



# **MINING AND LOCAL-LEVEL DEVELOPMENT**

**Examining the gender dimensions of  
agreements between companies and  
communities**

**Project summary report**  
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## ACRONYMS

CLC	Central Land Council
CSR	Corporate social responsibility
CSRSM	Centre for Social Responsibility in Mining
DFAT	Department of Foreign Affairs and Trade
FPIC	Free prior and informed consent
MCA	Minerals Council of Australia
PNG	Papua New Guinea
WCCCA	Western Cape Communities Co-existence Agreement
WIM	Women in Mining

# Project summary report

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## 1 Introduction

This is the project summary report of a two-year program of research undertaken by the Centre for Social Responsibility in Mining (CSRSM), funded by the Minerals Council of Australia (MCA) and Australia's Department of Foreign Affairs and Trade (DFAT). The research sought to explore the gender dimensions of agreements between local communities and Australian mining companies operating domestically and offshore, and the related local-level development outcomes.

Gender equality is a core goal of the international community and a key consideration in any development process. As the mining sector maintains its commitment to sustainable development, discussions about how to better integrate gender into policy and practice have started to emerge. There is increasing recognition that the male-dominated nature of the mining industry has unconsciously excluded women from its engagement and development processes. Studies such as this signal that the industry is willing to more carefully consider the gender dimensions of its policies and practices. Other actors too are thinking through the challenges and opportunities of gender integration in mining, including the Australian Government's overseas aid program.

The relationship between the mining sector and its contribution to local-level development has gained attention, influence and importance in recent years – in developed and developing countries alike. This is attributable to a number of factors including:

- the overall magnitude of the resource sector in many economies
- a renewed focus on public-private partnerships for development
- the growing global footprint of resource extraction industries
- increases in social investment by the resources sector
- greater recognition of indigenous rights and human rights more broadly
- increased awareness about the negative impacts of mining on local populations
- the evolution in impact management and benefit-sharing practices in mining.

Through voluntary and regulatory mechanisms, the interface between mining companies and local-level development continues to evolve. An increasingly common mechanism for shaping company-community relationships and local development outcomes is the negotiated agreement. Agreement processes are influenced by gender dynamics which in turn influence local-level development outcomes. The gender dimensions of agreement processes are the focus of this research.

Past research suggests that engaging with a diversity of women and men and supporting gender equality – whether in mining and agreement processes or more broadly – promotes inclusive local development processes and outcomes. Supporting gender equality can also bring benefits to business, including:

- stronger relationships with local communities
- a reduced risk of conflict escalation due to exclusion or unnoticed negative impacts
- improved standards of living for employees, their families and local communities

- reputational benefits leading to access to land, resources and capital
- compliance with legal and regulatory requirements
- access to a broader range of knowledge and skills
- more sustainable outcomes due to women's focus on family and community wellbeing.

There are numerous opportunities for better connecting contemporary thinking around mining and agreement processes with emerging knowledge from the development sphere, specifically in relation to gender. This is not to say that development sector thinking can be applied without adaptation, but that the channels for shared learning could be strengthened. Given that the mining industry's focus on gender is relatively new, the development field has much to offer the resources sector in terms of understanding what works and what fails in relation to gender inclusion across a range of topics. Experiences from developed countries, such as Australia and Canada where agreement practices are more established, also offer fertile ground for shared learning.

## 1.1 Report outline

This project summary report includes the following sections:

1. Introduction
2. Practice highlights
3. Aims and assumptions
4. Background context
5. Research activities
6. Aggregated findings
7. Advancing change and 'next steps'

The report appendices also include a list of key tools and guidance for practitioners, and a list of opportunities for further research.

## 2 Practice highlights

This research project highlights that there is room for improvement in terms of gender equality in mining and agreement processes. However, a range of good practices were identified during the research. Industry practice that supported both women's and men's participation in agreement processes is summarised in Table 1. While the main focus of the research was industry practice, the case studies highlight a range of external factors that have the potential to support women's involvement in agreement processes. The research also found a number of areas for improvement. These are also listed below.<sup>1</sup>

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<sup>1</sup> More detailed findings are presented in Section 6 of this report, the practitioner perspectives study and the three case reports.

**Table 1: Summary of existing industry practice that supports women’s involvement in agreement processes**

<b>Innovative practice</b>	<b>Details</b>	<b>Further detail</b>
<b>Agreement provisions that support capacity building for implementation</b>	<p>Training in administration and governance for newly established community organisations</p> <p>Providing funding for third-party facilitation to enable communities to develop their own decision-making processes to feed into agreement processes</p> <p>Support for community engagement and consensus building activities, including community visioning and building community (and company) knowledge of the diversity of needs, aspirations and knowledge within the community</p>	Practitioner perspectives study
<b>A principled and cooperative focus in agreement negotiation and implementation</b>	Agreement processes based on inclusion, mutual understanding and with a long-term relationship focus supported processes that engage with the diversity of communities	Practitioner perspectives study
<b>Documenting women’s cultural knowledge</b>	For the dual purposes of data gathering and positioning women as a group with distinct rights, interests and knowledge	Practitioner perspectives study
<b>Company staff with high-level skills in community engagement methodologies</b>	Including understanding of gender issues and inclusive engagement techniques which are suitable for the local context	Practitioner perspectives Study
<b>Broad-based social monitoring and social studies to help understand mining impacts and social change</b>	Inclusion of gender disaggregated data	PNG case report
<b>Engagement with women’s representative groups</b>	Consideration of the role of women’s organisations in a mining context	PNG case report
<b>Quota for female representation</b>	Quotas for women’s participation in agreement governance committees with some associated support	Lao PDR case report
<b>Entering into and implementation of voluntary agreement where not required by national law</b>	Community development process which enables the inclusion of women’s needs and interests	Lao PDR case report



<b>Ongoing support from company staff to address capacity issues and support participatory processes</b>	Providing time off for company employees who sit on agreement committees  Companies employing staff skilled in capacity building and empowerment to support community representatives who may lack experience in administration, or lack high levels of literacy and numeracy	Lao PDR case report  Australian case report
<b>Awareness of gender dimensions of culture and context among staff</b>	Staff with responsibility for land access and agreement processes demonstrating high levels of awareness about gender, which translate into practice	Australian case report
<b>Intergenerational advice and coaching to incoming community representatives</b>	Formal and informal advice and coaching to community representatives from prior-serving representatives. For example, past agreement committee members remain 'honorary members' and attend committee meetings to provide support and advice for current committee members.	Australian case report

Across the board, there were a range of contextual factors that determined gender dynamics and the level of women's inclusion. Actions and initiatives by non-company actors also had implications for agreement processes. The table below captures examples of initiatives that sought to support social inclusion and community participation which, as the research has highlighted, may promote gender equality in agreement processes. Further details are provided in the practitioner perspectives study and the three case reports.

**Table 2: External factors that have the potential to provide broad support for gender equality in agreement processes**

Theme	Details	Example or research location
<b>Government</b>		
<b>Agreement legislation</b>	Requiring agreements between mining companies and indigenous or local peoples	Practitioner perspectives study
<b>Legislation requiring consultation</b>	Specifying requirements for consultation with all community members (or specifies inclusion of minority/marginalised groups or women)	Philippines
<b>Funding</b>	Enabling communities to engage in or receive expert advice on agreement negotiations or associated processes	via representative bodies in Australia and the Canadian Environmental Assessment Agency Participant Funding Program
<b>Recognition of indigenous peoples' rights</b>	Via ratification of the UN Declaration on the Rights of Indigenous Peoples or alternative means	Australia, Canada, New Zealand, the United States and 144 other states



<b>Women's representation in local government</b>	For example, by special measures such as the national directive to appoint women's representatives to local governments/wards	PNG case report Lao PDR case report
<b>Government mandated institutions representing women's issues</b>	To support women's development and political mobilisation at all levels of government	Lao PDR case report – Lao Women's Union
<b>Tax incentives for communities to spend on development</b>	Via establishing charitable trusts for agreement payments in order to avoid taxation (and limit options for expenditure to purposes with community benefit) <sup>2</sup>	Australian case report
<b>Non-government</b>		
<b>International NGO projects focused on raising awareness of gender issues</b>	Such as participatory gender analyses in support of livelihood projects	CARE/DFAT-funded livelihood projects in Lao PDR
<b>National-level gender and mining networks</b>	To raise attention to issues related to women and mining and create opportunities for shared learning	Women in Mining initiative established by the PNG Chamber of Mines and Petroleum and the World Bank
<b>Advocacy for women in mining as a strategic focus</b>	In order to develop national level strategic plans within government and corporate policy from major international institutions, NGOs and scholars	PNG Women in Mining Initiative, Oxfam's Listening to the Impacts of the PNG LNG Project
<b>Agreement ratification processes</b>	Legislative or regulatory processes for ratification of negotiation processes by an external party (e.g. to ensure community consent, good faith negotiation)	Via representative bodies and the National Native Title Tribunal in Australia and the review boards in Canada.
<b>Negotiation methodologies</b>	Detailing methodologies for inclusive engagement by negotiation facilitators	Internal policies and guidelines of the Central Land Council in Australia
<b>Indigenous organisation policies on gender equality</b>	Providing a community level position on gender equality and a champion for attention to gender issues	Qikiqtani Inuit Association

<sup>2</sup> Native title payments into charitable trusts are tax-exempt. While use of charitable trusts increases the overall payment received by Traditional Owners, the funds can only be distributed for the purposes of community and charitable benefit. For example trust monies cannot be distributed to an individual who may wish to establish a business. For a full discussion on the benefits and limitations of charitable trusts versus other funding structures see Limerick *et al.* (2012, pp. 103-105).

