COMMUNITY ENGAGEMENT TOOLKIT

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Community Engagement at Extractives

HRRAC

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CONTENTS

ACKNOWLEDGMENT

Many parts of this guide might not be supported legally by Mining Policies, this tool is useful for communities to engage themselves with companies and for government to hold companies accountable to the communities' development agreements between companies and communities. Great effort has been made to collect information useful for communities and companies to join hands, wok together and resolve contentious and conflicting issues mutually and peacefully. HRRAC has used its field data, available reports, work of TIMU and Oxfam for FPIC (which is not recognized yet here in Afghanistan) and other e-based sources.

DISCLAIMER

The authors' views expressed in this report do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

CHAPTER 01: INTRODUCTION

About The Guideline:

Extracting companies typically work in locations where they are taking over or operating near land and property belonging to communities, thus affecting water usage in the area and other environmental resources, relocating families, affecting artisanal miners, and generate revenues. There are positive and negative impacts related to it but in no case, extraction process is neutral. This guide focuses mainly on the social aspects of industrial mining, which is generally more organized and, depending on context and type of company involved, provides communities with greater possibilities to keep the industry transparent and accountable to national laws and international standards. The Afghan Mineral law provides licenses under the small-scale mining and in chapter 10 under the artisanal mining licenses. These actions of large companies create tensions, grievances, and disputes. There are specific conditions under which the licenses are being awarded for 5 years' period. HRRAC narrates the story to improve the contribution to communities economic, social and environmental performance. The Afghanistan extractive industry contribution to local communities and nation building is minimal and unsustainable. This can be because the industry is not yet explored, contracted or exploited. However, it is clear that there is no guideline for supporting communities' economic, social and environmental indicator in the already operating mining sites. There is a need for devising a clear plan under which the industry and community bind forces. This can only be possible if the community development agreement is elaborated and enforced. Communities are unaware about the mining cycle, which is important for economic growth, training, capacity and community development. If communities are not given their share through economic development and environmental protection, the mining role as the foundation of Afghan economy will not be realized. There are communities, where mining operations are active, without school (s), and healthcare, leaving aside financial systems and locally active markets. There are weak regulatory requirements regarding the use of water and land by mining industry in Afghanistan. There are no internal mechanisms within companies to identify decision pathways for handling grievances and disputes. There is a need for government and private sector companies to contribute to the social, economic and institutional development of communities in which they operate.

Corruption, bad management and weak governance can destroy the potential of revenues from oil, gas and mining to drive equitable development. To prevent this, Afghanistan needs strong oversight by civil society, affected communities, the media and academia, so people can demand accountability from governments and companies over extractives revenue and expenditure. Effective oversight requires skills and resources which these groups often lack – but with the right support, people can take action to see what is going on, reduce corruption and ultimately ensure that natural resource extraction brings positive outcomes for everyone.

If elites, or powerful state or local leaders, exploit the existing legal and social order for their own benefits, corruption becomes one of the main threats to the rule of law. The expectations of communities regarding the benefits of anti-corruption policies decline if those who commit corrupt acts are not held accountable. Being inclusive and integrating marginalized groups into anti-corruption projects is a successful way to

prevent elite capture and establish balanced power relations. Organizing strong, coherent, and supportive local power networks out of those who otherwise would have been barred from decision-making can concentrate capacities and influence.

In each community there are victims and beneficiaries of corruption, and these roles may shift depending on the circumstances. To break this vicious circle, democratization programmes have increased their support for decentralization and local initiatives. International bodies and governments have aimed at prioritizing the inherent democratic values of community, such as belonging and participation, as drivers of their projects.

If the views or perspectives of a community on corruption are disregarded, the success of initiatives to prevent it is impacted. Without focusing on how problems related to corruption affect people's everyday lives, projects might be easily hindered

This toolkit provides guidance to communities to effectively and sustainably engage with companies to achieve desirable outcomes. This toolkit is a resource for communities, CBOs and CSOs, government officials and companies, training providers to facilitate community development and mitigate the risks and vulnerabilities to corruption.

The overall objective of this toolkit is to raise the awareness of local communities living around mines, for constructive, peaceful engagement with national and sub-national governments, private sector companies, and build its capacity to hold companies accountable.

This guide helps local communities and civil society organizations to better understand how to organize themselves and represent their views, oversight extraction processes and secure community's interests effectively within a constructive dialogue and negotiation process with government and companies;

Some of the important terms that community members and individuals must know are defined here. These key terms will help community members in understanding the toolkit frequently.

What is Community: A group of people who live in the same area (such as a city, town, or neighborhood) or a group of people who have the same needs, interests, culture, religion, etc. living together in a certain location, affecting the identity of the participants and their degree of cohesiveness. In Afghanistan, communities are rarely homogenous or unified but share the same language, norms and values in broader terms which resulted in peaceful coexistence. Mostly communities consist of various subgroups and individuals with diverse interests and characteristics.

