



International Network for Economic,  
Social and Cultural Rights (ESCR-Net)  
Corporate Accountability Working Group

## *The Mining Indaba and Extractive Sector Cooptation of the Development Agenda*

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Mining executives, government delegates, non-government organization (NGO) staff and consultants are walking the halls together this week at the Mining Indaba, in Cape Town, South Africa. The Mining Indaba is quoted by organizers to be the ‘largest mining investment conference’ in the world. Responsibility and sustainability are not peripheral jargon in these events – they take centre stage. Much will be made of the efforts by miners, ministers and development consultants to make sure that mineral exploitation in Africa is pursued responsibly, to the benefit of all concerned.

Scanning through the dizzying agenda of meetings and presentations in the four-day event, there is little mention of the type of meetings that have begun to grab the attention of human rights organizations – those involving development NGOs, mining companies and government aid and trade delegates.

Whether through the Devonshire Initiative in Canada, the Australia-Africa Mining Industry Group (AAMIG) in Australia or other amicably named alliances of industry, NGOs and Government, in recent years the global mining industry has done well to avail itself of the skills and good names of a growing number of aid agencies and development NGOs. These groupings, or ‘multi-stakeholder initiatives’, are part of the response by the global mining industry, originating with the International Council on Mining and Metals (ICMM), to do something to challenge the weight of literature detailing ‘the resource curse’.

Beginning in 2004, the ICMM set about shifting the spotlight away from their members for responsibility that comes with the widely acknowledged phenomenon of ‘the resource curse’. This ‘curse’ is characterized by the relatively poor human rights, environmental and development track-records of those developing countries that have strongly embraced resource extraction as an economic model for development. In a 2008 [report](#), chiefly authored by ICMM’s Senior Program Officer, Kathryn McPhail, ICMM laid the blame for the symptoms of the resource curse at the feet of developing country governments by primarily concluding that “governance weaknesses” are the basis for these problems, discounting the criticisms leveled at mining companies. Similar conclusions were more recently found by the OECD’s Development Assistance Committee (DAC) in their ‘[Development Co-operation Report 2012](#)’. Chapter 9 of the report examined the resource curse and found that “the determining factors here, as

for other development challenges, are the quality of related governance mechanisms and institutions and, ultimately, the mindset of a country's leaders".

To respond to these shortfalls, the ICMM report called for a greater number of multi-sector partnerships. This call led, in February 2010, to a policy commitment taken by ICMM member companies to "seek partnerships among companies, governments, NGOs, donors and international organizations". Hence, there is increasing attention on the [Mining for Development Initiative](#) (and also the [AAMIG](#)), the [Devonshire Initiative](#) and others – and with it a growing maelstrom of controversy.

So why all the fuss?

In the development and human rights world, partnerships between different stakeholder groups assembled to overcome challenging issues are not a new approach. Sometimes these alliances can bring about progress towards the achievement of critical development, environment and human rights objectives.

However, firstly, in this case the groups involved are hardly without checkered reputations. Barrick Gold, for example, one of Canada's largest mining firms, will be in Cape Town for the Indaba, and is a major player in the Devonshire Initiative – their VP of CSR, Peter Sinclair, sits on the Steering Committee. Barrick Gold happens to also be implicated in a series of serious allegations of egregious human rights abuses. For example, at Barrick's 95% owned 'Porgera Joint Venture' (PJV) mine in Papua New Guinea (PNG), locals and supporting civil society groups alleged repeatedly that staff of PJV committed human rights abuses in and around the mine site. The allegations concerned killings and beatings of local Ipili men and beatings and rapes, including gang rape, of Ipili women. Barrick announced in October, last year, that a "remediation framework has been developed as part of Barrick's response to specific incidents of sexual violence perpetrated by men who were employed at the Porgera mine against women residing in the Porgera Valley". However, written into Barrick's [Remediation Framework](#) document, is a condition that in return for receiving any assistance under the initiative, a woman that was raped must agree that "she will not pursue or participate in legal action against the PJV... or Barrick in or outside of PNG". It is this kind of action that demonstrates how some mining companies express all manner of goodwill, while at the same time protecting themselves, and subverting the course of justice – amounting to interference with the realization of human rights, of which judicial remedy is a vital component.