<b>Design of engagement processes</b>	Indigenous representative bodies ensured appropriate engagement processes for inclusive participation	Cape York Land Council in the Australian case report
<b>Parties to the agreement</b>	Include local and state governments and representative bodies, promoting an integrated approach to development	Parties to the agreements in the Australian case report include the company, traditional owner groups, shire councils, the Cape York Land Council and, in one case, the Queensland Government.

The tables above highlight practice that supports women’s involvement. There were a range of other practices that were not as supportive. Consistent patterns that the researchers observed throughout the current work included:

- lack of gender-sensitive planning for agreement consultation, negotiation, representation, program design and implementation
- omission of gender considerations in policy frameworks and operational systems including assurance, monitoring, evaluation and reporting frameworks
- low awareness of gender-sensitive methodologies among some industry practitioners and other institutional actors
- lack of clarity about the role of mining in addressing gender inequalities in community engagement and development
- little data captured on different gender roles and responsibilities within existing community engagement and development work
- lack of internal influence of communities practitioners ultimately resulting in operational plans that reproduce or exacerbate gender inequalities
- lack of commitment to redress inequalities inherent in company-community relations or the broader society.

The research findings also capture exceptional examples of women’s agency that surfaced during the research process. In some instances, women had:

- led very large and complex negotiations
- ensured effective implementation of agreement conditions
- managed multi-million dollar community trusts and many other roles.

To take on these roles women overcame systemic barriers to participation including historical and cultural factors. They advocated for family and community interests, shared their knowledge and influenced the contents and outcomes of agreements. Many women performed these roles in addition to their work as caregivers, wage earners and providers. The researchers also found examples of strong and effective support for women’s involvement from some men, company employees and consultants involved in agreement processes although, again, these were exceptions.

### 3 Aims and assumptions

The commissioning of this research jointly by the MCA and DFAT re-affirms the importance of gender in the mining and development context. The findings will help to guide industry and other stakeholders towards agreement processes that integrate gender as an analytical frame and gender equality as a strategic goal. The research will also be of interest to development agencies working in the mining context, governments as regulators or partners to agreements, and community groups in their engagement with the mining industry.

For the purposes of this research, agreement processes include negotiation, implementation and monitoring of agreements. The overarching aim of the research was to identify factors that influenced the achievement of gender equality in agreement processes and outcomes. The research also sought to understand how these factors influenced women's economic and development capacity in different mining contexts.

The premise of the research is that exclusion or under-representation of women or men's needs, rights and/or aspirations in mining and agreement processes will negatively impact the equitable distribution of compensation and development benefits and long-term sustainable development.<sup>3</sup> Gender exclusion also runs the risk of mining disproportionately impacting women or men. While a gender perspective was applied in this research, the researchers' focus prioritised the perspective of women. The authors and commissioning bodies acknowledge the importance of including men in agreement processes and development initiatives. However, this project comes from the perspective that men are dominant actors in mining and agreement processes and women's voices and perspectives are – in the main – under-represented.

### 4 Background context<sup>4</sup>

Agreements negotiated between mining companies and indigenous communities or other land-connected peoples are increasingly promoted as practical mechanisms for impact management and benefit sharing – including in contexts where agreements are not mandated by law.<sup>5</sup> Among other things, agreements serve to formally recognise and frame the relationship between mining companies and local people. These mechanisms are central in determining how, and to whom, potential benefits from mining projects flow and how impacts are managed. Such processes also determine the mutual obligations and objectives of mining companies and communities and so provide potential to elevate local interests in the project design and development process.

Agreements are most common in jurisdictions that provide legal recognition of customary land rights, including Australia, Canada, PNG and Peru.<sup>6</sup> In some cases, agreement legislation provides state recognition of the right of Indigenous, First Nations or Aboriginal peoples to share in the wealth derived from their traditional homelands.<sup>7</sup> In other jurisdictions, companies and communities

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<sup>3</sup> While gender is a key determinant of agreement outcomes, it is by no means the only one. There are many other aspects that influence whether agreements deliver outcomes at all, let alone equitable or sustainable benefits.

<sup>4</sup> The background context section of this report is largely based on the conference paper: Keenan, J. C., Kemp, D. L. and Ramsay, R. B. (2013). *Company-community agreements, gender and development*. Presented at the World Mining Congress, Montreal, 11-15 August 2013.

<sup>5</sup> O'Faircheallaigh (2012), World Bank (2012).

<sup>6</sup> O'Faircheallaigh (2013).

<sup>7</sup> O'Faircheallaigh (2010).

are entering into agreements voluntarily, largely because of their potential to provide stability to business operations via broad-based community support.

Agreement processes are most commonly associated with indigenous peoples. The current research employs a broader characterisation; that is, any form of company-community engagement that incorporates:

- a negotiation process
- identification of beneficiaries
- formalisation of commitments
- defined process for implementation.

This suite of agreements carries a variety of names, including: community development agreements, Indigenous land use agreements, impact and benefit agreements, participation agreements, benefit sharing agreements or partnership agreements.<sup>8</sup>

Growing interest in agreements is related to their potential to simultaneously serve as a mechanism for addressing multiple objectives, including:

- enabling community-level consultation in the development processes
- demonstrating broad-based support or free prior and informed consent (FPIC)
- providing a level of certainty to agreement parties about land access, compensation and development contributions
- clarifying expected outcomes and consequences for non-performance
- reducing business, environmental and social risk
- enabling early engagement in order to manage disagreement and conflict
- contributing to positive local-level development.<sup>9</sup>

Before describing the research and presenting the findings, a brief background is provided in the sub-sections below on the key debates in ‘gender and mining’ and ‘mining and agreements’ that have informed the research. Key insights from the gender and development literature are also provided.

## 4.1 Gender and mining

Few industries generate the kind of social, environmental and economic change at the pace, scale and intensity as mining.<sup>10</sup> While these changes are often investigated at a social or community level, differences between women’s and men’s experiences are often obscured.<sup>11, 12</sup> Impact assessment processes do not always pay adequate attention to gender dynamics and the kind of mining-induced social change that contributes to inequalities between women and men.<sup>13</sup> This ‘blindness’ to gender

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<sup>8</sup> Brereton, Owen & Kim (2011).

<sup>9</sup> Brereton *et al.* (2011); O’Faircheallaigh (2012).

<sup>10</sup> Hilson (2012).

<sup>11</sup> Eftimie, Heller & Strongman (2009).

<sup>12</sup> For a discussion of the use of the term ‘community’ in the mining sector, see Department of Resources Energy and Tourism (DRET) (2006, p. 4).

<sup>13</sup> Lahiri-Dutt (2012).

renders disproportionate impacts invisible and can prevent inclusive and equitable access to development opportunities.

There is an expanding body of research that focuses on the intersection between mining and gender. This research contributes to the understanding of how existing gender biases impact both communities and companies, and of how reducing or removing inequalities can contribute positively in terms of development (i.e. the 'development case') and in terms of business values (i.e. the 'business case'). The development case for gender equality in business relates to empowerment and equality being valuable goals themselves, and also valuable in terms of efficiently and effectively achieving sustainable development goals including poverty reduction and economic development.<sup>14</sup>

Women's employment in mining is the most prominent example of a gender equality agenda in the industry in which the 'business case' is clear – shortages of skilled labour mean there is an advantage to be gained in widening the potential labour pool.<sup>15</sup> In contrast, the business case for gender equality in community development has typically been insufficient to drive a focus on gender in policy and practice. Some suggest that this may be due to industry focus on short-term business returns at the expense of long-term business and industry viability. Long-term factors appear to be better understood at the corporate level of the mining sector where contributing to development and supporting gender equality are considered part of the overall strategy to maintain profitable access to resources.