Community Empowerment: Empowerment means taking control over their lives: setting their own agendas, gaining skills, increasing self-confidence, solving problems, and developing self-reliance. It implies to both women and men. It is both a process and an outcome. Community empowerment is the process of involving people, citizens, service users, residents, and the public— in the services of communities, decisions, and choices that affect their livings.

Community Based Monitoring:

Community-based monitoring (CBM) is a form of public oversight, ideally driven by local information needs and community values, to increase the accountability and quality of social services, or to contribute to the management of natural resources. Within the CBM framework, members of a community affected by a social program or environmental change track this change and its local impacts, and generate demands, suggestions, critiques and data that they then act on, including by feeding back to the organization implementing the program or managing the environmental change.

CBM aims not only to generate the appropriate information for high quality service delivery but also seeks to strengthen local decision-making, public education, community capacity and effective public participation in local government. CBM is a tool to facilitate more inclusive decision-making on issues that are important to members of a community, including increasingly complex aspects of social, economic and environmental factors. CBM has primarily been used in the disciplines of health and natural resource management.

CBM of natural resources is a mechanism to engage communities in natural resource management in ways that contribute to local sustainability. CBM of natural resources enables community members affected by a particular environmental condition or resource depletion to collect data on changes in natural resources, and on the socio-economic conditions of communities' dependent on these resources. CBM enables concerned citizens, government agencies, industry, academia, community groups and local institutions to collaborate to monitor, track, and respond to environmental issues of common community concern.

Community Mobilization: It is the process of building community capacity to identify their own priorities, resources, needs, and solutions in such a way as to promote representative participation, good governance, accountability, and peaceful change.

Community Engagement:

in its simplest terms community engagement seeks to better engage the community to achieve long-term and sustainable outcomes, processes, relationships, discourse, decision-making, or implementation. Community Engagement is the process of working collaboratively with and through groups of people affiliated by geographic proximity, special interest, or similar situations to address issues affecting the well-being of those people. It is a powerful vehicle for bringing about environmental and behavioral changes that will improve the health of the community and its members It often involves partnerships and coalitions that help mobilize resources and influence systems, change relationships among partners, and serve as catalysts for changing policies, programs, and practices.

Community engagement often overlaps with other democratic concepts, such as public participation or civic engagement, and covers a broad range of activities. Community engagement aims to override not only corrupt personal interests, but also the general social resignation, apathy, and acceptance that surround corruption.

Community engagement initiatives create a solid social basis for anti-corruption work. No project is sustainable without reaching the constituency. Increasing the constituency also means taking the time to involve people and educate them so they can act later on as an agent of change in their own communities. Community engagement focuses on teaching locals how to use the tools and knowledge that are already at their disposal against corruption and bad governance. However, training needed to be redesigned when basic capacities, such as computer literacy, were missing.

Corruption: Corruption is part of an informal structure, with its own system of accountability. Corruption can become part of the project culture because of, among others, lack of information, poor training about the rights of participants, and weak ability to choose tasks and leaders, or monitor staff and those in charge and to blow the whistle about irregularities. Programs become particularly prone to corruption if the project implementers who utilize them for their private interest coerce them.

Diversity: Diversity as a commitment to recognizing and appreciating the variety of characteristics that make individuals unique in an atmosphere that promotes and celebrates individual and collective achievement. Examples of these characteristics are: age; cognitive style; culture; disability; economic background; education; ethnicity; gender identity; geographic background; language spoken; marital status; physical appearance; political affiliation; race; religious beliefs; etc.

Social Exclusion: Refers to processes in which individuals and entire communities of people are systematically blocked from rights, opportunities and resources (e.g. housing, employment, healthcare, civic engagement, democratic participation and due process) that are normally available to other members of society and which are key to social integration.

Participation: With community mobilization, participation is about meeting the interests of the whole community. When every member of a community has the chance, directly or through representation, to participate in the design, implementation and monitoring of community-level initiatives, there is a higher likelihood that the program accurately reflects their real needs and interests. The approach takes into consideration the different experiences, needs and capabilities of various groups in a community – women and men, youth and the elderly, persons with disabilities and the able-bodied, ethnic/religious/language minorities and majorities.

Participation can take many forms. At one end of the spectrum is "passive participation" in which community members participate by being informed about something that will happen or has already happened. At the other end of the spectrum is "self-mobilization", when communities organize and take initiative independent of any external actors.

Transparency: It is implemented by a set of policies, practices and procedures that allow citizens to have accessibility, usability, awareness, understandability, and auditability of information and process held by centers of authority. Afghan government has passed a law of access to information.

