] has reduced the number of frivolous and fraudulent claims … because it's formal, people know they can't just 'try it on' … We've certainly had issues, but [since we introduced a formal mechanism] we have not had those show-stopping, major business-impacting issues. I think that's because of the investment that we've put into community and having strong policies, procedures and practices – like the grievance one …" (009)

Another from the same company, but a different operation with a separate grievance mechanism said:

> "The legal cases are not happening now either. It used to be that the first thing that people would do would be to get a lawyer. But [now that we have a formal process] people realise that they can come in and talk to us – that does happen now. The best way is to talk about it, and they know that if we've done something wrong, we'll fix it." (980)

3.3.1 Risk management

There are two potential applications of risk methodologies: 1) pre-emptive assessment and 2) assessing the severity of grievances after they arise as part of incident reporting processes. This section deals with the former. The following section focuses on incident reporting and investigation.

Interviewees discussed several examples where grievances had escalated because an operation had not adequately considered both dimensions of social risk (i.e. risk to community and company), which could have been pre-emptively identified as potential infringements on rights of vulnerable groups.

Several interviewees provided examples where operations had focused on development opportunities at the expense of mitigating social risks. One interviewee explained:

"I think a lot of companies simply do some development projects, but the water is still being polluted. The community might accept the business development program, for instance, or the micro-credit scheme and work away quite happily. But the reality is that their issue hasn't been resolved. Or their land may have been taken. They cannot understand in many ways why the company is giving them all these other things when in fact they see that the real issue is being fobbed off and not resolved." (846)

There was a strong sense that companies are aware of the gap in this area, and are starting to refine methodologies for assessing social risk. It is important to recognise multiple dimensions of social risk (i.e. risk(s) that the company's activities pose to the community as well as risk to corporate reputation/operations). The challenge then is in understanding the degree to which risks to community can heighten reputational and business continuity risks given the increased likelihood of resulting conflict.

3.3.2 Incident reporting and investigation

Recording and reporting procedures usually stipulated that complaints be treated as incidents and logged in a community diary, complaints register, incident log or similar. Interviewees indicated that compliance with procedures varied considerably.

"The [corporate] standard requires that complaints be logged in a register. In my experience, we are all very weak at that. Every operation I go to I ask if there is a complaints log. They say 'yes we do'. When I ask if I can see it, that's where it breaks down." (494)

Many interviewees said that their operation(s) monitored trends and patterns of community grievances through their complaints or incident register. However, information was not often used to guide the development of site-based strategy.

"Most sites have a complaints register. In terms of the analytical work done on that, it's not particularly rigorous … it is ad hoc, reactive rather than proactive." (921)

Furthermore, with a few notable exceptions, interviewees said applying standard risk assessment methodologies to community grievances was not always helpful.

"If you use the risk profile to assess these issues, most of them would come in as minor or medium. They are not big complaints. The problem is that individual complaints don't amount to much, but over time they can become much bigger and escalate into a more significant issue. So, it's not that helpful to categorise individual issues according to risk. Our operating philosophy is that any grievance can be the source of something much bigger." (679)

Additionally, interviewees said it was also difficult to apply standard incident investigation methodologies, even for escalated grievances. Incident investigation procedures were largely based on health, safety and environment events and did not include distinct methodologies for dialogue between the company and the complainants, involvement of independent researchers, or communication of findings.

> *"In theory, it should be done … but I think it's difficult [to apply the root cause analysis] because community issues are often chronic, not one off. It's not like when you have a car crash and you can swing into action and try to figure it all out. With a community issue, they can bubble along for a couple of years, and they slowly intensify." (123)*

One company indicated that it had done 6-8 root cause analyses of escalated grievances. An interviewee from the company said it helped them see that they had contributed to the conflict:

> *"One thing which we did do was initiate investigative processes after the event. We used the same methodology we use to investigate accidents. A health and safety person applied the methodology and a community relations person accompanied them. They looked at root cause that lead to the demonstrations and what some of the problems were in managing the conflict resolution process … it allowed us to look at what we are doing wrong internally. In both cases it was our fault. We didn't comply on agreements and there were gaps in contractor policies in relation to how they were being paid. The second one, we weren't informing these communities as well as we needed to in terms of what the project was doing and the number of jobs that were available as a result. Having that investigation process was definitely useful. There is a tendency to blame the political context, and the tradition of social conflict, and blame the communities for demonstrations. If we formalise an investigation around this that looks at root causes, then it allows people in the company to see that we did something wrong here. We contributed to the creation of this conflict." (374)*

A few interviewees indicated that investigation procedures did not need to be too formalised for day-to-day issues.

> *"Usually it's about sitting down and listening to people in a less hot-house environment and then going and talking to a few other people to understand the issues. If you do this, issues are overwhelmingly resolved at the first-order level. So we don't often even need to go into that deep level of analysis." (009)*

Other interviewees indicated that it was a challenge to argue for a retrospective analysis of escalated or serious grievances, either to identify good practice or understand 'what went wrong?'

"[In terms of de-briefs and retrospective studies] there's nothing formal. It's somewhat ad hoc. We do sometimes go back to understand some of the causes, but not in a systematic way." (123)

Another interviewee indicated retrospective analysis tended not to happen because of legal considerations and fear of recrimination.