Scholarly research on the topic of gender and mining has served to raise awareness about the roles, responsibilities, burdens and experiences of women and men in mining contexts.<sup>16</sup> Women have always been linked to mining in a variety of roles, including:

- as small-scale or artisanal miners
- direct and indirect employment in industrial-scale mining
- representing and leading their people in mining negotiations and/or resistance movements
- as regulators, advocates and activists
- as mothers, sisters, aunts and carers of miners.<sup>17</sup>

Despite women's longstanding involvement, mining is still considered a characteristically 'masculine' industry where power and profit largely resides with men. The industry and its related institutions (e.g. governments and state agencies) tend to reproduce this inherent gender bias which reinforces a male-centric view of development that can exclude women from exercising agency in relation to mining developments and its impact on livelihoods.<sup>18</sup> Research confirms that gender is a critical consideration in the industry's ability to advance sustainable development goals.

By applying gender as a 'lens', it becomes possible to differentiate between the changes and impacts experienced by different women and men and how these impacts alter gender roles and relationships over time. While a gender lens is important, a simple, binary, male-female distinction

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<sup>14</sup> UN Women (2011).

<sup>15</sup> Grosser (2009).

<sup>16</sup> Lahiri-Dutt (2011).

<sup>17</sup> Gibson & Kemp (2008).

<sup>18</sup> Lahiri-Dutt (2011), Macintyre (2011), Robinson (1996).

can homogenise the differences among women and men.<sup>19</sup> The concept of ‘gender’ should be understood in its fullest sense as a dynamic and mutable social construction of relationships between women and men which is experienced and performed differently depending on intersecting factors and systems. A gender lens is not a generic division of ‘women’ and ‘men’.<sup>20</sup> The researchers have taken an ‘intersectional’ approach to gender in this work.

Other researchers have used an (intersectional) gender lens to investigate the social changes brought about by mining and the realities of women’s experience in these contexts. Gerritsen and Macintyre (1991); Gibson and Kemp (2008); Lahiri-Dutt and Macintyre (2006); and Moretti (2006), among others, provide substantial reviews of existing literature. This literature confirms an overwhelming gender bias in mining. According to this research, women are more likely to be negatively impacted by mining (e.g. through loss of land, including for home gardens, and increased domestic responsibilities as men gain mining employment). At the same time, women are usually less able to access mining benefits (e.g. employment and training, local business opportunities). Furthermore, gender inequality is considered to be the most persistent challenge to poverty.<sup>21</sup> The researchers argue that these dynamics affect the industry’s ability to advance its sustainable development goals. As the World Bank suggests, “better understanding of [the] gender aspects of the extractive industries could improve development outcomes in impacted communities, as well as improving the economic and social sustainability of [extractive industry] projects”.<sup>22</sup> Without attention to gender, company claims of contributing to sustainable development must be questioned.

Research on the gender dimensions of mining and company-community agreements is limited to only a very few studies. Nonetheless, these studies suggest that agreement processes can reproduce and exacerbate existing gender inequalities and present barriers to women’s full and equitable participation in development. While there seems to be agreement about mining’s gender bias, several scholars call into question simple interpretations of women as ‘passive’ agents or ‘victims of mining impacts’.<sup>23</sup> These scholars argue that generalised interpretations deny women’s agency in responding to mining development.<sup>24</sup> In fact, there are several documented examples of women being active agents in influencing the content and process of mining agreements.<sup>25</sup> The researchers acknowledge these pre-existing studies in their exploration of the gender dimensions of agreements and women’s participation in and influence over agreement processes.

## 4.2 Company-community agreements

Mining company-community agreements are increasingly seen as a key component of the industry’s commitment to sustainable development.<sup>26</sup> Supporters of agreements argue that they provide an opportunity for indigenous peoples and others to shape the conditions for resource extraction on their lands therefore redistributing the balance of power that has otherwise served to undermine

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<sup>19</sup> Hankivsky (2005), Squires (2005), Walby (2005).

<sup>20</sup> Dankelman (2002), Mikkelsen (2005), Parmenter (2011).

<sup>21</sup> Duflo (2011).

<sup>22</sup> Eftimie *et al.* (2009, p. 1).

<sup>23</sup> Lahiri-Dutt (2011), Lahiri-Dutt & Macintyre (2006), Langton & Mazel (2008).

<sup>24</sup> Mahy (2011).

<sup>25</sup> O’Faircheallaigh (2012b).

<sup>26</sup> O’Faircheallaigh (2012a).

and marginalise indigenous peoples, ignore their rights and exclude them from opportunities for development.<sup>27</sup> From a mining company perspective, having an agreement in place is seen to:

- secure access to land for the duration of the project
- satisfy regulatory or legislative requirements
- define expectations and mutual obligations
- reduce exposure to legal action.<sup>28</sup>

Industry leading practice guides suggest that ‘inclusion’ should be a guiding principle for agreement processes if agreements are to contribute to strong and resilient relationships.<sup>29</sup> While essential, the notion of inclusivity (or lack thereof) is a contested concept in agreement negotiation and implementation, particularly when it relates to representation.<sup>30</sup> The challenge of negotiating and implementing an inclusive agreement capable of delivering development outcomes, while also ensuring that risks and impacts are managed, is a complex and difficult task. This is particularly so if communities, companies, governments or other actors lack the will or capacity to meaningfully engage in agreement or other community engagement processes. Fair and equitable distribution of risks and benefits of mining is a particular challenge and issues of inclusion and exclusion are a central component. This research focuses on different aspects of inclusivity in agreement processes and, in particular, the gendered nature of representation and leadership.

In viewing agreement processes through a gender lens, it remains important to conceptualise agreements as an ongoing process rather than simply the conditions that are reached in the agreement contract.<sup>31</sup>

The process includes:

- agenda setting
- consultation
- consensus building
- awareness-raising and planning
- formal discussions that occur at the negotiation table.

These sub-elements provide many opportunities for gender inclusion or exclusion. A point about agreement processes that is not always well understood is that negotiation does not end at the signing of an agreement – agreements continue to be shaped as they are implemented and may be modified to redress gender imbalances as they emerge. Understanding agreements as a process, rather than an outcome, is critical to understanding their utility and contribution to sustainable development.<sup>32</sup> Similarly, company policies and practices can shape agreement processes, as can the involvement of third parties such as land councils or representative bodies. All these processes have been taken into account in the current research.

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<sup>27</sup> O’Faircheallaigh (2013).

<sup>28</sup> ICMM (2010).

<sup>29</sup> ICMM (2010).

<sup>30</sup> O’Faircheallaigh (2013).

<sup>31</sup> O’Faircheallaigh (2002; 2004).

<sup>32</sup> AIATSIS (2008, pp. 36-38), Allbrook & Jebb (2004), Langton & Mazel (2008).



In mining, the practice of agreements is rapidly evolving. Early agreements focused primarily on compensation for land use. More recent agreements also bring into focus aspects of relationship and trust building along with benefit sharing and management of mining-related impacts. Successful implementation of agreement commitments has important implications for the degree to which agreements address the diversity of a community's needs and aspirations and therefore how the outcomes contribute to sustainable development. Other progress includes an increase in the level of transparency and accountability embedded in agreement processes, as well as improvements in governance structures and long-term planning. While not the only influence, the industry's uptake of sustainable development and corporate social responsibility (CSR) has influenced the use and characteristics of agreements. In this evolving space, there is potential to better integrate gender as an analytical frame and gender equality as a strategic goal in the process of mining and sustainable development.

In summary, it is an undisputed fact that sensitivity to gender delivers long-term health, education and local development outcomes.<sup>33</sup> Despite this and the industry's ongoing commitment to sustainable development, a number of key factors remain unexplored in debates about mining, agreements and development. These include:

- women's participation in agreement processes
- the gender distribution of agreement benefits
- the extent to which impacts and benefits influence economic inclusion.

This research engaged each of these issues and the findings are summarised in this report. As there is little to no guidance for companies, government or communities in terms of applying a gender lens in mining and agreement processes, a series of 'next steps' has been provided for the industry to consider as it continues to engage with the challenges of sustainable development and respecting human rights.

## 5 Research activities

The Minerals Council of Australia (MCA) and Australia's Department of Foreign Affairs and Trade (DFAT) commissioned the Centre for Social Responsibility in Mining to undertake this research project over two years. Dr Deanna Kemp, CSRSM Deputy Director, Industry Engagement and Community Relations, and Ms Julia Keenan, CSRSM Research Officer co-led the research, with inputs from a range of others. Ms Therese Postma, Assistant Director, Social Policy, from the MCA provided oversight of this unique research partnership between the Australian mining industry's peak body and Australia's overseas aid agency. Ms Postma convenes the MCA's Gender, Mining and Communities Dialogue and the reference group for this project.

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<sup>33</sup> World Bank (2012).

This research was undertaken in three phases applying a qualitative, multi-method approach as described in Table 3.

