



Extractive industries training event  
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# Improving community-level outcomes of extractive industry projects

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# Outline of presentation

- Localising the transparency agenda
- Free, prior and informed consent: the implementation challenge
- Company-community grievance mechanisms: changing corporate culture of engagement
- Artisanal and small-scale mining

# Localising the transparency agenda

Four core themes from our recent research on EITI in the Caspian and sub-Saharan Africa:

- 1) **Political will** is important, yet institutional reform is not enough to ensure substantive impacts (reducing poverty or corruption)
- 2) **EITI outcomes and impacts** need to be assessed at multiple scales (especially at the local level)
- 3) **Sub-national implementation** is crucial for tangible societal change
- 4) **Linkages** with complementary initiatives (local/national/global) are needed for substantive change

# EITI in Nigeria

'We need to scratch  
people where they itch'  
(Ledum Mitee)

iiED

Dr Emma Wilson  
Energy Team  
Leader

- First African country to sign up to EITI (2003); impetus from Obasanjo and democratic transition
- NEITI's first report (2006) a benchmark of good reporting practice; NEITI Act (2007) was first EITI law
- Efforts to address discrepancies highlighted by reporting; NEITI and FOSTER have policy influence

## But:

- GDP/capita low (\$2,800) despite \$400 bln revenues since 70s; major malpractice highlighted by reporting
- 153<sup>rd</sup> out of 187 in the Human Development Index; 139<sup>th</sup> out of 176 in Corruption Perceptions Index
- In 2008, conflict in Niger Delta reduced oil production by 20%

## Localisation:

- Social media for getting message out (e.g. DfID #follow the data)
- Sub-national implementation in Bayelsa State (BEITI)



Photo: Brian Shaad

# Free, prior and informed consent: the implementation challenge

- **Background:** Indigenous peoples' right in international conventions (e.g. ILO 169), soft law (UNDRIP), national law (e.g. Philippines, Peru), IFC performance standards (2012)
- **Government vs company responsibility:**
  - Legal requirement for FPIC does not guarantee positive outcomes for communities; non-FPIC dialogue approaches can work well
  - Companies need to meet formal/legal obligations; understand risks of operating if governments have not met their own FPIC obligations
- **Consent** as a two-way negotiation where power relations are equalised in a structured, transparent and mutually agreed process
- **Challenges:** managing expectations; customary vs corporate decision-making; 'who' should grant consent and 'what' should it look like? who is indigenous? undermining state authority? the risk of a veto; the cost
- **More case study evidence needed:** efforts currently targeted here



# Company-community grievance mechanisms: changing corporate culture of engagement

- Grievance mechanism is part of a suite of tools used by companies to maintain the social licence to operate (maintain consent ...)
  - **Definition:** *A mechanism run by a company at the site or project level to address real or perceived grievances of local stakeholders*
- Influence of John Ruggie's work on business and human rights – the 'access to remedy' pillar
- *"A grievance mechanism is not just a mechanical process or a tool, but requires a change in corporate culture: a fundamental shift in how the company deals with conflict and stakeholder engagement"* (Vermijs 2013)
- **Goal of informed dialogue:** ... Who should take part? What should the information look like? Translation, accessibility, technical detail; do people understand the *process*? How much uncertainty? Cost-benefit analysis
- **More case study evidence needed ...**

# Case study 1: Ok Tedi gold and copper mine, Papua New Guinea

- Pax Populus, 2006 designed process to renegotiate compensation and benefits agreements in 152 communities
- Aim for mining company/government to seek informed consent to continue operations
- Mediation-based ‘informed consensus’ negotiation
- Main dialogue forum supported by regional and village dialogues (500 village meetings in 18 months)
- Multi-stakeholder group agreed process, including company management, landowners, government. NGOs represented ‘women and youth,’ and ‘the voice of the river’
- Agreement reached with a high level of consensus after 18 months; benefits of over USD 400 million in recognition of increased environmental impacts.



