

EXECUTIVE SUMMARY

On May 21-22, 2018, thirty leaders from extractive sector companies and civil society organizations met at RESOLVE's office in Washington, D.C. for the fifth meeting of the Free, Prior, and Informed Consent (FPIC) Solutions Dialogue ("the Dialogue"). Participants:

- explored five real-time case studies from across the globe: Sakhalin Energy's operations on Sakhalin Island in Russia; Newmont Mining's Tanami operation in the Northern Territory of Australia; MMG's Century and Dugald River mines in the Queensland Territory of Australia; and Tullow Oil's Turkana County operations in the South Lokichar Basin of Kenya.
- engaged in deep-dive discussions on the processes, conditions, and content of company-community agreements that lead to positive outcomes for communities, as well as considerations for supporting gender equity in FPIC processes and implementation.
- heard an overview of IFC's Performance Standard 7 on Indigenous Peoples, including how its requirement for FPIC is triggered and assessed.
- explored the FPIC policy landscape, particularly the implications and opportunities created by the growth in demand for minerals required for the global energy transition.

Discussions and presentations highlighted a number of trends and insights for those seeking to implement FPIC processes around the globe.

Growing demand for renewable energies and enhanced battery capacity is driving new demands for the minerals essential to these technologies, much of which exists in high conservation areas or on lands inhabited by indigenous peoples. Yet community engagement and FPIC policies among the likely producing countries and companies are inconsistent and often altogether missing. **Pre-competitive and international coordination between governments, communities, companies and civil society will be essential to ensuring that a global energy transition upholds human rights and conservation priorities.** In carefully selected cases, the Dialogue may be able to play a role in initiating these discussions, sharing experiences in other regions, connecting communities with potential capacity and knowledge resources, and highlighting the policy alignment gaps and opportunities.

The threshold for corporate social responsibility has shifted. Doing no harm is no longer sufficient; companies must seek to do good. Companies can and frequently do make significant contributions in the communities where they work – restoring cultural heritage where it has been decimated and bolstering community-led environmental, social, and economic development.

At the same time, companies and civil society must remember that **doing good in some areas does not negate the possibility of doing harm in others**; a thorough understanding of a community's culture, traditions, and its inter-community dynamics is essential. The Dialogue remains interested in exploring how organizations and individuals can approach issues of gender, youth, and balance in a way that is culturally appropriate and respectful of traditional community decision-making, protocols, and structures without preserving or promoting potential inequities?

Gender equity can positively impact all elements of an extractive project – reinforcing a respectful and equitable work environment, supporting the ability of all community members to communicate their concerns and interests, and promoting a respectful relationship between company employees (or contractors) and the community. A failure to consider and mainstream gender considerations can undermine these features and create an inverse effect.

The process of negotiating and reaching good, robust agreements is an opportunity to establish the mutual trust and respect that can underpin a positive longer-term relationship, and several key principles emerged throughout the meeting:

- Capacity of all parties – companies, communities, civil society, and government – is essential for reaching and implementing robust agreements. But **the frequent resource inequality between companies and communities can make it important for communities to access the information, expertise, and resources needed for informed negotiations**. Where this capacity is lacking by communities or their networks, companies can help fund and ensure community access to independent expert support (e.g. legal, anthropological, negotiations).
- **Decisions that are forced** (whether by lack of a veto and/or time constraints, including those imposed by governments) **will ultimately damage the relationship**.
- **Effective community organization, caucusing, and negotiations take time** – often more than planned for by project proponents. However, a deliberative agreement can establish the trust and representative processes that are needed for decision-making at later stages.
- **Community-led or co-led impact assessments can be an effective tool** for: 1) identifying all rights-holders; 2) identifying impacts that may not be obvious to companies and external experts but which are of critical concern to communities (e.g., impacts to tradition or cultural heritage); and 3) enabling communities to examine and resolve their own internal and inter-tribal disputes in order to develop a common negotiating position.
- **A commitment to transparency** – of agreements and around community engagement in decision-making processes – can improve quality and consistency of information dissemination throughout communities and can avoid issues of elite capture.
- **Meeting expectations through good processes** and honoring all commitments (as simple as committing to share additional information at a particular interval) sets a standard and foundation for long-term trust and resilient relationships.
- **Independent monitoring that is seen as legitimate** by community and company is an invaluable tool for ground-truthing perceptions, airing and resolving concerns and grievances, and reaffirming commitments and trust.

Although developing good agreements from the outset is strongly preferred, all is not lost in cases where failing agreements have been inherited, or where the company-community relationship has stagnated. **An honest and open assessment of the status quo can be an essential first step in re-setting the tone of a relationship**, and can create an opportunity to establish new common goals and monitoring mechanisms. **Independent and community-approved facilitation** can allow both parties to raise concerns without fear of reprisals, and can help parties identify common ground.

ABOUT THE DIALOGUE

The Free, Prior, and Informed Consent (FPIC) Dialogue launched in 2012 amid the emergence of policies or guidance from the International Finance Corporation (IFC), the International Council on Mining and Metals (ICMM), the Equator Banks, and other institutions requiring companies to secure Free, Prior, and Informed Consent (FPIC) from Indigenous communities on or near prospective concessions. The Dialogue focuses on real-world examples to examine challenges, exchange ideas, and distill good practices and guidance to support the implementation of FPIC.

Members include Centre for Social Responsibility in Mining, Conservation International, Earthworks, Human Rights Watch, International Boreal Conservation Campaign, Landesa, MMG, New Gold, Newmont, Oxfam, Rio Tinto, Shell, and Tullow.

With questions or to request additional information about this meeting or the FPIC Solutions Dialogue, please visit fpicdialogue.org or contact Taylor Kennedy at RESOLVE (tkennedy@resolv.org).