**Table 3: Overview of study phases**

Phase	Methods
<b>Phase one: Practitioner perspectives study</b>	Literature review
	Individual interviews with agreement practitioners
	Preparation for case studies
<b>Phase two: Case studies</b>	Individual or small group semi-structured interviews with company, government and community representatives
	Participant observation of company-community interaction
	Document review (e.g. agreements, policies, plans, procedures, monitoring data etc.)
<b>Phase three: Project summary report</b>	Aggregate analysis across Phases 1 & 2
	Feedback from participating sites with opportunity for comment
	Consultation, finalisation and communication.

Phase one of the research focused on establishing the context for gender within mining and agreement processes. The research team conducted an extensive literature review to identify pre-existing studies and other relevant resources. This review provided a basis for the practitioner interviews, case studies and this aggregate analysis. A full list of references is provided for each component of the study. A list of key tools that offer practical utility for the industry is provided following the case reports.

The first phase also included interviews with specialist practitioners who had been directly involved in the mining sector and had experience with agreement processes. Interviewees had worked with agreements in Australia, Canada and Papua New Guinea (PNG) and, to a lesser extent, in Latin America (Peru), the USA, the Solomon Islands, Indonesia, Lao PDR, Mongolia and Ghana. These interviews provided helpful insights about mining, gender and agreements processes and highlighted critical issues to consider in phase two. While the interview protocol canvassed a range of agreement processes, there was an overall focus on negotiation which largely reflected the experience of interviewees. It was not possible to explore agreement implementation or outcomes in great depth with this particular group.

Although interviewee observations and opinions were occasionally conflicting, a range of general trends emerged. The practitioner perspectives study is organised around the following themes:

- factors that influence women’s involvement
- women’s inclusion/exclusion in benefit sharing
- the challenge of involving women in agreement processes
- industry capacity for engaging gender in agreement processes
- strategies for increasing women’s participation.

Phase two involved three mining industry case studies in Papua New Guinea (PNG), Lao PDR and Australia. The case studies enabled the research team to examine examples of agreement processes in country-specific contexts. Case studies identified some innovative practice as well as a broad range of challenges. All three case studies were approved by the three participating companies for public dissemination as part of this research project. Companies agreed to share these reports on the basis that doing so provided a basis for improving gender, agreement and development practice.

The case studies sought to identify the extent to which the industry and other parties considered gender within agreement processes and how gender impacted these processes, primarily in relation to the following factors:

- women's experience of involvement or exclusion
- the impact of involvement or exclusion
- outcomes (direct, indirect, flow-on) of agreement-making
- perceptions (women's and men's) of development benefits as a result of agreement-making, including issues of gender equality and equity.

Site selection was dependent on a range of considerations, including:

- the priorities of the MCA and DFAT
- the level of access that the research team was able to negotiate at each case study site
- approval from agreement implementation bodies.

Operations were approached to participate based on the following criteria:

- there was an agreement between the mine and the local community or particular groups within a community
- that agreement was central to the relationship
- the agreement was a critical mechanism for managing impacts and development benefits.

Aside from these criteria, the aim was to select cases with variation across regulatory frameworks, companies, commodity and type of agreement (e.g. land access, profit sharing and compensation agreements).

**Table 4: Summary of case study characteristics**

	Papua New Guinea	Lao PDR	Australia
<b>Site</b>	Lihir	Sepon	Weipa
<b>Company</b>	Newcrest	MMG	Rio Tinto
<b>Commodity</b>	Gold	Copper and gold	Bauxite
<b>Type of agreement</b>	Land access and benefit sharing	Benefit sharing	Multi-party Indigenous land use agreements
<b>Stage of mine life</b>	Operation	Operation	Operation
<b>Research focus</b>	Women’s participation in past agreement processes	Women’s participation in community development governance	Women’s influence in agreement processes, role in agreement governance and generational change

The approach to data collection used for each case study was negotiated ahead of the site visit between the company, site personnel, the CSRSM research team, local researchers and participants. Researchers in each study were sensitive and responsive to the situation on the ground and local sensitivities, including engagement with ‘at risk’ groups. The research teams developed interview protocols to guide discussions and adapted protocols as was relevant to each interviewee or group. Interviewees were also able to direct the discussion to the topics that were most relevant to themselves and those that they felt comfortable discussing.

CSRSM lead researchers Dr Kemp and Ms Keenan were familiar with all three sites from prior studies. Additionally, for the two international sites, in-country specialists were appointed. The participating company, the MCA, DFAT and CSRSM jointly agreed on these appointments. In-country specialists were involved in:

- coordinating consultations with community members
- advising on the need to adapt research protocols to suit the local culture
- providing in-country cultural briefing and support
- leading discussions and interviews with local people, where appropriate.

In-country specialists and local site representatives are also involved in the ‘feedback loop’ in which aggregated findings were provided to research participants.

The MCA’s Project Group and DFAT representatives provided feedback on all project elements including the practitioner perspectives study and phase two research protocols. Companies had an opportunity to respond to their respective case study reports to clarify points and provide comments before the drafts were finalised, shared with the reference group and included in this report.

## 5.1 Ethics

This study adheres to the guidelines of the ethical review process of The University of Queensland. The research team had processes in place to ensure ethical conduct across a range of dimensions including participant recruitment, involvement of indigenous peoples, data collection strategies, disclosure of personal information, risks to participants and researchers, voluntary participation,

informed consent, privacy and confidentiality of responses, anonymity, gatekeeper approval, secure storage of data, conflicts of interest and participant feedback. The approach to fieldwork was tailored to each case study with the assistance of company personnel and in-country specialists to ensure that culturally-specific considerations were understood.

The research team referred to the *National Statement on Ethical Conduct in Human Research (2007)* and the National Health and Medical Research Council and Australian Institute of Aboriginal and Torres Strait Islander Studies codes of ethics for research with Indigenous people. The research teams also consulted with other researchers with prior experience working in similar contexts for advice about how to approach this research to ensure ethical conduct.

## 5.2 Limitations

A limitation of site-specific research is that findings cannot necessarily be generalised to other contexts. This is particularly true in this study because the selection of case study sites was restricted to locations where the research team was able to negotiate access. Nonetheless, common insights and lessons have been drawn from each case and included in this summary report. Due to the need to select case study sites that were safe for fieldwork, the research does not provide insight into agreements in socially or politically volatile contexts. This remains an opportunity for further research.

The research surfaced more information about agreement negotiation and implementation than it did on agreement outcomes. The negotiation phase sets the foundation for the relationship between company and community and is therefore relevant to the contents of the agreement itself, as well as people's perceptions. Agreement contents and implementation structures are also documented for legal reasons providing accessible data for researchers. In contrast, data on development outcomes as a direct result of agreement processes is more limited. Development contributions from mining are complex, contingent on a range of external factors and rarely well tracked. This research was not designed to collect primary data on agreement outcomes so the researchers were unable to accurately determine the extent to which development outcomes could be attributed to an agreement or broader development contributions from mining and/or other processes.

It also became clear that more time in the field would be beneficial for developing a deeper understanding of the development contribution of agreements from a range of perspectives, including developer, community, regulator and other development agents and agencies. While a useful contribution has been made through this research, there is clearly more work to be done.

## 6 Aggregated findings

In order to present a detailed set of findings in a logical order, the data have been organised around four key headings, starting with findings that are specific to agreement processes then advancing to the more general and conceptual. The headings are as follows:

**Table 5: Outline of data presentation**

Section	Title	Contents
6.1	<b>Agreement processes and principles</b>	Challenges of effective agreement implementation Gender analysis Awareness of gender biases Inclusion principles Special measures for equality in participation Community self-organisation
6.2	<b>Operational systems and practitioner skills</b>	Community relations management systems Baseline knowledge and ongoing monitoring Practitioner skills
6.3	<b>Broader policy context</b>	Corporate policies Government policies and legislative frameworks Community institution commitments Policy-practice links
6.4	<b>Supporting sustainable development</b>	Alignment of agreements with broader development frameworks Need for further evidence of link between gender equality and business goals.

The importance of ensuring that women as well as men’s perspectives, knowledge and interests are central to agreement processes and the broader context of company engagement and development policy and practice are examined in the next four sections. Lessons are drawn from the data as well as existing industry and development literature to suggest a range of opportunities for bridging the gap between current and leading practice. Opportunities for improving mining industry practice are outlined in Section 7, ‘Advancing change’.