<http://insearchofsimplicitytoday.files.wordpress.com/2009/01/ok-tedi-it-once-was-a-mountain.jpg?w=510&h=416>

Sources: [www.paxpopulus.com/wanbelistap](http://www.paxpopulus.com/wanbelistap);  
[www.oktedi.com/community-and-environment/community/community-mine-continuation-agreements](http://www.oktedi.com/community-and-environment/community/community-mine-continuation-agreements)

# Case study 2: Sakhalin-2 oil/gas project and indigenous peoples, Russia

- Following ESHIA, indigenous groups protested with environmental concerns and demanded an anthropological expert review
- Sakhalin Energy (Shell) commissioned an independent review of its impact assessment
- The *Sakhalin Indigenous Minorities Development Plan* (SIMDP) was developed in a participatory manner, with indigenous representatives and company experts
- Company and community representatives agreed impact mitigation measures and benefit sharing arrangements; NGO observers
- A second five-year plan (Phase 2) was developed with full government participation and using an FPIC approach, i.e. the process was mutually agreed in advance and all participants agreed on the outcomes.



Source: Wilson, E., Blackmore, E. (eds) (2013) *Dispute or Dialogue: Community perspectives on company-led grievance mechanisms*. IIED  
<http://pubs.iiED.org/16529IIED.html>



# Case study 3: BP Azerbaijan's NGO pipeline monitoring programme



- BP collaborated with the Open Society Institute on an NGO Monitoring and Audit Programme during construction of the Baku-Tbilisi-Ceyhan (BTC) pipeline.
- Building capacity of local NGOs to review the environmental and social impacts of the pipeline, including environment, cultural heritage, human rights and local procurement.
- Programme promoted informed dialogue between the developers and civil society. NGOs had direct access to company experts to resolve issues that they had identified.
- Initiative served as a *de facto* grievance mechanism during its implementation.

Source: IPIECA (2006) 'Building NGO capacity for pipeline monitoring and audit in Azerbaijan', in IPIECA (2006) *Partnerships in the oil and gas industry*, IPIECA, UK. pp.34-35  
<http://www.ipieca.org/publication/partnerships-oil-and-gas-industry>

# What can donors do?

- Support capacity building (e.g. local transparency initiatives; government training in good governance; etc.)
- Support policy reform (e.g. relating to EITI, FPIC) and debate on policy reform
- Support research and lesson sharing (e.g. case studies of FPIC implementation, effective grievance mechanisms, localised transparency initiatives)
- Support development of good practice guidelines (or – more important – implementation!); analysis of relative government/company responsibilities
- Support neutral forum for government/company sharing of lessons and discussions of relative roles/responsibilities

# References

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IPIECA (2006) 'Building NGO capacity for pipeline monitoring and audit in Azerbaijan', in IPIECA (2006) *Partnerships in the oil and gas industry*, IPIECA, UK. pp.34-35  
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Lehr, A.K., Smith, G.A. (2010) *Implementing a Corporate Free, Prior, and Informed Consent Policy: Benefits and challenges*. Foley Hoag LLP <http://www.foleyhoag.com/publications/ebooks-and-white-papers/2010/may/implementing-a-corporate-free-prior-and-informed-consent-policy>

O'Sullivan, D., 2013. *What's the Point of Transparency?* Open Society, London.  
<http://www.publishwhatyoupay.org/resources/whats-point-transparency>

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Websites:

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[www.oktedi.com/community-and-environment/community/community-mine-continuation-agreements](http://www.oktedi.com/community-and-environment/community/community-mine-continuation-agreements)

UN Guiding Principles on Business and Human Rights (2011) <http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework/GuidingPrinciples>

IFC performance standards (2012) [www.ifc.org/performancestandards](http://www.ifc.org/performancestandards)

# Artisanal and Small-Scale Mining

- What, where, why?
- Positives & negatives
- Donor, government and industry historic approaches & current priorities
- Lessons learned
- Resources