"[T]here is a fear about dredging back up and through old material that exposes us to another round of legal argy-bargy.[14] That's a real fear. The officers who dealt with it really don't want to go back over it again. They may also feel a potential for self-incrimination, not only with the original incident but with how it was dealt with mid-way through. So any reluctance by individuals is more about that and the potential for scare-mongering and amplifying rumour, than about the original allegation." (531)

There was a general observation that if issues are managed and resolved then operations *"just move on" (389)* with limited time invested in de-briefing.

"A lot of the focus is on resolving the dispute not on the internal reflection of why this happened and [on] what can we do to prevent this happening again and a systematic way of doing it." (432)

Many interviewees commented that complaints often have nothing to do with underlying causes, so without adequate investigation, the response may not address the issue.

"There have been communities who start to complain about itchy skin disease, which becomes a symptom of how unhappy the community is with the mine. So it gets into this awful circle of 'there's no way they can have itchy skin disease because we're not putting anything into the river. But it's simply about land loss, or access to water. So these issues are not simple. If there was more analysis of the complaints, perhaps you could get to the bottom of things a bit more." (846)

3.3.3 Third parties and third-party mechanisms

Third party mechanisms can include government, statutory, industry or other private mechanism. Their function may be mediation, adjudication or both. As previously mentioned, the use of independent third parties or third-party mechanisms is not mandated at the corporate policy level, and is rarely mentioned in procedures.

One interviewee sad:

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[14] back and forth argument

> *"No, [project-level] procedures do not tend to document processes to formally elevate beyond the site level. Not that I know of. Recommendations on this are not even being taken up by the big players." (226)*

An interviewee from another company said:

> *"No, it's not elevated anywhere else, and this is the problem." (115)*

The two sites with formal procedures did reference both local grievance committees and independent quasi-judicial third-party mechanisms in procedures. Some interviewees had been involved in cases that had been taken by others to a third party. These third parties included an international body, an NGO intermediary, a national human rights body and/or a mutually-agreed, independent individual. Functions performed by these third parties involved mediation and/or adjudication or independent review. These cases were usually complex and visible in the international arena.

There were several examples where country-specific, quasi-judicial, independent third-party mechanisms had become involved (e.g. South Africa, Ghana) with mixed opinion about their fairness, impartiality and overall effectiveness. There were also examples where independent third-party panels and forums had been established when issues became high profile and complex, either as an appeals panel or to provide a review process. Overall, these processes were viewed positively, but the idea of an operation relinquishing control to a third party panel was challenging. Counter-intuitively, interviewees said operations were more agreeable to relinquishing control the further an issue escalated. This may have been because such forums help to *"open a space" (494)* not previously available.

One interviewee described a process where an external party had been brought in to help undertake a root cause investigation:

> *"I requested that we bring in an external person to actually do the community interviews. In other words, generally the safety guys will talk to everyone around an accident that happens, right? But on the first incident, we went out to talk to the community members, but we didn't do that very well. We really didn't want a CR person to go out from the team. They are part and parcel, we need somebody objective. So we worked with a guy from [an international NGO]. We agreed to allow him to spend some time, go to the community, conduct interviews and formalise a report based on what he found and then incorporate those findings into the root cause investigation.[15]" (374)*

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[15] Many interviewees refer to community relations as 'CR'. This abbreviation is retained in many of the quotes.

Where third parties had been involved, their involvement was largely considered constructive, particularly when third parties had some prior knowledge of the local context/culture. Third parties referred to include an international body, an NGO intermediary, a national human rights body, and a mutually-agreed, independent individual. However, there was some skepticism among a few interviewees about the ability of internationalised or extraterritorial independent third-party mechanisms to enable a lasting on-the-ground solution, whether their role was mediation or adjudication, but particularly in the case of the latter. Several interviewees observed that the pattern of intense interest/scrutiny and then little/no follow up was unhelpful in the long term. One interviewee said:

> *"The contending parties to a grievance will be living next door to one another for some time to come. I am skeptical of outside organisations, no matter how well meaning they are, and they are often very good. But if they are not there all the time they do not have to live with the consequences of their interventions. Then they adopt a quasi-judicial Western adversary concept between the parties and then disappear afterwards … moreover, this style of judicial approach was clearly adversarial in nature which does not enable a lasting on the ground solution to be reached. It can also generate hostilities that were not there before." (711)*

4 What are the key grievance handling pathways within mining companies?

This section focuses on grievance pathways within mining organisations. 'Pathways' refers to the route a particular grievance travels in order for it to be dealt with or resolved (or not). This report focuses primarily on the pathways travelled within the organsiation, recognising that other parties may become involved at certain points. The section also describes the central role of the community relations function at the operational level, and some of the challenges and opportunities associated with the interaction between different departments and functions.

4.1 Devolution of responsibility to projects and operations

None of the companies involved in the research had a centralised mechanism at the corporate level for handling community grievances, other than 'whistleblower' hotlines for employees that were known by, or open to, other stakeholders, to varying degrees. Such hotlines were usually, but not always, outsourced to an external provider to manage the resolution process. Otherwise, the dominant trend was devolution of responsibility for handling community grievances to the asset, operation or business unit.

> *"We very much leave it to be contextually driven at the project level. We don't have a mandate or a single model for disputes that cannot be handled through the normal early stages of intervention." (287)*

When individuals and groups lodge grievances with corporate-level representatives or industry groups it is because they are: unaware of who to go to at the local level; dissatisfied with the response (or lack thereof) from the operation; or are seeking a more 'elevated' process. These types of complaints are consistently referred back to the local operation, rather than taken up directly by corporate or industry groups.