### 6.1 Agreement processes and principles

#### 6.1.1 General challenges of effective agreement implementation can affect gender equality

As outlined above, agreements involve a complex array of structures and processes that are negotiated in order to formalise and implement specific commitments. With each aspect of agreements potentially impacting or being impacted by gender relations, there are many opportunities for the inclusion or exclusion of women’s as well as men’s perspectives, interests and knowledge. On top of this, the general challenges of effective agreement implementation can determine the degree to which these processes can be inclusive. The practitioner perspectives study in particular highlighted the following issues:

- inequity in power and resources of mining companies and communities
- limited availability of skilled negotiators

- time pressures to sign agreements
- an absence of legal rights for communities or weak enforcement
- a lack of attention to agreement implementation and governance
- complexity in the agreement and limited availability of information.<sup>34</sup>

In fact, many of these factors can exacerbate inequalities for marginalised women and men as benefits are captured by those with more power. For example, in the PNG case study, several company representatives reported that some Lihirian men had asserted that women had no role at the negotiation table for the agreement as *kastom* dictated that this was a man's domain. Women explained that while they might be owners of the land, men managed the land and therefore decided who was 'at the negotiating table' to make decisions. Generally speaking, women explained that it was a man's role to manage land on behalf of their mothers and sisters. However, most interviewees said that within the clan, while both men's and women's perspectives were important and needed to be heard, women were increasingly "left out".

### **6.1.2 Gender inequality in agreement processes occurs where gender analysis is absent or disconnected**

Throughout the research, participants found it difficult to explain gender differences and dynamics in agreement processes. This indicated a lack of gender analysis<sup>35</sup> either as part of agreement processes or of agreement outcomes. Gender considerations were sometimes given attention with respect to consultation or employment, although there was little examination of whether women's and men's rights, needs and interests were advanced or upheld by agreement processes. None of the case study sites had undertaken such an analysis. This absence of analysis was most acutely observed in monitoring and evaluation of benefit distribution. None of the case study sites examined the gender implications of benefit sharing programs, instead measuring and reporting benefit sharing at a community level only (if at all). Attention to monitoring and evaluation of gender in the negotiation and implementation phases of agreements would contribute to the prevention and reproduction of existing gender biases.

### **6.1.3 Awareness of gender biases among parties involved in agreement processes is essential for gender equality**

This research calls for a nuanced understanding of gender that is responsive to the local context and engages with the challenges of prioritising gender, rather than avoiding it because it is a 'difficult' or potentially 'disruptive' issue. One suggested approach is for practitioners to generate support for gender-sensitive processes by raising participant's awareness of gender dynamics including:

- parties to the negotiation
- community members

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<sup>34</sup> See practitioner perspectives report, Section 3.3.3 for further discussion.

<sup>35</sup> March, Smith & Mukhopadhyay (1999, p.19) explain that gender analysis: "...explores and highlights the relationships of women and men in society, and the inequalities in those relationships, by asking: Who does what? Who has what? Who decides? How? Who gains? Who loses? When we pose these questions, we also ask: Which men? Which women? Gender analysis breaks down the divide between the private sphere (involving personal relationships) and the public sphere (which deals with relationships in wider society). It looks at how power relations within the household interrelate with those at the international, state, market, and community level".



- negotiators
- cultural advisors
- representative bodies such as land councils or band councils<sup>36</sup>
- observers and legal advisors
- regulators
- other parties involved in the agreement process.

If women's participation in formal or public processes is inhibited by cultural or other norms, practitioners may seek out women's opinions in other forums.

Men's support for gender equity and women's empowerment can also be a strong contributor to improving women's participation and influence and help to reduce the risk of backlash. The Lao PDR case study included the involvement of men with this dynamic in mind. Skilled practitioners also worked with men to generate support for women's involvement, where appropriate.

#### **6.1.4 Principled approach to inclusion in agreement processes can support gender equality over the longer term**

Successful agreements are underpinned by principles that support a strong and respectful relationship between the company and community. This is opposed to a purely legal or transactional approach to agreements. Clearly articulated principles can have a positive effect by emphasising inclusiveness as fundamental to agreement processes. Principles can also maintain the long-term vision of an agreement, while being responsive to changes in community dynamics. This was certainly a key factor supporting women's involvement in the Western Cape Communities Co-existence Agreement (WCCCA) in the Australian case study. Although gender was not a focus of the agreement processes, the principles underlying the agreement – relationships, dialogue, trust and respect – supported women's participation and involvement in representation structures.

Conversely, this research suggests that gender inequality in agreement processes and outcomes is greatest where agreement processes are not based on a clear set of principles, but the existing status quo. For example, practitioners reported that where negotiation occurred only with established leadership (particularly if that leadership is not representative or consultative), women's rights and interests had been systematically overlooked. In the PNG case study, women did not have a direct line of communication into agreement governance processes and felt that their experiences, perspectives and interests were not adequately represented. For example, some women explained that it was not always easy for them to speak out in front of the men in open community meetings and that it would be good if there was more regular and direct engagement with women (separately from men) so that they could more readily express their views. As a result of the study, the relevant company has begun to discuss how to address this gap.

#### **6.1.5 Special measures such as quotas can improve women's representation but do not guarantee empowerment**

The Lao PDR case study shows how companies can stipulate gender requirements in agreement processes. In this case, the company set quotas for women's participation in agreement governance

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<sup>36</sup> A local-level First Nations' legal unit of government in Canada.

committees at 50 percent. This requirement was instituted because the company wanted to support women's involvement in decision-making processes. The company also felt that women's involvement was unlikely to happen without direct intervention. Importantly, all stakeholders – company, community and the state – supported a quota system. Community development staff from the operation then had a mandate to provide support for women's inclusion in meeting processes.

As agreement processes are negotiated on a site-by-site basis, some operations may find that they are unable to stipulate or 'require' gender equity or women's empowerment programs. This does not have to be a barrier to raising the issue and promoting practices that are supportive of women's and men's rights, needs, aspirations. In cases where gender equality is not required, other processes can promote inclusion more generally. For example in the Australian case study, the agreement implementation body and the company engage in comprehensive training for governance committee members which focuses on the responsibility that they have to consider the needs of the broader community. That said, there was no monitoring of how well decisions addressed the broad interests of the communities.

### **6.1.6 Community capacity to self-organise can influence women's ability to participate in agreement processes**

The capacity of the community to self-organise and mobilise also has an influence on men's and women's ability to participate in processes that can incorporate and respond to the diversity of needs and interests within a community. Certainly, the coaching provided by the staff in the Lao PDR case study is an example of the kind of support that can be provided, noting that support for self-organising did not extend past this particular program.

In some cases, supporting women's capacity to participate, and even mobilise collectively, may be an effective avenue for empowerment. A broader study examining women's formal and informal decision-making influence and processes suggests that women may prefer expressing their individual perspectives as a collective voice.<sup>37</sup> As capacity is very low in some contexts, a long-term commitment is needed. Good process is to support capacity building for participation in agreement processes, particularly for long-life mines.

## **6.2 Operational systems and practitioner skills**

### **6.2.1 Community relations management systems can play a key role in supporting (or hindering) agreement processes**

Management systems and processes that are put in place to cover operational issues play a key role in supporting (or hindering) agreement processes. Across the three case studies, management systems for community relations and development generally included activities related to – but were not specific to – agreements. These activities were aimed at:

- understanding the local context (i.e. baseline studies)
- analysing potential impacts and benefits (i.e. social impact assessments)

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<sup>37</sup> World Bank (2012, pp. 181-2).

- implementation plans (i.e. cultural heritage management plans)
- monitoring and evaluation activities.

Some of these processes were required by regulation and others were part of a company's internal standards or lender assurance processes. How these systems were linked to agreements varied. While they all have potential application to agreement processes, in the main, these activities were not integrated into agreement processes.

This study found that gender considerations were rarely embedded within community relations management systems, with the exception of employment and, on occasion, local procurement strategies. On the whole, organisational systems and processes did not integrate gender as a core element of community relations management systems such as decision-making, planning and/or evaluation. Where data was collected, it was often partial. For example, where disaggregated data was collected about the number of women present at meetings, analysis of whether inclusive processes produced equitable outcomes was only available anecdotally. Gender disaggregated data will become increasingly important as the industry becomes more attuned to agreement implementation and outcomes. Over time, companies will be held more accountable for the legacies they leave, particularly in the case of long-life mines. Companies will need to demonstrate that they have not maintained or exacerbated gender inequality via longitudinal studies.

In the Lao PDR case study, women's participation in the village implementation committee was monitored. However, even when participation was recorded as 'equal', women described their role as 'support' and explained that it was difficult for them to participate equally due to a lack of previous experience, lower education levels and competing household responsibilities. Company monitoring systems did not capture this kind of data although it was generally known by staff. Despite these challenges, agreement committee members said that their understanding of the importance of women and men being involved in decisions about development had increased because of the quota system and the training provided by the company.