# What is ASM?

Large-scale mining is done by machinery



ASM is done by people





# What is ASM?

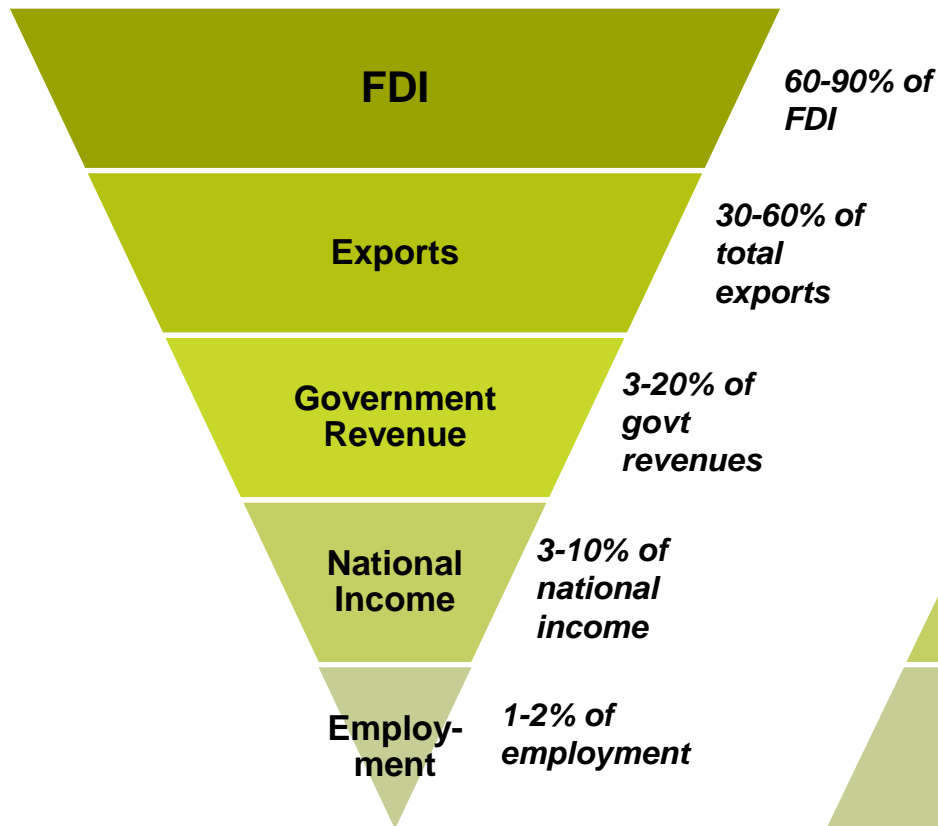
Large-scale mining is done by machinery

ASM is done by people (with some machines in small-scale)