Vulnerability: A person with vulnerability is a person highly susceptible to a specific hazard such as violence, especially gender-based violence (including sexual violence), illness, immobility, poverty, lack of shelter. Different categories of people such as women, men, single heads of households, children, youth, the elderly, people living with disabilities, and people experiencing traumatic or post-traumatic shock,

encounter different hazards and to different extents – they experience conflict differently and they have different needs.

Community Development Councils: CDCs are registered entities of the government of Afghanistan established by the Ministry of Rural Rehabilitation and Development National Solidarity Program (NSP) in rural Afghanistan. Each CDC has a head, a deputy and a finance. Their role is to prioritize and propose projects to facilitative partners and subsequently to the government.

Youth Groups: Youth groups are kind of informal associations of youth between age 18 – 25 with the aim to volunteer themselves at times of emergencies.

Shura: A s*hura* is an informal traditional set of village elders in Afghanistan. Their main role was to resolve conflicts and disputes peacefully. Recently, various sects of society including *Ulemas*, use the term.

User Groups - These are groups established as a mechanism by which the wider community such as a village, or group of farmers, can self-manage infrastructure serving the community. The groups are usually legally registered and operate under specific operational guidelines, with a clear, simple mandate.

Building Networks & Alliances

There are a number of means by which community groups can extend and strengthen their relationships with other stakeholders, and build-up alliances with other 'like-minded' groups. Three examples of tools are listed below.

- **Exchange Visits** - The capacity of communities to determine their own social and economic development is highly dependent on the communities' opportunities to dialogue both with the local administration and with other communities. Such exchanges should be structured to maximize learning and reflection, thus, at the end of the exchanges the participants need to be facilitated in a workshop to identify and document what they have learnt, what they can apply in their own communities, what constraints have been overcome, what ideas for resource mobilization etc.
- **Community Champions -** One of the most effective ways of building confidence with community members is by showing them examples of successful projects in other communities. Thus, the Program partners need to establish a database of 'Community Champions' - Initiative Group leaders or members who are strong communicators and can be taken to visit other communities to demonstrate the realities of the mobilization process. Including as many women as possible and individuals who have had no previous leadership position would strengthen such 'champions'.
- **Community Conferences –** Community conferences is a kind of large meetings in which projects are handed over to beneficiaries. This is a forum in which members of CDCs or *Shuras* discuss the strengths and weaknesses of community development plans.

Affected Communities: those persons who are impacted, or reasonably expected to impact by minerals activities.

Rehabilitation and Reclamation:

Resettlement: if the resettlement is a necessary action of last resort, the holder shall, in consultation with the affected communities prepare a resettlement plan for affected communities, and provide enough finances to accomplish the resettlement process and the compensation of displaced people.

Extraction:
The extractive industry refers to any processes that involve the extraction of raw materials from the earth to be used by consumers. Any materials mentioned in the Afghanistan's Mineral Law can be extracted and processed within a life cycle of minerals consist of different phases – licensing, exploration, development of rigs, production, and most important is the closing of project and restoring the environment.

Impact: impact can be both positive or negative. An initiative, a project or program being implemented in a community must have positive impacts by improving their lives through social, construction or mining extraction projects. At the same these projects might have negative impacts on the environment or social and cultural life of a community. There is are specific measures to mitigate or adopt to the negative impacts of projects.

EIA/SIA: EIA stands for Environmental Impact Assessment and SIA for Social Impact Assessment. Before to implement a project, a consultant or adviser or community, or government assess the social and environmental assessments in order to devise proper mitigating and compensatory measures to respect the sustainability process of an initiative.

Community Development Agreement: It's a mutually agreed document between a community and a contractor to develop community and compensate it accordingly in case of relocations. The Mineral Law of Afghanistan endorses the process of CDA but lacks detailed policy to enforce it.

FPIC: free, prior and informed consent is an act under which communities are informed to issue or not a license to proceed. In Afghanistan, FPIC is not practiced and communities are not empowered to that extend to judge independently and provide license to proceed to companies.

Natural Resource Management:

Soil, water and vegetation are three basic natural resources. The survival of mankind, and all other living things depends upon these three and nature has provided them as assets to human beings. In a wider view, land, water, biodiversity and genetic resources, biomass resources, forests, livestock, fisheries, wild flora and fauna are considered as natural resources.
Natural Resources Management (NRM) refers to the sustainable utilization of major natural resources, such as land, water, air, minerals, forests, fisheries, and wild flora and fauna. Together, these resources provide the ecosystem services that support human life.

Non-governmental organizations (NGOs):
organizations with mandate to act non-politically and non-for profit with poor and marginalized communities. NGOs can help communities in awareness raising, EIA/SIA assessments, and impact studies and in contacting and identifying right stakeholders.