The members of AAMIG are no angels either. Their Chairman, Bill Turner, recently stepped down as CEO of Anvil Mining, a company with bases in Australia and Canada. The [United Nations documented](#) how Anvil, under the leadership of Bill Turner, was complicit in the killing of 73 people in Kilwa in 2004, by Government 'FARDC' soldiers. The killings involved summary execution, before the bodies were dumped into mass graves. "Anvil Mining's drivers drove the vehicles used by the FARDC" that perpetrated these atrocities. The [UN report](#) also noted that "Anvil also admitted that it contributed to the payment of a certain number of soldiers".

But there is more to the concerns about these multi-stakeholder initiatives than worries about mingling with folks with bad rap sheets. The actual notion that mining is a responsible approach to sustainable

development is not self-evident. A recent [‘Reality of Aid’ report](#) critically examines the role of private finance in aid, and pays particularly close attention in sections to the role of mining in development – casting real doubt over some of the proposed benefits of mining company involvement in development strategies.

The resource curse cannot simply be explained as a matter of the way governments manage resource revenues or handle community disputes. As has been argued repeatedly, companies have for many years made the most of the gaps in host governments’ willingness or capacity to impose stringent environmental and human rights requirements (and therefore costs) on companies. As Paladin CEO John Borshoff, and member of AAMIG, has summed up publicly in an [Australian newspaper](#), “Australia and Canada have become overly sophisticated...There has been an over-compensation in terms of thinking about environmental and social issues in regard to uranium operations in Australia, forcing companies like Paladin into Africa”. It is an unfortunate reality that some companies take this view and find primary incentives in environments of lax regulation and minimal social and human rights safeguards.

While views of this kind from mining executives might not be a surprise to many, what has changed recently is the promotion by state aid agencies of ‘mining for development’ approaches to sustainable development. The Australian Agency for International Development (AusAID) now has a ‘Mining for Development Initiative’ and Canadian International Development Agency (CIDA) has directed funding to groups such as World Vision and Pact to partner with companies like Barrick Gold on CSR activities in countries such as Peru and Burkina Faso. While AusAID officials have stressed that none of the Mining for Development Initiative money is paid to companies, their overall development model is shifting in the same direction as CIDA’s. In Australia, tax-payer money is provided from AusAID to the Department of Foreign Affairs (DFAT) to administer small projects in host countries – meaning it is therefore technically outside of AusAID’s ‘Mining for Development Initiative’. Some of these projects support the CSR activities of Australian mining companies in Burkina Faso, Ghana and Niger. So while it the funding of these activities may be more overt in Canada, the end result is the same – tax-payer aid and development money supporting corporate CSR activities.

These projects include schools, water facilities and such like. While the creation of a school may be a valuable contribution to a community, the important point is the ends don’t justify the means. CSR initiatives are about gaining community support for a mining project. State tax-payer aid money is for the alleviation of poverty and realization of human rights. Companies profess to be ignorant of the skills necessary to adequately execute their CSR projects, but they cannot claim they don’t have ample resources of their own to hire private sector development experts to assist them, so why should it be considered reasonable for them to call on the tax-payers from their home governments to foot the bill?

Mr Julian Fantino, Canada’s new Minister for International Development, views things differently. From his perspective, expressed in a [recent press interview](#), Canadian dollars should be used to bring benefits to Canadians. “We are part of Canadian foreign policy...We have a duty and a responsibility to ensure that Canadian interests are promoted” Mr. Fantino said. “This is Canadian money. ... And Canadians are entitled to derive a benefit”. This approach is commonly referred to as ‘tied aid’. Aid agencies around

the world have a history of wrestling with this problem. With the approach advanced in Canada and Australia, it seems we may be in an upswing of appreciation of Mr Fantino's view – and the mining sector is the big winner at the moment.

Reliance on private mining companies to provide positive development outcomes is a direction that is questioned by some main-stream development actors. For instance, Robert Fox, Executive Director of Oxfam Canada, posed the following rhetorical question recently when commenting on Canada's shifting aid prerogatives: "Why, if your priority was reducing poverty and promoting human rights, would you identify Canadian mining corporations as your priority in terms of your vehicle for economic development and reducing poverty? That's not apparent to us".

Back in 1992 things were different. Then governments agreed in the 'Helsinki Package' that aid would not be directed towards 'commercially-viable projects' – leaving aid money to be used for advancing poverty alleviation and the realization of human rights. As has been [documented by the OECD](#), the 'Helsinki Package' led to a drop in aid funding for infrastructure and mining projects.