The role of most corporate-level offices is to set standards, provide an advisory service to operations and facilitate capacity building of operations personnel to handle grievances responsibly. Interviewees indicated that corporate-level representatives only become involved in a community-based grievance if the issue was substantial enough to potentially damage company reputation or if a number of assets in a particular geographic location were affected or implicated. In these cases, corporate-level representatives would typically take a more active role, for example as part of a specialised response or crisis management team.

4.2 The central role of community relations

Interviewees explained that grievance pathways at the operational level depend on:

- the type of issue, which tended to reflect the organisational 'source' of the problem (e.g. environment, human resources, supply, exploration or operations etc.)
- the severity of the issue
- potential to affect operations or relationships.

The typical progression was from a community relations officer to the department head to senior managers and the mine manager and from there to regional and/or corporate offices. Other departments tend to get involved only when they are directly implicated, or a response or crisis team has been established. Dedicated cross-disciplinary teams or multi-stakeholder forums were usually only set up for escalated issues.

The vast majority of interviewees believe it is the role of community relations to facilitate resolution and *"keep a handle"* (432) on the process, not take responsibility for solving the problem.

> *"When it comes to complaints, there is only so much you can do as a community relations person to keep that relationship happy. People are complaining because of something that the company is doing. That does not sit with community relations. Almost every single time, there will be complaints that revolve around local employment, in which case it's a human resources issue. There'll be complaints about procurement and that is a procurement issue. There will be complaints about compensation or access in which case it's the exploration team's responsibility. Water pollution is an environmental responsibility. So actually to resolve these disputes there has to be internal engagement – otherwise you cannot resolve the dispute. So, I'd say it's completely about that internal engagement as well."* (432)

One interviewee explained that the community relations role varies slightly depending on the issue. Some concerns can be addressed quickly, without involvement of other parts of the organisation. This is where community relations can carry some responsibility for resolution. Other times, innovative solutions require the input of others. It is here that the facilitation role comes into play.

Interviewees highlighted the need for community relations practitioners to engage externally with complainants as well as internally with other departments and managers in order to understand the nature of the issue and facilitate the resolution of grievances.

> *"Community relations practitioners have different roles. One is developing and maintaining trust with the community so that people feel free to raise issues with the company rather than*

go to a third party. An important part of that is a proactive approach. Then, once a dispute arises, it's to ensure that the company understands the issues from the community perspective and that they are hopefully sensitive to the issues, concerns and aspirations of the community and then conveying the company position back to the community as well … sort of a facilitation role. It's a challenging role and quite a skilled role. There are not many community relations professionals that are able to stand in both worlds, see it from both perspectives and work towards a logical resolution." (123)

Several interviewees said one of the contradictions of current grievance pathways was that as things escalate, community relations often becomes a minor player, when people in more technical roles take the lead. Reflecting the concerns of several interviewees, one interviewee said:

"As more actors come in, the danger is that community relations is sidelined. While it does make sense to involve other parts of the organisation when there is more at stake, community relations often has the most information about community perspectives on the issue." (247)

Interviewees cited many examples where community relations is used in a *"fire-fighting"* (*725*) role, as opposed to a facilitation role. Where no formal project-level procedure or mechanism was in place, interviewees described a stronger pattern of 'pushback' to community relations to solve grievances. Clearly, some operations expect community relations to 'fix' the issues themselves, as independently from operational functions as possible.

4.3 Interactions between community relations and other departments/functions

Interviewees were asked about the internal dynamics and interactions that occur when community grievances arise. Several interviewees were not prepared to make broad generalisations as they said interaction was dependent on individuals, rather than departmental or disciplinary differences. Of those who commented on internal corporate dynamics, some broad patterns emerged, such as in interactions between the community relations function and the senior management team at the operational level and also between community relations (as the primary interface with aggrieved people from the community) and other disciplines.

4.3.1 Management/operations

Interviewees cited competing priorities as an ongoing challenge at the operational level where short-term production priorities were often overly dominant. There were several examples where production had been affected because management had not listened to community relations 'intelligence' early enough.

"One of the highest risks is when you have production outputs dominating. If other priorities had not overridden initial concerns that had been raised in the first place, it could have been dealt with by the CR people at that point. I can think of many examples where CR people have not been listened to. We've also had cases where production has been stopped because the company has either not dealt with or not listened to community issues." (659)

Most interviewees believe that in recent years, community relations has increased its visibility at the operational level, although in practice it is still often positioned as an adjunct to operations rather than as an integral player.

"Why don't [senior managers] listen? Because at many sites they see communities as peripheral. Communities are not always seen as central to the business of mining. It's probably the more complex sites that better recognise that if they don't work effectively with the communities it will be the communities that create the problems, not production." (659)

Once disputes get into an even bigger environment, for example, where outside parties are involved or a broader forum is established, it seems that local knowledge is too often overlooked, or devalued. One interviewee observed a situation where a young, male community relations officer from the local area was involved in community consultations with a third-party expatriate brought in to deal with a dispute:

"The expat was right in there discussing the options. And this young guy at the table – a CR supervisor, and a local fellow – he kept shaking his head every now and again. [People from that area] are very polite and reserved so I asked him over the break what he thought. He said: 'I don't think the company should do anything. These issues are conflicts that have been happening for hundreds of years in the country highlands and communities need to resolve the issues themselves. A community issues committee, representing these communities that need water, is meeting tomorrow to go over and discuss a resolution.' This brought the discussion to a halt. We waited about a day and a half. Sure enough, the communities reached an agreement themselves." (247)

There was much discussion about the fact that community relations often struggles to influence internally within the operational setting, and needs to improve its ability to negotiate with technical people.