CHAPTER 02: COMMUNITIES PREPARATION

Communities have their own traditional decision-making processes. Most of the time government and companies bypass the communities and jump to decision enforcement from above. Communities traditional decision-making processes should be respected by other stakeholders, and where needed be strengthened. HRRAC has consultant several reports including the one developed by Oxfam on FPIC[i]. The section below summarizes this material into six steps and provides additional ideas on how communities can structure and represent themselves as well as how to monitor project impacts themselves and reach an agreement.

Step 1: Collect Information About the Contractor

Communities must need to know who is developing the project that may affect your community. In Afghanistan they may include donors, private companies, governmental entrepreneurs etc. if there is any difficulty in finding information about the project, community members can ask the assistance of NGOs, media or any other international organizations. If there is any trusted and pious parliament member of your community in parliament, he/she can help in finding relevant information.

- Who is developing the project? Who are their partners? Who is funding the project?
- What is the history and record of the project partners?
- What is the project? What will it do?
- How big is the planned project? When will it be built? How long will it operate?
- What land and communities will be affected? What will be the process for assessing environmental, social and human rights impacts?
- What will be built for the project? Such as roads, worker camp facilities, pipelines?
- What benefits will there be for local communities, and how sustainable are these?
- What support is the government providing for the project?
- What is the governments' regulation and required consultation for the process?
- How is the company planning to consult with the community?

Step 2: Request Information from the Contractor

Ones you got to know the contract, you can ask them for detailed information to know that how the project can impact your community. At this stage you can ask for social and environmental impact assessments in your own languages. This will help all community members to understand the clear picture of impacts on your community. Community members must know the geographic scope of the project to understand and feel impacts on affected communities. Please make sure that if your community is not affected by the project, the company owners may not consult you further.

At this stage, community must know possible following impacts on their environment & social life:
- What land will be affected?
- Are there any maps showing affected lands?

- Will any effects on land and other resources be permanent?
- Will the contractor conduct human rights, environmental, gender and social impact assessments?
- What are the potential risks of the project (for example pollution or entry into a sacred area)?
- Are there any independent reports detailing these risks and are they available for the community?
- What benefits will there be for local communities and the benefits be permanent or temporary?
- What will the company contribute to the community (for example schools, roads, hospitals and other social development programs?)
- Will the project contribute to securing community land holdings?
- If the company/government take away our land will we be compensated including by offering new land?

Step 3: Discuss the Project Within Your Community

Once you are in contact with the project developers (company or government), you should begin to discuss the project in detail within your community. The whole community should be well informed about the proposed project. Tools such as maps, brochures, posters and videos can be used to inform all community members. This will help ensure everybody understands the potential benefits and impacts the project may have. Your community should decide what is important. Then your community representatives can negotiate with the project developers if that is what the community decides should be the next step.

When discussing what you want, use practices acceptable to your community to reach an agreement. It is very important to take into account the views of all community members who may be affected. Try to ensure that all community members, including women and young people, are involved in your decision-making processes. This is because a large-scale project affects everyone differently.

Often there are several communities affected by one project. Project developers must tell you about any agreement it makes with other communities. It may be helpful to your community to find out if other communities are affected by the same project. You may be able to work together to negotiate with the project developers or government.

> Please note that at this stage you do not have to make any decisions at this stage. Your first decision may be that you want more information from the project developers. It is possible that several communities will be affected by a project but that one community will be affected more than others. If this is the case, it is important to try to develop a common approach with other communities so that the worst affected communities have a strong voice.

Once the community has information on the project, the community should hold discussions amongst itself to discuss and decide:

- From our community perspective, what does a successful project look like, and what should its legacy be?

- What are our needs, priorities, and concerns with regard to the project, in the short-, medium- and long-term?
- How do we want to organize and represent ourselves during the consultation process?

> All members of the community should be included in these internal discussions, including women and youth, as all members of the community are impacted differently by a project. At this stage, it is very important for communities to work together and form a united front so that the community can speak as one with the company.

Tools that can be used to inform and organize the community are community meetings, posters, flyers, brochures, organigrams and maps

Community Communication Structure

Develop a diagram or picture how the community plans to organize itself, what mechanisms will be used for communication within the community as well as with the company, government and other stakeholders, who will lead and/or facilitate these interactions, and what solutions will be created to work together to ensure that all views (including those of vulnerable groups) are met and represented in the consultation process.

Community - Project Footprint Mapping

Once you have collected as much information about the project as possible, organize a larger community meeting to 1) map out the wider community area; 2) map the size of the project and its related infrastructure as well as how it overlaps with the community area (based on the information you currently have). Such maps will be helpful in explaining community concerns about project impacts to the developers.