### **6.2.2 Understanding baseline conditions and monitoring changes over time can influence a company's ability to promote gender equality**

Agreements are long-term commitments. As such, there is a need for robust systems and methods for building knowledge as agreements and associated relationships evolve. This includes, for example, undertaking baseline and other studies in the early stages of operation in addition to monitoring and evaluation through the course of the agreement. In depth knowledge of local context and culture (and how these change) is considered essential to understanding gender dimensions of agreement processes. In PNG, Newcrest has a comprehensive program of social monitoring in place and collects gender-disaggregated data across a range of factors including health, education, socio-economic status and so forth. This program has been in place for more than a decade providing the company with access to important temporal data. This data is not, however, well connected to agreement processes.

The Australian case study shows that the demographic and cultural characteristics of the Western Cape have changed substantially since the current and previous generation of elders were raised. This will have implications for the agreement process. The current and previous generations are

perceived to have a strong collective identity and similar values related to historical conditions. Younger generations have more diverse experiences and values which may impact their aspirations and interests and, therefore, their perception of the value of the agreement. This in turn may require adjustment or reorientation of the agreement itself. Understanding baseline conditions and monitoring these changes over time is essential for ensuring that the agreement implementation process adapts to change between generations, including changes in gender dynamics.

Understanding and monitoring the gender dimensions of context and culture allow for process and program design that considers the rights, experiences and knowledge of both women and men. For example, cultural heritage management protocols at the Australian case study site are very specific about the need to understand both women's and men's knowledge of the significance of areas to be disturbed by mining-related activities. At this site, women and men have gender-specific knowledge of the landscape and protocols about who has authority to make decisions about particular areas. Consideration of these factors helps to put the principle of inclusive engagement into practice.

In cases where women's participation in decision-making is not routine, this 'foundation knowledge' can serve a strategic purpose by demonstrating women's capacity to engage and highlighting the benefits of a comprehensive understanding of impacts and opportunities for agreement implementation and development outcomes. A monitoring and evaluation program can then track increases or decreases in the capacity of different groups of men and women and other impacts over time.

Building a solid understanding of community context and then monitoring changes over time helps companies recognise the many causes of vulnerability and marginalisation in communities, including gender. As the Australian case study revealed, this can also include men's disempowerment. A solid understanding can also help companies identify how other factors intersect with gender such as class, race, poverty level, ethnic group and age. In the Lao PDR case study, for example, company personnel recognised that among the ethnic minority families, women's roles and participation were often different from the majority group. The company had tried to recruit female staff from the minority group, which was difficult, in order to better engage with this sub-group of women. Staff also recognised that there were generational differences in development aspirations and responses to mining and had to ensure that the needs of each group were understood.

### **6.2.3 Skilled practitioners able to engage within the local context can support the promotion of gender equality**

The design and execution of inclusive community relations and development processes requires skilled practitioners who can identify how gender relationships are negotiated within community and how issues of inequality are framed in a particular culture and political discourse. Practitioners must understand how to raise and monitor issues of gender equality without causing further division or conflict within a community putting already vulnerable people at even more risk. This was certainly the case in PNG where some mine staff were conscious of the risk of gender-based violence. The research found several examples where the mining industry was working carefully and creatively to build inclusive agreement processes. However, these examples were largely reliant on practitioners with in-depth understanding of community dynamics or with a special interest in gender, rather than organisational systems that required a gender focus.

The variation of gender issues across the case studies makes it difficult to define what ‘appropriate’ or ‘best practice’ engagement would involve. Local context will determine this. For example, while women were often excluded from agreement governance committees, the Australian case study found that women had always played a significant role in leadership and governance. Many Aboriginal women commented that taking responsibility for family business was traditionally the women’s role and they felt motivated to take on positions in agreement governance structures. Several interviewees commented that some community leaders, particularly women leaders, were extremely busy and were often involved in a range of different committees as well as having significant family, cultural and employment obligations.

### **6.3 Broader policy context for prioritising gender**

Achieving gender equality is not the sole responsibility of any single organisation or institution. A range of institutions contributes to ensuring inequality is addressed and gender equality achieved. This section summarises findings relating to the broader policy context. This includes company, government and non-government policies as well as the policy frameworks of community institutions such as native title representative bodies or land councils in Australia.

#### **6.3.1 Corporate policies can contribute to the promotion of gender equality in agreement processes**

Most companies have made commitments to gender equality via sustainable development and CSR policies. As members of industry organisations, the three case study companies were committed to the International Council on Mining and Metals’ (ICMM) Sustainable Development Principles and the MCA’s Enduring Value Framework, both of which have expressly recognised the corporate responsibility to ‘respect’ human rights. Human rights provides an important framework for ensuring that the rights of women and men are equally respected. Corporate policy commitments should be supported by a range of practical activities. Connecting policies and on-the-ground initiatives to ensure a practical impact remains a challenge.

#### **6.3.2 Government policies and regulatory frameworks also contribute to promoting agreement processes that support gender equality**

Government policies and regulatory frameworks contribute to the ‘enabling environment’ for advancing gender equality in agreement processes. The research findings suggest that government support or requirements for inclusive engagement influence a company’s consultation, participation and representation of women in agreement processes. In the practitioner perspectives study, interviewees suggested that government policies and regulatory frameworks related to mining that require open and participatory engagement processes enabled women’s involvement in agreements where otherwise they would have been excluded. They reinforced the point, however, that simply running a participatory process was not sufficient for ensuring that women participate, that their participation was equal or that women were to influence outcomes.

Where enabling policies and frameworks existed, practitioners said they were sometimes used as a lever to advocate internally for gender inclusion in negotiations with community representatives. Legal compliance was a key driver, along with the business case.

### **6.3.3 Commitments by community institutions to gender equality are influential**

Community institutions may also influence agreement processes by embedding gender into community visions, policies, constitutions and planning processes. One example from Canada is the Qikiqtani Inuit Association's initiative for promoting women's leadership and gender equality. Among other things, this involves employing a women and elders coordinator to advocate for these groups on a wide range of issues.<sup>38</sup>

The policies of community institutions have also been used to set standards for community consultation, including as part of agreement processes. For example, the Central Land Council (CLC) in Australia requires that women and men are informed and their rights and interests understood by holding both joint and separate meetings for women and men. The CLC also ensures that its staff members have a good understanding of gender issues and cultural constraints for women and men. The CLC employs both female and male staff and encourages formal and informal engagement techniques. Policies regarding engagement process and staffing can make a significant difference in advancing gender equality. The CLC also has policies for assessing whether the requirement of 'group consent' has been reached. This policy of validating consent is underpinned by a range of methods and protocols for consultation with women and men to ensure inclusion in decision-making.

### **6.3.4 Unfamiliarity with policies for and commitments to gender equality can hinder uptake of gender-sensitive practice by agreement parties**

Participants in this research project had mixed levels of awareness of how their respective institutional context and policy environment would support a gender perspective or ensure that equitable processes were applied in agreement processes. Practitioners involved in agreement processes need to be aware of the degree to which the full range of laws, customs, cultures, policies and commitments are supportive of gender equality or serve to undermine gender inclusion. As discussed in the PNG case study, the World Bank instigated a Women in Mining (WIM) initiative in partnership with the PNG Chamber of Mines and Petroleum which served to promote action on women's empowerment in mining communities.<sup>39</sup> There remains, however, a disconnect between national-level policy and local-level implementation which was a constraint to progress in gender equality in this case. Nonetheless, the initiative provides an example of how partnerships can work to raise the profile of gender and mining and provide an important platform for action. Other partnerships are also important for keeping gender on the agenda including the collaboration between the MCA and DFAT to commission this research.

## **6.4 Supporting sustainable development goals**

### **6.4.1 Alignment of agreements within broader development frameworks that support gender equality can have a flow-on effect to agreement processes**

Agreements with indigenous or land-connected peoples are increasingly aligned with poverty alleviation and community development goals. The case studies did highlight, however, that alignment with broader (e.g. national/regional) development plans could be strengthened. In this

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<sup>38</sup> Qikiqtani Inuit Association (QIA)

<sup>39</sup> Eftimie (2010, p. 6).

context, collaboration and partnerships will become more important to ensure that synergies and linkages are established. This will include collaboration with government agencies, international aid agencies and NGOs to ensure that mutually supportive strategies can be forged.

As the mining industry takes greater account of local-level development and continues to move beyond a land access and compensation focus in agreement processes, there also needs to be a corresponding shift in the approach to negotiation. Conventional approaches to negotiation can be adversarial and may limit the development of joint visions and co-responsibility for agreement implementation. As many research participants noted, a shift in orientation from adversarial to relationship-building approaches tended to improve the alignment of agreement content and process with community development objectives including gender equity and empowerment. In the context of short-term business pressures and the limits inherent in legal processes, strategic development goals cannot be overlooked.