"To be quite frank, CR's ability to influence operations is patchy. At some operations we have really good people who are extremely effective and have good relations with their colleagues and senior managers in the operations. They are the best kind of people to have. There are others that are not quite as assertive or self confident or who haven't won the general backing of senior management, which is a problem." (785)

Part of increasing the ability of community relations is learning to use language that operational management can understand in order to achieve change.

> *"Community relations people can easily be perceived as apologists for the community ... as representing anything that the community wants, regardless of the veracity, pertinence and importance of the issue. Operations can also and often do accuse the community relations people of not understanding the business drivers, constraints and limits, and not being interested in technical things. What we talk about more and more is: if we want to be taken seriously, internally we have to speak their language." (563)*

One way of doing this was to become more familiar with risk-based arguments. One interviewee explained:

> *"It's all about language in my experience – being able to understand or empathise with the community but to express that in a way that people within the mine both understand and can do something about. For the mine, it's about managing risks, prioritising, budgeting and usually people who come from the community relations find that more difficult. Often, they don't have those skills." (846)*

Several indicated that the management team environment is not always easy for a community relations practitioner:

> *"Community relations people need to be strong and stand up to project managers and say: 'You may have 15 Caterpillar trucks waiting at the other end of the village to come in, but until I give you the green light I don't want to see any of your people here'. That takes guts. That requires a personality that is not afraid of confrontation because that's often what it takes." (725)*

There were at least two examples where senior community relations practitioners had more technical backgrounds and were able to influence other managers more easily than practitioners without knowledge of the operation.

While the issue was not dominant, there was also a gender dimension to the work. One female practitioner said:

> *"Remember you are dealing with a lot of men. It's a very male dominated industry. I find it more difficult as a female. So [at a management level] your track record helps ... professionalism helps ... and tangible delivery of projects, which is not always easy in community relations." (015)*

4.3.2 Legal advisors

Only a minority of the interviewees had direct experience in litigation for community grievances. Most interviewees indicated that interaction between community relations practitioners and legal advisors tends to occur only when grievances have escalated and litigation ensues. Interviewees noted that there was more interaction with the legal team during negotiations over formal community-company agreements. Overall, views about professional interactions between community relations and legal advisors varied between interviewees, and at times were quite inconsistent.

Once litigation over a community grievance ensues, most interviewees observed that lawyers have the most influence around the management table, compared with other disciplinary specialists, which, depending on the issue, may not always be appropriate. However, a few said lawyers do not always have primary influence, and that increasingly the legal perspective is balanced by others.

Several interviewees said litigation requires a stronger focus on local-level relationships. Others indicated that this is difficult to achieve when communication occurs only through lawyers. Interviewees observed that some legal teams apply the legal framework and at the same time aim to sustain and build relationships, but many do not. Even if they had no direct experience, interviewees observed differences between the discipline of law and community relations.
One interviewee emphasised the concept of legal privilege:

> *"When it comes to the legalistic space, it's all very private. It's confidential, privileged information. There is a sense of holding information confidentially as much as possible. This is not the case in community relations where visibility is important." (582)*

Another emphasised process:

> *"For lawyers, it's a very formulaic, process-driven approach. You have to follow certain steps. That's the way you do things. Good community relations people, they tend to be good listeners, first and foremost, so they can understand the issues. Based on that understanding, they focus on arriving at a satisfactory conclusion." (247)*

It seems legal advisors are rarely asked to contribute in the establishment of local-level grievance mechanisms that fall outside community-company formal agreements. A few interviewees said more interaction with lawyers to guide the set-up phases of a grievance mechanism might be beneficial.

4.3.3 Security

Interviewees mentioned several examples where involvement of public and private security forces (not necessarily controlled by the company) led to violence or exacerbated pre-existing *intra* community conflict. Several examples were cited where outside security forces became involved and things could have become violent very quickly. In one instance, the company was able to insist on a non-violent response 'on the run' but it did not (and does not currently have) a formally stated position on non-violent approaches to grievance handling. This was not an unusual finding. Many of the interviewees involved in the research said their companies were signatories to the *Voluntary Principles on Security and Human Rights*, although none could cite explicit commitments to non-violence embedded within their corporate-level policy frameworks. More research is needed on this sensitive topic.

4.3.4 Environment

As mentioned previously, environmental issues are often also community issues. Consequently, there is a high frequency of professional and departmental interaction between environment and community relations departments. While many environment and community relations personnel have good working relationships, several interviewees said that environment personnel primarily focus on technical data and analysis, sometimes to the detriment of understanding community perspectives.   With Indigenous groups in particular, environmental concerns are not always explainable by scientific descriptors and technical data, as cultural and spiritual dimensions may override or contradict technical explanations, or have no place for them at all. Failing to recognise this dynamic can create or exacerbate conflict.

> *"From [the] environment [discipline] … you usually get: 'We've got all the techs and specs right. If they'd only read the data they'd know that it's not really an issue. We've done all the analytical work. It's their problem'. There tends not to be recognition that a perceived issue is as important as a 'genuine' one to the people in the community. The data response doesn't really address their concerns." (921)*

In short, over-reliance on only one system of describing or defining evidence (i.e. scientific and economic indicators rather than more traditional systems of meaning-making) to describe the 'reality' of a situation is therefore inadequate, but often broadly employed.