Rather than using aid money to prioritize growth in the corporate profits and social license to operate of mining companies in developing countries, the provision of aid is for assisting countries to realise human rights and alleviate poverty – in non-commercially viable projects. The alteration of this perspective towards support for private sector growth in emerging markets amounts to a cooption of the aid and development agenda. After all, the purpose of the aid sector is firmly rooted in a well-established international legal commitment. Article 2.1 of the International Covenant on Economic, Social and Cultural Rights, to which 160 nations are party, requires that states cooperate internationally to realise human rights – including through the provision of resources from wealthier states to assist in protecting and fulfilling human rights in the rest of the world. Provision of aid money is one practical incarnation of this obligation, not meant to be toyed with as an instrument of foreign policy to the benefit of donor nations.

Rather than supporting their companies to have better CSR programs, the international legal obligations of home states, such as Australia and Canada, require them to regulate the actions of their companies abroad, ensuring the protection of human rights. In 2012, the United Nations Committee that oversees adherence to international legal obligations to uphold the rights of children [noted that](#) "the Committee is concerned at reports on Australian mining companies' participation and complicity in serious violations of human rights in countries such as the Democratic Republic of Congo, the Philippines, Indonesia and Fiji, where children have been victims of evictions, land dispossession and killings". The Committee recommended that Australia "examine and adapt its legislative framework (civil, criminal and administrative) to ensure the legal accountability of Australian companies and their subsidiaries regarding abuses to human rights, especially child rights, committed in the territory of the State party or overseas and establish monitoring mechanisms, investigation, and redress of such abuses, with a view to improving accountability, transparency and prevention of violations".

In 2010, the equivalent United Nations committee that oversees adherence to international legal obligations to eliminate racial discrimination [noted](#) "with concern the absence of a legal framework

regulating the obligation of Australian corporations at home and overseas” and the impacts this oversight can have on “rights to land, health, living environment and livelihoods”, in this case for Indigenous Peoples. The same [committee said](#) of Canada, in 2007, that it was aware of “reports of adverse effects of economic activities connected with the exploitation of natural resources in countries outside Canada by transnational corporations registered in Canada on the right to land, health, living environment and the way of life of indigenous peoples”. The Committee suggested on that occasion that Canada “take appropriate legislative or administrative measures to prevent acts of transnational corporations registered in Canada which negatively impact on the enjoyment of rights of indigenous peoples in territories outside Canada.”

Since these recommendations have been publicized, little to no progress of any kind to incorporate these recommendations has been made by either country. Instead there has only been the increasing promotion of mining as a strategy for advancing sustainable development.

Perhaps there are a few other things that Australian and Canadian government officials could be doing to help overcome mining’s impact on development, other than accompanying mining executives to Indaba events and lending legitimacy to them through provision state aid funding and partnerships. Perhaps Australian and Canadian Government officials could better use their time examining how mining affects communities (not the companies), put real legislative and policy incentives in the minds of mining executives that will more likely guarantee that they do the right thing for African communities, and use the aid money to empower local civil society groups to hold them to account.

As for mining companies, they should respect the principles set back in Helsinki, footing the bill for their own CSR activities and leaving aid money for non-commercial activities. They have their own responsibilities to communities and the environment, and they should meet these costs 100%.

In coordination with ESCR-Net, [AID/WATCH](#), [CAOI](#), [Citizens for Justice](#), [Human Rights Law Centre](#), [Mineral Policy Institute](#) and [MiningWatch Canada](#) participated in the creation of this piece.

For more information:

- MiningWatch Canada, Rights and Accountability In Development & Earthrights International, January 30, 2013 [‘Rape Victims Must Sign Away Rights to Get Remedy from Barrick’](#).
- AID/WATCH & Mineral Policy Institute, October 2012 [‘Aid Must Not Support Australian Mining Interests in Africa’](#).
- MiningWatch Canada, November 8, 2012 [‘Poor Mining Companies? Parliamentary Committee Report Calls for CIDA Giveaway to Canadian Corporations’](#)

*The Corporate Accountability Working Group of ESCR-Net promotes and undertakes collaborative initiatives that advance accountability of corporations for human rights and environmental abuses. This piece is a collaboration of groups monitoring the relationship between state aid agencies and extractive industry corporations. If you’re interested to participate in this initiative, please contact Dominic Renfrey: [drenfrey\[at\]escr-net.org](mailto:drenfrey[at]escr-net.org).*