Community Organization

The preferred level of community organization for consultation will depend on the scale of development occurring in their community. For example, a community with one exploration project on their land requires a different level of organization than a community with various operational projects and related activities occurring on their land. Potential approaches to community organization:

- *Elect a leader to represent that community in talks with the company*- in this approach the community elects one or more leaders to represent the communities' views and lead the consultation process;
- *Create a working group to meet with the company*- here a group of community members that represent different interests (including those of vulnerable groups like women, children and elderly) within the community work together to represent the community in the consultation process;
- *Community meetings*- in this approach the community invites the company to come and speak to all members of the community regarding the proposed project.

These approaches can be used in any combination, and can all be used together. For instance, one person can be elected to manage the daily communications, this person may represent a larger working group,

and community open meetings can be held on a periodic basis so that all community members can ask their questions to the company. In addition to these mechanisms, communities can also create more formal structures such as consultation committees for the consultation process, with significant variation depending on context:

It is important that all these processes and structures are managed in a transparent and open manner and that whoever are chosen as the main spokespersons or representatives consult and report back regularly with the wider community. When selecting leaders to represent your community in the consultation process there are several aspects to take into consideration such as:

- Does the person understand the project and the consultation process?
- Does the person understand the national requirements/ guidelines and international guidelines for consultation? If not, are they willing to learn and figure this out?
- Do they have experience in representing the community and conducting negotiations on the communities' behalf?
- Are they trusted and well-respected within the community?
- Do they openly share information in the community?
- Do they place the interests of the community first?

CDC is the right platform for selecting a leader. If there is no CDC, then community can transparently select their representative.

Step 4: Community's Negotiations with the Project Developers

As a community, you have the right to be consulted and to negotiate with the project developers. Talking with the developers does not mean you agree to the project. You are simply claiming your right to obtain information about the project. The project developers should consult with your community and obtain your consent in the early stages of project planning and before each new stage of the project. This means that if you agree to an aspect of the project at the first stage, the developer must obtain your consent again at the next stage. If resettlement of the community is likely, the terms and conditions must be negotiated with the community before a final decision is made.

Once the community has organized itself, mapped out its area and the likely project footprint, they are ready to begin the consultation process. By speaking with the company, the community is NOT giving consent to the project, they are only learning about the project. Now, it is a good idea to communicate the needs, priorities and concerns regarding the project to the company.

- How big will the project be?
- What areas of land and which communities will be affected? Are there maps to show this?
- What kind of impact assessments will the company conduct (environmental, social, health, and/or human rights?) Who will conduct the impact assessments? When will they be conducted? Will they be made available in a summarized format and local language?
- What are the potential risks of the project?
- What benefits will there be for local communities, and how sustainable are these?

- Does the company have a local content policy?
- What is the company's planned consultation process? How will the community be consulted at each stage of the process?
- What will be the consultation process if there is a change in project scope or design?
- What communities are being consulted regarding the project?
- What benefits does the company see for the community?
- Is the company planning to have a community development agreement?
- How will profits be distributed from the project?

> For communities it is important to keep their own record of meetings, resolutions, decisions and agreements, both within the community and with the company. It is also important that all members of your community are involved in negotiating benefits and not just a few leaders or "elites" who may be interested in maximising their own personal benefits at the expense of the whole community.

Some examples of benefits that you could negotiate for your community includes:

> - More jobs for community members;
> - Skills training and job placement programs;
> - New schools and health clinics;
> - Special access and use rights to
> - natural resources in the project areas
> - for project-affected communities;
> - Agreement with the project developers
> - to leave some land untouched - for
> - example, areas of cultural value, and
> - Sharing of revenues from the project.

Step 5: Negotiate and Make Decisions as A Community

At this point the consultation process is on-going. It can go back and forth over time and across multiple encounters. Communities need to ensure that they are discussing amongst themselves and making decisions as a community. It is important is not the specific approach taken, but that communities work together and ensure all members of the community have their voices represented.

Seek Expert Advice

Communities may also choose to seek advice and assistance from outside organizations such as NGOs, other communities, or legal and technical experts. if you have now received the impact assessment reports or a draft agreement and are not clear on their contents, you should consult a relevant specialist

to explain them. Similarly, it might be useful to look for an independent mediator between the community and the company.

> *Community Suggestion Boxes:* Boxes placed in an easily accessible public location. Members of a community may submit anonymous complaints, suggestions or questions. The box is opened publicly at pre-determined times (e.g. weekly) and a response provided to each suggestion.