4.3.5 Public relations/communications

Interviewees indicated that public relations/communications functions tend to focus on communicating with people of influence (those who affect reputation) whereas reputational issues quite often emerged from groups who were vulnerable and marginalised. Determining which

community individuals/groups to engage is a continuing challenge for pre-empting a full suite of social risks and likely grievances.

> *"From a reputation perspective, you always try to find people of influence in a community whom you can work with." (389)*

Additionally, public relations/communications personnel tend to hold more senior positions and have more internal organisational influence than community relations personnel. Public relations/communications tends to be more closely aligned with the company's strategic goals, and therefore appears to be more well accepted in the organisational environment, compared to community relations personnel who have to work in the space between both organisational and community realities.

> *"The CR voice tends to get drowned out by the PR/Comms voice. The PR voice has the potential for broader reach." (921)*

> *"The moment it leaves the local level and goes into a different world of public relations and clever press releases … it's swept along in the current tides of what happens to be the current thinking amongst the population as to how people should behave." (711)*

The two professions have overlapping goals, but they have different tactical approaches. Interviewees cited several examples of hostilities/frustrations between corporate public relations/communications staff and community relations people based at operations.

> *"There is often hostility between CR professionals on the ground and the corporate spin doctors. It is often surprising to me the bitterness that the CR people have. The key thing is that the CR people on the ground have personal relationships with the communities. At the higher level it's all about winning points. You cannot play that game if you want to do good CR. Not that that game shouldn't be played – that's how the world works. But at the local level, people who don't read newspapers or have access to TV, personal relationships on the ground are supreme." (711)*

Interviewees also cited several co-operative cases where public relations/communications and community relations personnel had worked together to strategise about media responses.

4.3.6 Industrial relations and human resources

Overall, interviewees observed that community grievance handling is following a similar trajectory to collective bargaining where, initially there was resistance, but over time there was gradual acceptance. While some mentioned similarities with industrial relations, there were also differences. Interviewees observed that worker-company relationships have better defined

boundaries, responsibilities and accountabilities than relationships between communities and companies.

> "*Other areas of dispute work [workplace, business to business, supplier etc.] tend to be in spaces where there are contractual arrangements already in place where there are processes for dispute resolution that have been outlined from the outset of that relationships and that has been formalised. There are also more formal processes in place in those relationships to assess how things are traveling. There is usually enough formality in the system so that the things that are causing irritation are picked up at an earlier phase than they might be at the community level where you might only hear about it after it has escalated to quite a significant concern.*" (921)

In worker-company disputes in the context of mature industrial relations, the parties are usually similarly well-versed in the process, rights and other issues, enabling a comparatively equal negotiating relationship. Community-company disputes rarely enjoy the same parity and require a greater focus on building both understanding between parties and their capacity to sustain dialogue and engagement over time, including in the face of disagreement.

> "*A negotiation space assumes that the parties to the negotiation have an equal understanding to how the process works and an equal ability to negotiate their interests. As you know, that's not the case when you are dealing with traditional communities. So there is a whole step to educate the parties about the reality of the other party... first we need to understand each other and then we can work to resolve differences.*" (247)

At the operational level, human resources and industrial relations are some of the most systematised functions, and community relations is one of the least systematised. It was clear that linkages and overlaps between the two domains of local engagement with the corporation – employee and community – were often underutilised.

> "*In my view, the employee voice is one of the most important voices that can be used by a company – either in a crisis or day in, day out – particularly the circumstance of remote mining where the mine is a dominant employer in a geographic region.*" (107)

Some interviewees commented that it is not unusual to find that the most serious grievances come from local employees, and are dealt with by human resources, who may have different systems and approach resolution in different ways to, and potentially in conflict with, community relations. When these two departments do not communicate about synchronising their strategies, it can put the corporation and the community at risk. One interviewee thought the opportunities within human resource management were underutilised:

"A lot of mines draw [employees] from local communities. So, it's a terrific opportunity for communication with the community, but mining companies don't tend to take advantage of that. In that space there, a much more innovative use of light and nimble grievance channels really is warranted. It's a genuine missing link – joining the dots there would be of great value." (582)

5   In what ways is the industry focused on change?

The section below addresses the broader concerns interviewees had regarding the need for a change in thinking and operating process within the industry as a whole. As well, interviewees noted where companies are currently focusing their efforts and on areas that pose ongoing challenges.

Most interviewees saw a need for change in the area of responsible grievance handling, and many were focused on making improvements within their respective companies in the next few years. Focus areas include:

- working to establish a more deliberate approach to handling community grievances, including practical guidance for operations in relation to establishing formal mechanisms
- building organisational capacity to deal with grievances, disputes and conflicts in the community context
- ensuring organisational structures support responsible grievance handling
- recognising challenges ahead.

5.1   Taking a more deliberate approach to handling community grievances

Interviewees were each asked what needs to change most. By and large, the most common response was that, as a matter of priority, operations need to establish publicly available, credible and contextually-appropriate grievance mechanisms so that issues are surfaced before they escalate. There was also a strong view that as part of this emphasis, companies needed to be more specific but not overly prescriptive in their requirements.