Frameworks and methodologies from the development sector are increasingly recognised as relevant for understanding context and supporting mining and local-level development. There are opportunities for adaptation, extension and/or revision of gender-sensitive development methodologies within agreement processes. One such methodology is asset-based community development,<sup>40</sup> another is the sustainable livelihoods approach.<sup>41</sup> Frameworks and techniques routinely applied in the development sector that may be useful in mining agreement processes include techniques for:

- setting the agenda
- including diverse interests, including women and men
- identifying(material and non-material)
- supporting joint visioning processes, identifying common interests.

In the practitioner perspectives study, interviewees suggested, for example, that documenting women's cultural knowledge could be useful for the dual purposes of data gathering and positioning women as a group with distinct rights, interests and knowledge. Participatory methodologies used in the development sector would certainly help to facilitate women's legitimate input into agreement processes. Several interviewees noted that these types of 'lead in' processes that made women visible and built their capacity to contribute to discussions had helped to promote an inclusive process.

#### **6.4.2 Evidence of the link between gender equality and business goals needs to be strengthened**

Across the research projects, participants said they often had difficulty articulating a 'business case' for gender in community relations and development. They indicated that a business case for women's employment was relatively easier to convey because there were often clear benefits for the business (e.g. enlarging the labour pool in the context of skills shortages) that were supported by data.

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<sup>40</sup> Owen & Kemp (2012).

<sup>41</sup> Department for International Development (1999).



Although the importance of gender inclusion for poverty reduction is widely accepted by parts of the industry (e.g. through commitments to the Millennium Development Goals), practitioners find themselves having to argue for funding to support inclusive participation because the short-term benefit to the business is not always clear to decision-makers. Internal arguments that assisted practitioners to influence decision-makers to support gender-sensitive agreement practice included the potential for agreements to:

- enhance the effectiveness of community engagement which would help to minimise potential for conflict and interruptions to operations
- ensure more effective and efficient community development programs which would increase the impact of community investment
- increase the likelihood of achieving sustainable community benefits
- improve standards of living which would result in a larger local labour pool
- enhance the rigour of risk management processes which would increase stakeholder confidence
- enable access to capital through being able to demonstrate alignment with the UN Guiding Principles on business and human rights.<sup>42</sup>

The reliance on business case arguments to justify community development expenditure, especially at the operational level, needs careful consideration to ensure that long-term goals and human rights are not overlooked. While there may be instances where gender-based exclusion may pose an immediate risk to an operation, efforts to improve gender equality may be perceived to be a cost to the business in the short-term rather than a case for immediate action. It is important that practitioners build a clear case for action and that managers are aware of business responsibilities and opportunities with respect to gender equality. In most cases, presenting evidence to support the case for gender inclusion is the key to securing support. Sex-disaggregated monitoring and evaluation can assist in this regard, particularly if development outcomes are routinely monitored as a part of agreement processes.

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<sup>42</sup> Ruggie (2011).

## **7 Advancing change: Practical ‘next steps’ for integrating gender into agreements**

This report has canvassed a range of issues that influence gender in agreement processes and associated local-level development. Many of the challenges outlined in this research sit beyond the responsibility of the mining industry alone. A range of actors and institutions can contribute to ensuring gender inequalities are not maintained or exacerbated by company-community agreement processes in mining. While progress on gender equality can be slow and difficult, it is possible to identify a range of practical opportunities to harness the power of agreements for improved gender and development outcomes. Listed below is a series of practical actions that could enhance progress on gender equality.

There is no formula or standard set of recommendations that can be prescribed for organisations ready to commit to promoting gender equality. Different actors should take steps appropriate to their mandate, position and ability to influence. The change management process will vary according to context and local circumstances. In some contexts, change may be sporadic to start with and build momentum over time. Moving towards gender equality will require concerted focus on corporate change alongside development of an enabling environment such as improved regulatory frameworks that support gender equality in agreement processes. This series of next steps is not sequential but offers a range of possible actions in any given context.

## Undertake and utilise gender analysis

### Next steps for industry

Conduct a gender analysis and/or gender impact assessment of agreement processes prior to negotiations to enhance sensitivity to gender issues and opportunities for remedying gender biases. These studies should consider gender and its intersection with other factors in addition to how agreement processes impact and support women's practical and strategic interests. Any gender analysis should also ensure that the diversity of women's perspectives is reflected in the analysis.

If early analytical work was not completed, gender analysis can be useful at any stage of an agreement or mining project. Agreement negotiation is ongoing and needs to respond to change. Understanding change from a (intersectional) gender perspective at any point in an agreement process would improve the potential for positive outcomes.

Gender analysis should feed into design of agreement processes to facilitate inclusion. The appropriate allocation of time, resources, location of consultation, style of engagement and levels of support can significantly impact on women's and men's participation and influence.

Gender analysis should highlight opportunities for achieving gender equality at a strategic level such as in relation to land ownership and use, agreement regulation, and levels of political representation beyond agreements. Companies should engage with other actors to address strategic and systemic challenges.

Gender analysis will also help to determine whether 'special measures' such as quotas to ensure gender equality are appropriate. Companies should ensure that additional strategies for participation complement special measures rather than undermine progress toward gender equality.

Ensure that monitoring and evaluation captures gender-disaggregated data and tracks agreement outcomes and impacts that are relevant to both women and men's interests. This data will help practitioners to make a case for gender equality by linking agreement processes to mainstream business benefits.

### Next steps for other actors

Given the importance of gender analysis, other parties including government agencies, NGOs, foreign aid agencies, multi-lateral institutions and other civil society groups could consider collaborating with companies to undertake gender analysis.

If collaboration is not possible, other actors could be engaged as independent peer reviewers of company-led gender analysis.

Governments can proactively provide gender disaggregated data, where available, to companies for the purposes of encouraging and supporting gender analysis.

Government agencies, NGOs, foreign aid agencies, multi-lateral institutions and other civil society groups may be able to offer companies practical guidance in undertaking gender analysis and associated engagement methodologies, particularly if they have been working within that context for some time and have grounded knowledge of gender and other social processes.

## Improve operational-level competency in gender

### Next steps for industry

Companies can conduct gender training for community relations and development staff, senior decision-makers and other company personnel who engage externally.

Companies can hire community relations personnel on the basis of skills in gender and cross-cultural sensitivity rather than using generic competency criteria.

Ensure that knowledge about gender built through agreement processes informs core business activities such as employment, supply chain, land access and acquisition and project design. The agreement process and mainstream business must be mutually reinforcing.

Companies can support internal gender champion(s) to drive forward and embed consideration of gender to help support the necessary cultural shift that enhances operational practice. Note that both women and men can be champions for gender equality.

Organisations can improve their performance by building internal capacity, 'buying in' specialist advice or both. External specialists can provide valuable support to enable staff involved in agreement processes to improve their skills, capabilities and confidence to understand and respond to gender dynamics.

### Next steps for other actors

Other parties can consider offering gender awareness training for company personnel, particularly those people nominated as gender champions.

Other organisations might consider sharing selection criteria for positions requiring gender expertise.

## Build capacity for inclusive engagement in agreement processes

### Next steps for industry

Companies can reach out to government agencies and civil society groups to support programs for women's leadership.

Companies can also support education programs in mining communities particularly in relation to the rights of land-connected and indigenous peoples. These initiatives need to provide support for women and men of different social and economic status.

### Next steps for other actors

Civil society groups and government agencies can partner with companies on initiatives to build the capacity of men and women to participate equally in agreement processes. Ideally, this would occur in the early stages of mine development and throughout the agreement implementation process.

Civil society groups can help to ensure that attention is called to cases where gender has led to exclusion from engagement processes and support communities to raise the voices of the excluded in the public domain, without inciting violence.<sup>43</sup>

<sup>43</sup> An example of this type of work is the *Listening to the impacts of the PNG LNG Project* and other projects commissioned by Oxfam Australia. See Weilders (2011) and <http://resources.oxfam.org.au/?r=655>

## Strengthen coverage of gender policies and commitments

### Next steps for industry

Companies should consider making a clear policy commitment to gender equality and/or inclusion in community engagement and development practice, including agreement processes.

Any public position should be approached carefully to ensure that women do not suffer backlash at the local level. Companies should engage other parties (i.e. government, NGOs and civil society groups) and are encouraged to seek a broad range of views on the appropriateness of public statements.

In addition to a public position on gender equality, companies can review key policy arenas (e.g. social performance, human resources, health and safety, procurement etc.) for gender bias. By incorporating gender as an essential element in these policies, a broad commitment to gender inclusion can be fostered. An organisation-wide review of existing policies is a tangible way to start the process of integrating gender into sustainable development policy and practice.

Future revisions of industry-wide sustainable development principles, commitments and/or guidance can ensure that gender is profiled as an important issue.

### Next steps for other actors

Governments, international institutions, foreign aid agencies and NGOs can work together to ensure that aspirational national policies for social inclusion and gender equality are applied at the local level, particularly at the sub-national level.