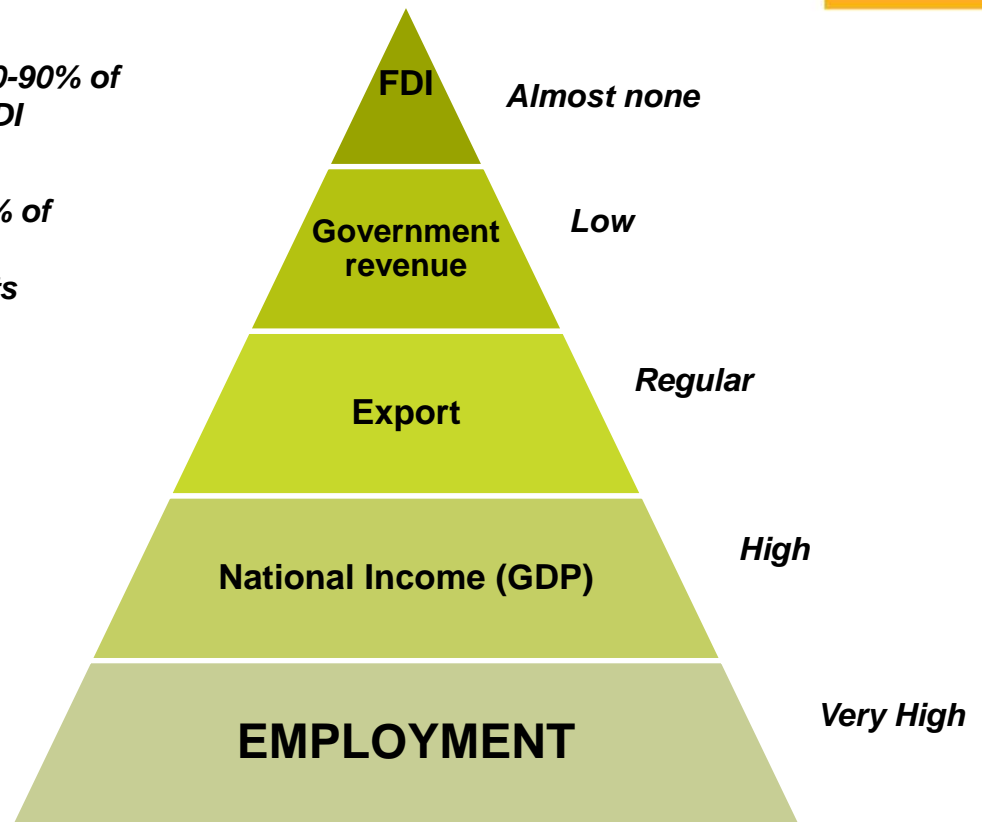
# LSM & ASM macro-economic benefits in developing countries