> *"Our [current] standards are far too general and broad. They are generic and there need to be specific tools approved to specific standards. People need more guidance – they ask for it all the time – both what to do and how to do it. But, not too overprescribed." (374)*

There was a dominant view that any guidance should have a practical orientation to ensure that guidelines are applied by operations in practice:

> *"[Guidance that is] applicable to on the ground managers to tell them how to [apply principles] in practice… People want to know what to do in the field." (662)*

5.2 Building organisational capacity

There was broad consensus that the industry's capacity to adequately address conflict resolution and grievance handling is low. Nevertheless, most corporate offices were focused on capacity building for community relations functions.

> *"One of the things that we are trying to do is to strengthen our center of excellence in terms of the community relations function at corporate, sharing best practices and creating more of a consistent approach and maybe doing something more formal in terms of when we have a grievance and have to deal with it, which we don't currently." (363)*

There was also a parallel focus on building capacity of operational personnel:

> *"We need more on the capacity building side at operations. Managers know how to design a mine plan. They know how to implement a maintenance program and they pretty much know what they need to do about HSE. But we are not to the level of maturity that, without more help, they know how to design a grievance mechanism or a dialogue process, ensure consistent and appropriate respect for the rights of neighbours and all that." (494)*

Several interviewees indicated that their companies had sought to raise awareness of community issues at the senior management level (e.g. through Peter Sandman's *Risk = Hazard + Outrage* framework and training) in the past three to five years. [16] This has helped increase sensitivity towards community concerns, but has not enhanced skills in conflict or dispute resolution. Several companies conduct internal training in corporate-level requirements (e.g. social baselines, community diaries), but such training provides limited coverage of grievance handling.

> *"People tend not to have training in handling disputes. What people are probably missing is the conflict-resolution skill set, being able to understand and have those conversations." (389)*

When people had actually undertaken conflict-resolution-specific training, they found it to be beneficial.

> *"We just did a course on how to deal with difficult people and conflict situations. It was tailored to our specific work environment. It was great." (015)*

Several interviewees said that their companies had been working to better define community relations competencies with a view towards hiring experienced people with social science qualifications into community relations roles. Several others observed that community relations

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[16] http://www.psandman.com/

professionals often lacked the operational and technical knowledge necessary to influence the decisions of other managers, and many interviewees considered this a significant impediment to the resolution of grievances and the effectiveness of community relations more broadly. As discussed earlier, there was a strong view that community relations must become more adept at using the 'language' that other parts of the company understands in order to influence internally. One interviewee working in community relations at the operational-level put it this way:

> *"I have to turn everything into a pie-chart or a histogram or it doesn't even get considered, it's just words. They'll say, 'oh, we're not taking that into account, that's just a one-off' or 'it's just someone who's a trouble maker, it's not an issue'. But as soon as you can get enough data together to do a spread-sheet and turn it into a pie chart, then suddenly everyone is listening. It's a fact. It's got a percentage against it." (846)*

Several interviewees raised the issue of professional networking within and across companies. The dominant view was that it was quite difficult to share learnings, but that more effort should be made to do so.

> *"[People at operations] can learn a lot from each other. But they don't know who each other are. Without facilitation, those learnings may not take place. So building the networks and mechanisms for people to learn from each other is something I believe strongly in." (494)*

5.3 Ensuring a supportive organisational structure

There was broad recognition that in addition to building skills and capacity, community relations needs authority commensurate with responsibility. Several interviewees commented that community relations needs to become more strategic and rigorous in its approach if it is going to successfully influence organisational change.

> *"The other discussion is that the CR function needs to be held rigorously accountable, like any other part of the operation. CR is hopelessly non-strategic or rigorous. There is no problem analysis; there is often no strategy or the wrong strategy. It gets away with a performance level that no other departments get away with. Then you get GMs who micro manage." (725)*

As well, it was deemed important for people to align organisational structures with responsibility.

> *"[Y]ou shouldn't be expecting junior-type staff to be arguing or fighting with senior management. So having a structure where people speak to others at their level of responsibility. If you are going to kick it up then you get the management level speaking to one another. Then you start to fight it the right way, so to speak." (980)*

5.4 Challenges ahead

Interviewees discussed many ongoing dilemmas that were difficult to resolve, a few of which include: the challenge of establishing relationships with an alien fly-in, fly-out management team, how to ensure that community relations is embedded in early stages of a project, particularly when smaller companies with fewer resources lead the exploration and construction phases, and how to support locally-based community relations staff when conflict arises. Many interviewees commented that companies need to get much better at engaging oppositional and disengaged stakeholders.

> *"It's still not obvious to everyone, but invariably you have to talk to people who are considered your enemies. In every situation we've tried this approach; it has created a better solution even if not a perfect one. That part needs to change and is sort of changing." (785)*

Finally, worth noting was a view among several interviewees that in order to further improve company approaches to handling conflict, a paradigm shift is required, where companies see themselves as part of the community, regardless of how companies might otherwise understand their presence in a community or region.

> *"One of the main things that we could and are beginning to do differently and it's beginning, is a big paradigm shift. We think of ourselves as the center of the universe where everything comes in and affects us and needs to be managed. The paradigm shift that needs to occur is to put the community at the centre and see all the things that are impacting on the community." (563)*

6 What organisational barriers and enabling factors exist for responsible grievance handling by mining companies?

During the course of the 32 interviews, practical strategies, solutions and learnings from past mistakes in grievance handling were shared. Experienced mining company employees and advisors have clearly found (both by trial and error and by peer-to-peer conversations) that some things work and some things clearly do not. The table below distills those learnings.