Informed Decision-Making

It is important to remember that once your community is ready to decide, your decisions should be *informed* decisions, meaning that you understand the issues (including benefits and risks) being discussed and negotiated. "If you decide to say 'yes' to a project, you should make sure that the agreement you make with the project developers is recorded in writing, including in your community's language(s)."[ii] In this case you may want to enter into an impact benefit / community development agreement, which is a legally-binding agreement between a company and a community (sometimes also involving government) outlining the likely negative impacts, how they will be mitigated and what kind of benefits (incl. jobs and social investment) the company will provide. However, "if your community believes that the project will not be positive for the community, you can say 'no' –or in other words not give your consent– to the project.

> Even where our national laws protect community rights to free, prior, informed and consent, things can still go wrong. Corruption, poor or no enforcement, or a lack of independence in government agencies responsible for ensuring that FPIC occurs as required by the law, can create problems for communities trying to claim their right to FPIC

Step 6: Ongoing Consultation and Participatory Monitoring

No matter if you said no or yes to a project, it is important to have a good working relationship between your own community, the company, and ideally also the government. You should be regularly updated about the project progress or any changes to it. At this stage, it is recommended to create a process with the company for ongoing consultation. For example, you might agree to have monthly progress meetings to update on any changes to the project or changes within the community.

In order to have informed discussions with project developers and other stakeholders, your community needs to collect information about how you are being impacted by the project on a frequent basis and in a systematic manner. This helps you understand what is going on and provides a basis for more evidence-based dialogue. Large-scale development projects take many years to plan and then start, and then may impact on your community for many years or even generations. The company should make sure your community is informed regularly about the project progress. You must be given the chance to ask questions and raise concerns.

CHAPTER 03: CONTRIBUTION OF COMMUNITIES TO CONFLICT TRANSFORMATION

The Concept Of Transformation

Conflict transformation is best described as a complex process of constructively changing relationships, attitudes, behaviors, interests and discourses in violence-prone conflict settings. Importantly, it also addresses the basic structures, cultures and institutions that encourage and condition violent political and social conflict. It is a multi-dimensional, non-linear and unpredictable process involving many different actors in moving from dormant and active violence, to structural and cultural peace. It is particularly applicable in situations of extended and lopsided conflicts involving social justice issues.

Role Of Communities In Conflict Transformation

Sustained dialogue will prevent escalation and offer the space to handle conflict and find solutions for burning issues. Stakeholder representatives come from different backgrounds and have different interests; therefore, dialogue needs to begin with the search for common ground for shared interests and needs. The stakeholder representatives who participate in the dialogue meetings need to have the capacity to engage in dialogue must have the trust and support of those they are representing. For communities, it is important that those who represent them must meet with the wider community or representative community structures beforehand to clarify roles, agree on common positions regarding the project or key contentious issues, and articulate shared messages. Moreover, it is critical that a community sticks together and works inclusively. Often dialogue needs a driving force, i.e. a trusted personality or institution capable of bringing an idea forward. Look for those personalities or institutions and bring them on board.

A sustained inclusive dialogue process that is sensitive to local customs and time-frames can help communities:
- To sensitize other stakeholders so that they perceive you as rights-holders and genuine project partners;
- To build trust and relations with the other stakeholders;
- To find common interests;
- To agree on conflict issues and causes;
- To allow creative problem solving;
- To allow collective decision making;
- To manage potential conflict in its early stages;
- To continuously improve impact mitigation measures and communication strategies.

Common Conflicting Issues in Mining Areas:

Conflict is inevitable and can arise for several different reasons and occur between the government and company, between the community and company, within the community or between communities. Here our main focus is on conflict between the community and the company. However, it is important to emphasize that the government is a central actor in all company-community conflicts, whether by its actions, inactions and presence, or complete absence.

Timu has identified more than 20 different (potential and actual) **conflict issues** related to four, broad types of *change* associated with oil, gas or mining activities:[iii]

1. *Social and cultural change*, related to: a) **population and demographics** (influx of migrant workers, social inclusion, growth/decline of communities or towns, workers camps); b) *social services* (housing, skills shortages/retention, health, education and training); c) **crime and social order** (corruption, domestic and sexual violence, substance abuse and trafficking, prostitution, change in social norms); d) **community health and safety** (disease, vehicle accidents, spills, controlled release, pollution, disruption of food supply); e) **labor issues** (health and safety, child labor remuneration, freedom of association, discrimination); f) **security issues** (behavior of security personnel (government, company, contractors), targeting/repression of activists, suppression of demonstrations); g) **culture and customs** (breakdown of traditional roles, changing production/employment base, community cohesion, effects of cash economy, 'sense of place', community leadership, cultural heritage); h) **vulnerable and marginalized groups** (disproportionate or particular effects on women, children, disabled, elderly, ethnic minorities, indigenous peoples, artisanal and small-scale miners, etc.).