## Large-scale mining



Source: ICMM

## Artisanal & Small Scale Mining

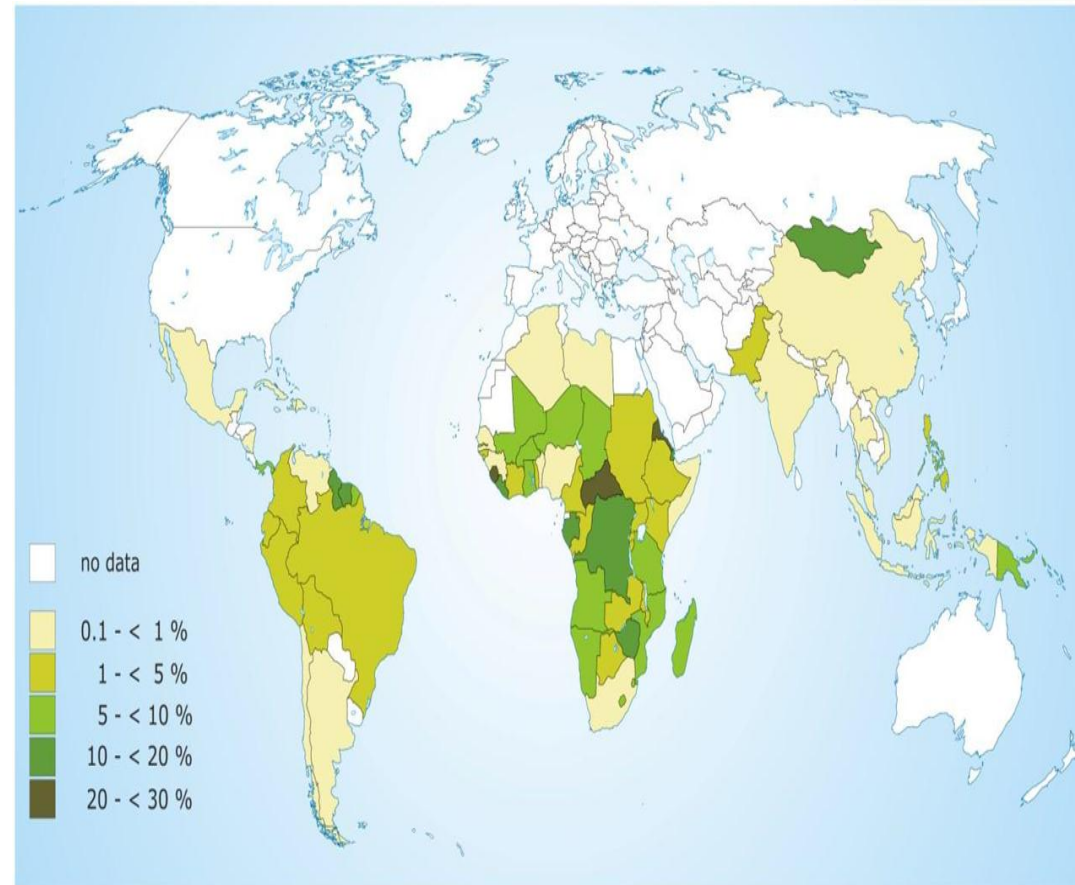


Source: Felix Hruschka

# Where are artisanal miners? How many?

- 20-30 million across 70 countries
- Low price bulk minerals (coal, sand, limestone), high price bulk (tin, coltan), high unit value (gold, gemstones)
- > 15 million extracting gold (10% of gold production, 90% of gold employment)
- Growing ASM population e.g. **in Ghana**, from 200,000 in late '90s → 1 million in 2013; **in Mongolia**, zero in early '90s → 100,000 in 2003

## Share of population dependent on ASM



Source: World Bank/CASM 2009



# Who are artisanal miners?

- Rural poor/farmers (men, women and children)
- Not just diggers → labourers, mine owners, title owners, equipment owners, service providers, traders, community
- Greater income-earning opportunities than alternatives

ASM Type	Description	Income Factor
<b>Permanent</b>	Year-round mining, generally higher income than alternative occupations locally	<b>1.5 - 5</b>
<b>Seasonal</b>	Opportunity for additional income during idle periods. Similar or slightly higher income than alternatives. Savings can be used for other businesses. Often lifelong	<b>0.8-1.5</b>
<b>Shock-push</b>	People pushed into ASM by shock or poverty. Lower income than previous occupation, but best available buffer. May be trapped in low-revenue earning cycle	<b>0.5-0.9</b>
<b>Rush-pull</b>	Significantly higher income than other opportunities. Also high risk of debt bondage	<b>0.5-2.0</b>

# The positives & opportunities

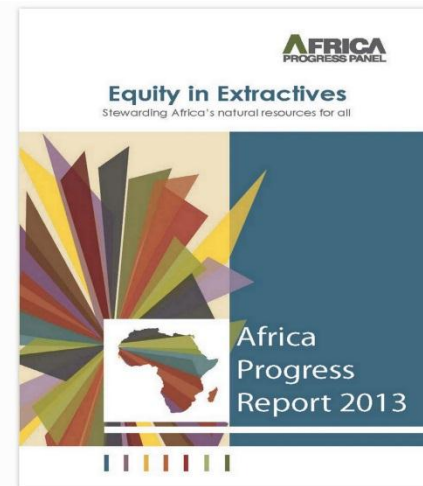
- Jobs, income generation, labour market buffer
- Regional economic development (investment, cash circulation, demand for products & services)
- Reduces rural exodus, rural-urban migration
- Scope to explore smaller deposits or abandoned tailings, good, low-cost prospectors - 'barefoot geologists'
- *Potential* contribution to tax & government revenues

# The risks and challenges

- Environmental damage - soil, water, ecosystems
- Dangerous working conditions - sickness, accidents, mercury poisoning
- Child labour, gender inequality
- Poor living conditions, HIV/AIDS
- Lawlessness, corruption, smuggling
- Conflict: funding armed groups and/or social conflicts with local communities, governing bodies, LSM
- “Lost” tax generation
- Marginalisation, exploitation of the most vulnerable
- Barriers to finance, technology & markets for small producers/artisanal miners