Table 1: Community grievance handling: What works and what doesn't

Foundational work	What works	What does not work
Addressing pre-existing conflict	- Some operations benefitted from the work by others (e.g. NGOs) to address pre-existing, *intra* community conflict	- Inadequate due diligence - No conflict analysis
Assumptions	- Acceptance that conflict and grievances will occur - Acknowledgement of different knowledge and belief systems	- Failure to plan for conflict because of an assumption that the risk of conflict can be eliminated - Assuming one system of meaning-making
Pre-emptive mechanisms	- Systems that build understanding of the broader context - A robust management system that links data collected through other engagement processes	- Limited prior knowledge through lack of social analysis - Inability to turn information into accessible knowledge
Deciding and agreeing	- Collaborating with local people and others about how best to handle grievances, before they escalate - Formal agreements that establish a shared framework for dispute resolution, particularly one that emphasises local solutions - Taking agreements *seriously*	- One-sided decision making about how grievances should be handled by companies, communities or others - Ignoring or refusing to engage least trusted groups when agreeing grievance handling processes with others
The mechanism itself	What works	What does not work
Principles	- Taking a principled approach, including at a minimum: transparency, accessibility, timeliness, fairness and a simple/reliable recourse mechanism	- No reference to principles

	What works	What does not work
Model	- Dedicated pathways for complaints and grievances - Appropriate treatment of verbal and written complaints - Clear lines of responsibility - Robust tracking systems for complaints resolution - Methods for understanding underlying or root-cause - Considering the surrounding context, not issues in isolation - Actively seeking to addresses historical or legacy issues and acknowledging them, even if nothing can be done to remedy them - Enough flexibility for different groups to use different mechanisms	- *Ad hoc* grievance handling without consistent processes - Reliance on negotiation and position bargaining, rather than including dialogue to build mutual understanding - Models that are dependent on individual people - Models that ignore broader relationship-building priorities concerns. - Lack of process or refusal to use agreed process - Models that do not account for the local context
Communication	- Broad communication about the mechanism and how it works, in a language/manner that people can understand - Timely and transparent communication about action taken on specific grievances	- Lack of information - Failing to let community member(s) know outcome of internal investigation
Accessibility & outreach	- Encouraging people to raise issues of concern - Making it easy to lodge a complaint and solicit concerns - Providing several pathways for raising concerns/grievances - Taking a broad view of 'community', beyond immediate footprint	- When companies fail to provide communities with a mechanism to lodge issues; otherwise there is a risk that communities will resort to violent or destructive behaviour to get a response - When it's difficult for people to raise issues, even with a mechanism
Third party involvement	- Using mutually agreed third parties if solutions cannot be reached through direct engagement - Parties agreeing to relinquish some control of the process - When third parties ensure a fair and thorough process for all, and are perceived to do so	- Third parties that impose processes ill-suited to the local context
Supporting the mechanism	What works	What does not work
Relationships	- Grievance mechanisms established in the context of broad-based engagement that aims to establish trusting relationships - Processes that enable one-on-one relationships as well as institutional relationships - Ongoing dialogue, especially with aggrieved parties	- Processes dependent only on individual relationships that are not, to some extent, institutionalised - Racism and 'othering' (e.g. emphasising 'us' and 'them') - Refusing to engage disengaged and oppositional stakeholders
Understanding	- Understanding 'background stories' to specific grievances - Understanding the problem, not just solving the issue - Providing cultural awareness training to increase cross-cultural sensitivity	- Ignorance or refusal to learn about local culture and context - Refusal to acknowledge other world-views respectfully

Behaviour	- Responsive and timely behaviour and action - Delivering on commitments and promises	- Community relations that act only as issue *'fire-fighters'* - Words without action and follow through - Saying one thing and doing another
Capacity	- A senior, experienced community relations person who can influence operational managers - Having the right individuals are in the right positions (i.e. personality, knowledge and skills) - A company focused on building the social competencies for community relations practitioners as well as senior leaders	- People handling community grievances with limited experience - Lack of corporate support and guidance in terms of implementing mandatory requirements - Companies ignoring lack of capacity in this emerging area
Will to learn	- Drawing on the experience of other operations in handling grievances, local to global	- Companies that are not interested lessons learned from elsewhere
Other organisational factors	What works	What does not work
Culture	- A culture that supports a focus on community perspectives - Awareness of but not dependence on legal frameworks	- Organisational cultures dominated by a narrow disciplinary perspective, such as legal or PR - Organisational culture that does not support the dual focus of community relations personnel
Structure	- A community relations function with structural power and formally recognised authority	- A disconnected and isolated community relations function - Relying on junior community relations practitioners to hold senior managers to account for resolving issues
Leadership	- Leadership that recognises the importance of addressing community issues	- Incumbent leadership who won't accept legacy issues as part of their own management responsibilities
Management team	- Senior managers' endorsement of the mechanism - Senior managers who respect and consider views that fall outside their own area(s) of expertise - A senior management team that deals with its own internal conflicts	- Blaming and disrespectful behaviour from and within the management team - Avoidance of, rather than engagement with, conflictual situations
Reward Systems	- Incentives that encourage senior consideration of community issues	- Incentives that focus solely on resolution, overlooking prevention

7   Moving Forward

7.1   An industry practice agenda

7.1.1   Capacity and skills development

Building capacity and skills for conflict assessment, resolution and grievance handling in the context of mining is clearly a challenge for the industry – both at the strategic level and also at the practitioner-level skills in terms of face-to-face situations. Leading companies are working to address some of these gaps.