2. *Economic change*, related to: a) **distribution of benefits** (employment, profit flows, royalties and taxes, training, procurement, supply chain, community development, compensation, managing expectations, equitable distribution (across state/regional/local/ethnic/class /family or other lines), effects of cash economy, technology transfer, corruption); b) **inflation/deflation** (housing (ownership/rents), food, access to social services); c) **infrastructure** (demands on/investment in roads, rail, ports, etc.).

3. *Socio-environmental change*, related to: a) **pollution** (source of or sink for) (air (dust), water (acid and metalliferous drainage, cyanide, tailings seepage, riverine and submarine disposal), soil, noise, scenic amenity, vibration, radiation, traffic, etc.); b) **resources** (access to/competition over) (land, water (groundwater, river, ocean), mineral resources, cultural heritage, forest resources, human, biodiversity); c) **resettlement** (consent and consultation in relation to resettlement, compensation, ties / relationship to land, equity, adequacy of resettlement housing and facilities, livelihoods); d) **disturbance** (disruption (including during exploration), consent and consultation in relation to land access, frequency and timing, compensation).

4. *The process of change itself*, related to: a) **consultation and communication** (transparency, timing, inclusiveness, clear reporting, access to decision-makers, respect for customs and traditional

authority structures); b) **consent** (sovereign consent (FPIC or governmental), community consent (non-sovereign); c) **participation** (development of programs, monitoring, selection of alternatives and technologies, planning operational aspects); d) **redress** (dispute resolution, company-level grievance mechanisms, accessibility, transparency, dialogue and engagement, third party mechanisms); e) **agreements** (equity, clarity of obligations, duress, capacity and governance, honoring commitments/performance, new corporate entity / transfer of obligations, corruption); f) **community development** (participation, adequacy, appropriateness, capacity to deliver, prioritization, corruption).

Sources of Conflict in Afghanistan[iv]

- Political sources: power struggles, differences in ideologies, etc.
- Religious sources: - power struggle, differences in doctrine, etc.
- Cultural conflict: when two cultural traditions compete for dominance rather than co-existence.
- Economic privileges: where some people feel marginalized at family, group, or nation-wide
- Natural resources e.g. land, water, etc. is prevalent in Afghanistan
- Honour

The Risks, Impacts and Consequences of Violent Conflict

Dispute and disagreement is common between communities and companies, and as long as they are amicably resolved there is nothing wrong with it. Sometimes, when communities feel their views are not heard, protests can occur and in those situations it is important that both sides listen even more carefully to each other: "protest is, in effect, a form of community feedback which occurs when normal engagement and grievance mechanism are not working effectively. Rather than the defensive strategy typically adopted, companies should realize the protest signals that they should enhance their community engagement approach and establish genuine dialogue procedures before protest escalates and conflict occurs."[v]

However, when tensions and conflict boil over into *violence*, there is clearly a no-win situation for both parties. The risks to communities of violent conflict involve:

- Destruction of community property;
- Loss of community members' jobs and business opportunities as a result of company operation shutdowns;
- Displacement;
- Potential injury and/or death of community members.

The impacts of conflict turning violent can thus be severe and long-lasting, particularly for the community. Over time, potential consequences of conflict include:

- Increased corruption and other forms of profiteering from selfish leaders, illegal traders and armed gangs who benefit from instability;
- Destruction of social relations and social cohesion in the community;
- Intervention by the national government (which can be positive or negative);

- Increased 'securitization' of the project, e.g. via more fencing of company installations with armed guards, company staff moving around with armed escorts, highly restricted access to company offices and staff for local communities;
- Loss of employment and business opportunities if the company decides to pull out;

Depending on the situation, some communities and people with specific interests, may welcome it when a company decides to stop its operations and/or pull out completely. However, conflict, and especially violent conflict, should be avoided at all costs.

CHAPTER 04: ACCESSIBLE DISPUTE RESOLUTION MECHANISMS

There is a wide variety of mechanisms to address grievances and resolve disputes, operating at the local, national or international level, being either state- or non-state based, and either using the judicial process (e.g. lawsuit, i.e. going through the *saranwalis* and courts) or being non-judicial in nature. As most judicial mechanisms are often too expensive, not accessible in remote areas, sometimes considered corrupt, and/or result in less desirable win-lose outcomes, non-judicial is often more appropriate when it comes to dealing with community-company conflict.

Depending on the context, the issue at stake and preference of the parties involved, different alternative mechanisms can help. *Negotiation* is usually tried first to resolve a dispute and its main advantage is that it allows the parties themselves to control the process and the solution. In *mediation,* an independent third party helps to bring both parties together to reach a settlement that both parties either accept or reject. In *arbitration*, the conflicting parties typically choose a panel of arbitrators who will hear and review the evidence and come to a decision that is final and usually legally binding. Negotiation and mediation are particularly suited for resolving disputes between communities and companies as these mechanisms are very accessible and relatively easy and cheap to organize, unlike arbitration which is more formal and more suited for resolving commercial disputes between companies and/or company and government.