# Changing approaches to ASM

- 70s & 80s** – Governments ignoring issues, or eradicate ASM to attract FDI
- Donor focus on technology, environment, credit
- LSM-ASM confrontation
- 90s & 00s** – Government formalization efforts
- Donor integrated approach, CASM
- LSM support alternative livelihoods
- Now** – Governments back sustainable development approach (AU, IGF)
- International focus on Mercury, Conflict & Certification
- Some LSM partnering ASM locally



# Lessons learned (1)

- **Lots of practitioner knowledge** about what's needed, various new global/regional initiatives focused on market governance (e.g. DDI, ARM, OECD, AU )
- But still too many pilots or small projects without impact **at scale and need** more focus on **policy implementation**
- Addressing the government **implementation gap** requires e.g.:
  - Higher profile for **ASM**
  - Clear **political vision, sustained commitment** and **mainstreaming**
  - **Pro-livelihoods, integrated and sustainable development approach** (e.g. child labour & education)
  - Filling big **resource gaps** (national, local, environment, health, water, mining etc)
  - Supporting **miners' empowerment & capacity** to engage policy-makers through development of representative, ASM organisations

## Lessons learned (2)

- **More reliable data is prerequisite** - who is mining, where, production levels, incomes – to raise visibility, design responses and strengthen citizen-state accountability for policy commitments
- **Formalisation and legalisation** at the core of everything (e.g. legal framework with clear tenure and property rights, mining zones)
- Must get the **incentives right for miners** (e.g. cost effective, efficient technology, simple formalisation procedures)
- More money on the “fluffy stuff” – **talking, training, and knowledge dissemination** is a vital route to scale (cf IIED Knowledge programme)
- Need **more engagement of large-scale private sector** (finance, technology, capacity building, conflict resolution)
- And more focus on **locally-traded, low value & bulk minerals**

# Resources, organisations and videos

## Policy tools and guides (examples):

- Overview & key approaches: “Artisanal and Small-Scale Mining”, MMSD <http://pubs.iied.org/G00905.html>
- LSM & ASM: “Working Together”, World Bank [http://commdev.org/files/2018\\_file\\_Working\\_Together\\_FINAL\\_PILOT\\_VERSION.pdf](http://commdev.org/files/2018_file_Working_Together_FINAL_PILOT_VERSION.pdf)
- Due diligence / conflict free supply chains: OECD due diligence <http://www.oecd.org/fr/daf/inv/mne/mining.htm>;
- Policy frameworks: Africa Mining Vision: <http://www.africaminingvision.org/index.htm> and IGF framework <http://www.globaldialogue.info/>
- General listings on ASM articles: EI Source book (search “ASM”): <http://www.eisourcebook.org/search.php?mainsearch=something&action=search&search=1&query=Artisanal+and+small-scale+mining&searchbtn=Search>
- IIED publications on ASM: Role of Knowledge Networks in ASM (<http://pubs.iied.org/16532IIED.html>); ASM certification schemes – learnings from agriculture <http://pubs.iied.org/16545IIED.html?b=d>;
- Felix Hrushka presentation (can be found on a google search): “*Artisanal and Small-Scale Gold Mining: Challenges and potential for development: 20 years of SDC involvement*”

## Organisations (e.g.):

- Artisanal Gold Council; Alliance for Responsible Mining; Diamond Development Initiatives; Pact; Global Mercury Partnership (UNEP); OECD ‘ASM hub’ (runs webinars); WWF, NBK/University of British Columbia etc

## Multi-media:

- GOXI blog <http://goxi.org/>
- ITSCI on supply chain traceability in DRC <http://vimeo.com/44474404>
- BBC on mercury in Indonesia (20-22 Sept) <http://www.bbc.co.uk/news/magazine-24127661>) and Blacksmith Institute/Mercury in Indonesia: <http://www.youtube.com/watch?v=Flbhaw5PQg&feature=relmfu>
- Guardian on Ghana gold mining / chinese miners <http://www.youtube.com/watch?v=ohrrE1rjzLo>

Thank you for your attention

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