Encourage companies to integrate gender into their policy frameworks, through a stand-alone policy or position statement, or a review of existing frameworks. Provide advice and feedback where possible.

## Enhance regulatory frameworks to support gender equality

### Next steps for industry

Companies can engage with governments about existing regulatory frameworks and indicate where greater clarity would support a more gender inclusive approach to local-level engagement and development processes, including for agreements.

### Next steps for other actors

Governments can ensure that equal rights for women and men are recognised and upheld in legislative or regulatory frameworks for mining development approval.

Governments may specify a requirement for consent processes that require consultation with women and men.

Governments can require that companies consider gender in foundation studies such as social baselines and social risk and impact assessments. They can also require that findings inform agreement practice.

Governments can review the degree of gender equality in a range of relevant areas including land titling and usage rights, compensation and social development contributions and make appropriate adjustments.

NGOs can advocate on behalf of communities where regulatory frameworks that support gender equality are not in place.

## Enhance knowledge exchange about gender inclusion

### Next steps for industry

As the industry makes progress on gender inclusion, organisations such as the MCA have an ongoing opportunity to commission additional studies that consider other challenges and innovations to help companies understand what gender inclusive practice looks like across a range of areas.

### Next steps for other actors

Multi-stakeholder dialogues and forums can provide opportunities for shared learning and should be supported. For example, the MCA's Gender, Mining and Communities Dialogue has been a productive forum for shared learning between researchers, government agencies, consultants, companies and civil society on the topic of gender and agreement processes.

There is an opportunity to extend knowledge exchange about gender and mining across other topics such as local-level conflict, resettlement, and processes of FPIC, for example.

## Link agreements to sustainable development goals

### Next steps for industry

Develop and implement a gender-inclusive, grass-roots engagement strategy that enables diverse groups to express their views about the impacts and potential benefits of mining in their area.

Companies can seek to align agreements with local, regional, national and global development goals and priorities (e.g. MDGs, UN Declaration on the Rights of Indigenous Peoples, IFC Environmental and Social Performance Standards, the World Bank Safeguard Policies). Better alignment can enhance the industry's contribution to sustainable development through the cumulative effect of having multiple agreements that are not only driven by local-level negotiations, but are also reflective of broader goals.

### Next steps for other actors

Ensure that industry actors are aware of broader development goals and priorities at the local, regional, national and global level to enhance opportunities for alignment.

Progress in mining, gender and agreement processes and their associated local-level development outcomes will be made when there is alignment across policy and practice. The target of gender equality will only be possible with concerted effort and commitment from all parties – companies, industry bodies, governments, international aid agencies and civil society. The mining industry has an opportunity to lead change towards this goal.

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## Appendix A: Opportunities for further research

Across the literature review, practitioner perspectives study and the three case studies, the research highlighted a number of areas for future research. Some of these opportunities related specifically to the topic at hand, whereas others were broader in scope. The top 10 opportunities for further research are outlined below:

### Agreement-specific research

- The research highlighted the need to develop a better understanding of gender provisions in existing agreements and associated legislation in a range of contexts and across a number of jurisdictions. This knowledge would have enabled, for example, the research team to compare and contrast the case studies along these lines. As it stands, there is no existing repository of knowledge relating to the content of agreements and the degree to which they contain provisions for gender.
- Across the three case studies, there was a need for clearer information on the distributive aspects of agreement benefits including in relation to other flows of income (e.g. compensation for land and other impacts, business opportunities, employment income and so forth). A study of this nature would assist in putting agreement benefits and their distribution into a broader context.
- As this research project progressed, it became clear that deeper and longer-term research is required to build a fuller understanding of the gender dimensions of mining and agreement processes. Sustained research in particular locations would provide additional insights, facilitate in-depth knowledge-building and provide greater clarity of the potential roles that different actors might play in specific contexts.

### Research focused on women's participation in agreement processes

- There is a need for research that establishes clearer links between women's participation in initiatives outside agreement processes as a pathway to participating in mining and agreement processes. In the PNG case study, for example, it was clear that the sub-national political processes offered potential for enabling women in representative roles. Follow-up research on processes that appeared to support women's participation would give companies, governments, NGOs and civil society groups a better sense of how to enable women's participation in agreements, including across generations.
- Women's leadership has contributed greatly to agreement design and implementation in many cases. Methods to support the development of female leaders, particularly those involving both men and women, could contribute understanding about empowerment processes as well as issues related to intergenerational change. Documenting examples of women's leadership would involve learning about women's negotiation and leadership strategies and highlighting women's roles in resource development.

## Research that more substantively engages men

- The current research was cognisant of gender dynamics but focused on women's experiences. There is an opportunity to broaden this to better account for men's experiences as well as women's. The Australian case study in particular was an important reminder that men can also be marginalised and under-represented in some contexts for a range of important reasons.

## Impact-related research

- Across all three case studies, it was clear that there were significant disconnects between (i) agreement processes and (ii) other foundational processes such as social baseline studies, social impact and risk assessments. While gender may have been included in these studies, findings and recommendations did not necessarily translate into agreement processes and vice versa. Research identifying where, and how, these process can better connect is important so that companies and governments can better define policies and procedures that support gender equality.

## Research about the gender dimensions of mining and development more broadly

- There is a need for research that focuses on gender dimensions of mining, and development outcomes more generally, over the life of the mine. Each of the three case studies highlighted a range of important considerations from in-migration and sexual health issues in the PNG case to poverty alleviation outcomes in the case of Lao PDR. Currently, there is little to draw from current literature, especially in terms of efforts aimed at having positive impacts on communities. This in turn highlights the importance of improving monitoring and evaluation efforts of agreement outcomes as well as development outcomes more broadly.
- There is a range of other topics that relate to gender and agreement processes that were not covered by the current research but which are directly related to it. For example, conflict, FPIC, grievance mechanisms, human rights, workforce participation, economic development, roles of national and sub-national governments and community health among others topics.
- The focus of this research was largely directed towards operational-level dynamics. A broader scope could explore a greater range of institutional, economic and cultural factors and explore their interaction with operational-level processes. This would further improve understanding of how agreements can best be designed and implemented to achieve long and short-term corporate and community development goals. A more expansive scope may also help to shed more light on the question of appropriate roles of corporate, community, government and non-government actors in the context of mining and development.

## Appendix B: Selected guidance materials

### *Why Gender Matters*

<http://www.csrn.uq.edu.au/publications/171-why-gender-matters>

In recent times Rio Tinto, and the broader resources sector, has recognised the critical role that gender plays in the social dynamics of local communities. This provides a framework for integrating gender into community relations and development work. The guide includes case studies from a number of Rio Tinto sites from across the globe and a background on existing knowledge about gender and mining.

### *Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment*

<http://resources.oxfam.org.au/?r=460>

This report informs mining company staff of the potential gender impacts of mining projects and introduces some tools and approaches that they can use to conduct a gender impact assessment of these projects. These tools should be of particular interest to community relations advisors as they are designed to help incorporate gender into community assessment and planning tools including social baselines studies, social impact assessments and risk analysis, community mapping exercises and monitoring and evaluation plans.

### *Good Practice Guide: Indigenous Peoples and Mining*

<http://www.csrn.uq.edu.au/publications/169-indigenous-peoples-and-mining>

This guide was developed by the ICMM to help its members and other mining companies navigate through the complexities associated with mining near indigenous communities. It highlights good practice principles, discusses the challenges in applying these principles at the operational level and provides real-world examples of how mining projects have addressed these challenges. It also explores the cost of getting it wrong.

### *IBA Community Toolkit*

<http://www.ibacommunitytoolkit.ca/index.html>

The IBA Community Toolkit is a free resource for First Nation, Inuit and Métis communities in Canada considering impact and benefit agreements such as those with mining companies. While the toolkit focuses on the mining industry, many of the issues and processes addressed in the toolkit are relevant to agreement-making in other industry sectors and contexts, including protected areas, oil and gas, hydro and forestry. The goal is to help communities, negotiators and consultants to achieve positive agreements for Aboriginal communities.

### *Why Human Rights Matter*

<http://www.csrn.uq.edu.au/publications/382-why-human-rights-matter>

This 'how to' publication, co-authored by Rio Tinto and a team from CSR, provides guidance on engaging inclusively, undertaking human rights due diligence and integrating human rights into CSP planning processes. The guide also provides insight into Rio Tinto's corporate human rights framework and how the business can continue to build enduring and positive relationships with communities. This guide also includes case studies, tools and checklists that elaborate on various aspects of business and human rights.

### *Community Engagement and Development*

<http://www.csrn.uq.edu.au/publications/173-community-engagement-and-development>

The Leading Practice Sustainable Development Program for the Mining Industry is an Australian Government initiative which has produced a series of internationally-recognised handbooks on various topics.