7.1.2   Operational-level support for policy implementation

Several interviewees remained concerned that some operations were taking an overly compliance-based approach in their haste to implement new (or strengthened) corporate-level policy requirements for grievance mechanisms. Companies must not only instruct their operations through policy requirements, but engage them in discussion about the 'bigger picture' wherever possible as well as provide support – either directly or indirectly (e.g. by connecting operations with people with particular expertise) to enable locally-appropriate processes.

7.1.3   Monitor and evaluate

Monitoring and evaluation of grievance handling will be required to ensure that policy is being applied and is in fact achieving what it set out to do. Ideally, this would involve local people as well as other external or third parties. Monitoring and evaluation also provides opportunities to build knowledge about enabling and constraining factors in this area.

7.1.4   Greater transparency

Industry insiders all recognise that they could and arguably should learn from each others' efforts – successful or otherwise - in conflict assessment, resolution and grievance handling. Interviewees pointed to the complexities involved in sharing what some companies consider sensitive, privileged or proprietary information, but recognised that the industry as a whole and communities where mining takes place would benefit from increased transparency and a shared approach to learning in this area.

7.2 A research agenda

Rigorous and constructive research grounded in local realities and operational-level practice remains important within mining contexts. However, operational timeframes are usually tight, the pressure to extract resources for profit is great, and mining contexts remain sensitive. In these circumstances, companies are often reticent to support a research agenda, often perceiving it to be a distraction to the core business of mining. In the context of rapid implementation of new or augmented corporate-level requirements and emerging global norms, a research agenda that aims to document efforts – successful or otherwise – by communities and companies working to find solutions when grievances arise seems warranted.

Potential areas for analysis could focus on different strata of inquiry:

- **Company-specific**: If companies have not already established the 'state-of-play' within their own organisations they would be well placed to identify which of their operations have processes, procedures and mechanisms in place, and determine their alignment with best-practice principles. Such research would provide a basis for refining methods that will ultimately improve the ability of all parties to handle conflict constructively.

- **Country-level**: Analysis of particular country contexts with common legislative and social environments to identify the degree to which different strategies and approaches by companies, community and other parties influence outcomes on–the- ground. Multi-year research arrangements would help to develop an understanding of the people, processes and issues over time.

- **Case study**: Detailed documentation and analysis of existing or newly introduced community grievance handling processes in specific local contexts. Such practice-based research would ideally capture a range of perspectives from local and affected people, grievance mechanism users and non-users, company representatives and other stakeholders. As above, longitudinal studies (i.e. undertaken over a number of years) would be most informative.

- **Issue specific**: A multi-site, multi-company research agenda that focused on a single thematic issue such as water and ways for dealing with associated grievances (e.g. water rights, access, supply and distribution). The focus of such research could be country-specific or cover a number of jurisdictions. Relevance of outcomes on one thematic issue would be considered for its applicability to other issues. Other thematic areas could include employment and livelihoods, gender, culture and heritage.

- **Retrospective review**: Retrospective analysis could be undertaken of escalated cases in order to identify key learnings for practice, and shape the emerging debate, from the ground up.

In conclusion, this research highlights some of the strengths and deficiencies in the industry's ability to adequately handle community complaints and grievances. International norms and the global debate continue to highlight that local people need ways – and in some circumstances may even have a right – to have their concerns heard through a fair and equitable process where they will be treated with respect. Many companies are cognisant of this challenge and some seem actively engaged in finding ways to establish processes (or strengthen existing ways) for responsible grievance handling that facilitate, rather than impede dialogue, even when issues escalate.

Appendix 1: List of interviewees

Dr. Chris Anderson, Newmont

Gaston Bilder (formerly Empresa Petrolera Chaco SA)

Robin Budden, Lyco (formerly Newmont, Ghana)

Dr. John Cook, LGL Gold

Lisa Dean, CARE (formerly Rio Tinto)

David Deisley, Goldcorp

Murray Eagle, LGL Gold

Dan Feldman, Foley Hoag LLP

Alan Fine, AngloGold Ashanti

Sharon Flynn, Rio Tinto

Jane Gronow, Rio Tinto

Bruce Harvey, Rio Tinto

Amar Inamdar, Office of the Compliance Advisor Ombudsman, World Bank Group

Richard Jackson, Oz Minerals, Vientiane

Alasdair Jeffrey, Rowland

Paul Kapelus, Synergy Global Consulting

Dr. Helen Macdonald, Newmont

Guillermo Manrique, Barrick Gold

Reg Manhas, Talisman Energy

Dr. Geraldine McGuire, Sustainable Solutions

Ed O'Keefe, Synergy Global Consulting

Jim Rader, Avanzar

Peter M. Rush, BHP Billiton

Jon Samuel, Anglo American PLC

Barbara Sharp, Offorsharp

Melanie Stutsel, Minerals Council of Australia

Paul Warner, Carbones del Cerrejon (formerly BHP Billiton)

Ian B. Wood, BHP Billiton

Luc Zandvliet, Triple R Alliance

Anonymous (3)

Although formal interviews were not conducted with the following contributors as part of this research project, the authors also appreciate discussions about the findings with Sue Sara from Xstrata Copper, Glynn Cochrane from Rio Tinto (and Adjunct Professor, Anthropology, The University of Queensland) and earlier discussions with Mitch Jakeman from Anglo Coal.