More traditional, customary conflict resolution approaches such as *reconciliation* of different interpretations of what went wrong are useful for restoring social harmony of the community in general and of social relationships between conflicting parties in particular. This approach is particularly suitable for resolving disputes *within* or *between* communities, as it helps to heal divisions between community representatives. However, once communities are more united this, in turn, can also help prevent conflict with companies.

Companies and government sometime have their dispute resolution mechanism to resolve complaints between communities and companies.

Criteria For An Effective Grievance Mechanism

According to the above-mentioned UN Guiding Principles on Business and Human Rights, for grievance mechanisms to be effective they need to meet a number of criteria:

a. *Legitimate*: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
b. *Accessible*: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;

c. *Predictable*: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;

d. *Equitable*: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;

e. *Transparent*: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;

f. *Rights-compatible*: ensuring that outcomes and remedies accord with internationally recognized human rights;

g. A source of *continuous learning*: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;

h. Based on *engagement and dialogue*: consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances.[vi]

Ideally, communities should be involved in the design of the mechanism so that it meets their needs and is appropriate to the specific socio-cultural context. Although there might be other ways of sharing your concerns with the company, the grievance mechanism is often the main tool used by companies to officially register community complaints; and once a complaint is registered it can no longer be easily ignored.

Criteria For Companies:

1. *Receive***:** the process begins when a complaint is received by the company. The complaint is then internally forwarded to the right department and person working with that community, who is generally termed the Community Liaison Officer (CLO). The complaint should be registered in a complaints register.

2. *Acknowledge*: A letter is sent to the complainant acknowledging that the complaint has been received and is registered.

3. *Assess and assign*: The company makes an initial assessment regarding the severity of the complaint and assigns an employee termed the 'complaint owner' to address the complaint.

4. *Investigate***:** The complaint owner investigates the complaint and proposes options to resolve the issues. Third parties may become involved as required to assess the facts.

5. *Respond***:** The complaint owner and Community Liaison Officer communicate the findings of the investigation to the complainant and propose a resolution. If the Complainant accepts the resolution, the Company will proceed to implementation. If the complainant does not accept the resolution, the Complaint will be escalated to the Appeals Committee.

6. *a. Resolve successfully***:** If the complainant agrees with the resolution the solution is implemented and the company informs the complainant once the solution has been implemented. The complainant will

often be asked to sign a form stating that the dispute has been resolved. The complaint is then registered as resolved.

6. *b. Appeal*: If the solution is not agreed to the complainant can appeal. An appeals committee should review the case and recommend a course of action.

7. *Follow-up and close out*: the case has been resolved and no further action is required. Closure status can be classified as:
   - Resolved: complaints where a resolution has been agreed and implemented and the complainant has signed the Confirmation Form;
   - Unresolved: complaints where it has not been possible to reach an agreed resolution and the case has been authorized for close out by the Appeals Committee;
   - Abandoned: complaints where the complainant is not contactable after one month following receipt of a complaint and efforts to trace his or her whereabouts have been unsuccessful.[vii]

If there is a company level grievance mechanism in your area, then it makes sense to use it as the first starting point for lodging your concern or complaint as long as it relates to the project. Remember that companies cannot just ignore your concerns; they must review and address them in some way. In case there is no such mechanism in your area, or in case you have already used the company grievance mechanism but feel your complaint has not been solved satisfactorily, there are other recourse mechanisms available. Depending on the context, institutions such as the national commission for human rights or environmental management/protection agency often have specific complaints procedures that should be accessible to local communities.

REFERENCES

[i] Oxfam, ibid

[ii] Oxfam, ibid, p.26.

[iii] Davis, Rachel and Daniel Franks (2014) *Costs of Company-Community Conflict in the Extractives Sector* (Harvard: Harvard Kennedy School, CSR Initiative). Available at: https://www.hks.harvard.edu/m-rcbg/CSRI/research/Costs%20of%20Conflict_Davis%20%20Franks.pdf

[iv] HRRAC Manual on Human Rights and Conflict Resolution

[v] Hanna, Philippe, Frank Vanclay, Esther Jean Langdon and Jos Arts (2015) "Conceptualizing Social Protest and the Significance of Protest Actions to Large Projects", *The Extractive Industries and Society*, Vol. 3, Issue 1, pp.: 217-239.

[vi] UNHR, ibid, pp.33-34.

[vii] IPIECA (2015), pp.42-58.