



# GENDER, LAND, AND EXTRACTIVE DEVELOPMENT: ISSUES AND OPPORTUNITIES FOR IMPROVED UNDERSTANDING AND PRACTICE

Discussion paper and Outcome Document from the Roundtable on Gender, Land, and Extractives, held at the Columbia Center on Sustainable Investment on November 10th, 2017

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## Executive Summary\*

Through an analysis of gender and land tenure dynamics and their relationship to extractives processes, this paper aims to identify and inform improved approaches to help prevent harm and ensure better outcomes for women and for all people affected by an extractive development. There is mounting evidence that women suffer from discrimination and experience disproportionately negative consequences as a result of extractive development. They are also less likely than men to benefit from the economic and employment opportunities that such development can bring. Gender is increasingly recognized as an important lens through which to understand the impacts of extractive development, and gender and land are both explicitly and implicitly included in a number of international instruments relevant to extractives projects.

While sub-surface rights are often reserved by the state, surface rights to land are relevant to extractive development because the people and communities who are affected by extractive development are defined by their shared relationship to land.

Land tenure is also gendered, and the intersection of gender and land tenure is based on legally and culturally defined structures, roles, norms, and institutions that establish power, opportunity, voice, and agency in a community. Examining this intersection can provide insights into how an extractive project will affect women and all people in a community, and can help point to strategies for addressing the disadvantages faced by women.

Examining gender and land tenure is valuable at all points of the extractive development process:

- When **engaging communities**, gender and land tenure analysis can help identify who has an interest in the development and who will be impacted by it, ensuring they can be meaningfully engaged. This can ensure that engagement processes are not limited to either men or women.
- When assessing and mitigating **social and environmental impacts**, gender and land tenure assessments can help create a holistic picture of the individuals who are likely to be socially, economically, culturally, or personally impacted by the extractive development, and can inform more effective strategies and project design to ensure more equitable outcomes.
- When seeking **Free, Prior, and Informed Consent**, understanding gender and land tenure can help unpack gender dynamics within the

community, including how information is shared and who has cultural rights to speak on behalf of the community. Understanding those dynamics can help ensure that consent is freely given by women as well as men and that women are given the information they need to give consent.

- When conducting **resettlement** or paying **compensation** for loss of land use, an understanding of gender and land tenure is critical to ensuring the compensation makes everyone within a community and within a household, both women and men, whole.
- When establishing **benefit sharing** arrangements, gender and land tenure analysis can help ensure that both women and men's interests are served.

Understanding gender and land tenure in a given context can allow for a deeper understanding of how a disruption to the land tenure system, as through extractive development, will impact women and the welfare of the whole community.

# 1. Introduction\*

This document explores the intersection of gender, land tenure, and sub-surface extractive development (hereinafter “extractive development”). Understanding this intersection can help prevent harm to women and can promote more equitable distribution of the potential positive outcomes of an extractive project. This discussion paper is not intended to be exhaustive, but instead to foster discussion among development practitioners, private sector actors, and the standard-setting and donor communities on a topic that has been under-examined. Our hope is that the exploration of gender and land tenure will lead to better practices and therefore improved outcomes for women and for all people involved in and affected by mining and other extractive developments.

Gender is increasingly recognized as an important lens through which to understand the impacts of extractive development<sup>1</sup>, and gender and land are both explicitly and implicitly included in a number of international instruments relevant to extractives projects. <sup>2</sup>Yet there has been little attention to the three-way intersection of gender, land tenure, and extractive development. Our thesis is that understanding and addressing gender implications of extractive development requires understanding and addressing land tenure dynamics. This is because a community’s relationship with land will usually be a determining factor in whether (or how) the community is affected by an extractive project. Land tenure is gendered, and land tenure systems reflect features of a culture and society that determine the experiences of men and women more broadly and can help point to strategies for addressing the disadvantages faced by women. While not the only way to understand culturally determined gender dynamics, the intersection of gender and land tenure can provide unique and helpful insights into how an extractive project will affect people because that intersection is based on the same culturally defined structures, roles, norms, and institutions that establish power, opportunity, voice, and agency in a community.

Section two of this discussion paper looks at how gender and land tenure considerations are relevant for extractive development, and section three applies a gender and land tenure analysis to good practices in extractive development to help demonstrate how the intersection can inform the shape and implementation of better extractive development gender practices.

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<sup>1</sup> See for example, Oxfam International (2017) Position Paper for Gender Justice and the Extractive Industries; Kemp, D., Keenan, J., Gronow, J., and Davidson, J. (2009) Why Gender Matters. Rio Tinto; Publish What You Pay & UN Women. (2014) Extracting Equality – A Guide, available from: <http://www.unwomen.org/en/digital-library/publications/2014/11/extracting-equality---a-guide>; Eftimie, A., Heller, K., and Strongman, J. (2009) Gender Dimensions of the Extractive Industries, Washington, D.C., The World Bank; Scott, J., Dakin, R., Heller, K., and Eftimie, A. (2013) Extracting Lessons on Gender in the Oil and Gas Sector: A survey and analysis of the gendered impacts of onshore oil and gas production in three developing countries. Washington, D.C., The World Bank.

<sup>2</sup> See discussion of relevant international standards and instruments below.

## 2. The relevance of gender and land tenure considerations to extractive development

### 2.1. International Instruments and Standards Relevant to Gender, Land Tenure, and Extractive Development

Gender and land are both explicitly and implicitly included in a number of international instruments relevant to extractives projects.

The Sustainable Development Goals (SDGs) present the global agenda for equitable, socially inclusive, and sustainable economic development. The extractives sector can potentially contribute to all 17 SDGs. Particularly relevant are the Goals on: Ending Poverty and Access to Energy (SDG 1 and 7); Climate Action (SDGs 13, 14, and 15); Economic Development and Innovation (SDG 8 & 9); and Health and Access to Clean Water (SDG 3 & 6).

The SDGs have direct applications to women's land rights. Target 1.4 of SDG 1 (End poverty in all its forms) aims to ensure gender equality in economic resources, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance. SDG 2 (End hunger, achieve food security and improved nutrition and promote sustainable agriculture) specifies a Target (2.3) of doubling agricultural productivity and incomes of small-scale food producers through secure and equal access to land, other productive resources and inputs, knowledge, and financial services. Finally, SDG 5 (Achieve gender equality and empower all women and girls) aims in Target 5.a to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property through legal reforms; increase the share of women among owners or rights-bearers of agricultural land; and increase the proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control (Target 5.a.2). SDG 16 further aims to promote peaceful and inclusive societies for sustainable development provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) imparts a duty on State parties to take measures to eliminate discrimination, and in particular to address social and cultural patterns of discriminatory customs (art. 5) and "...to eliminate discrimination against women in rural areas in order to ensure...that they participate in and benefit from rural development" (art. 14.2).

The UN Guiding Principles on Business and Human Rights create a responsibility on the part of companies and states to respect and protect human rights. This obligation means that companies must avoid infringing on the rights of individuals and should address negative impacts resulting from their operations.

In addition, IFC Performance Standards impose requirements regarding gender integration and social inclusion on companies, and provide that projects must undertake risk and impact assessment processes. Where such assessments identify impacts that are likely to “directly or differentially or disproportionately” affect individuals or groups because of their disadvantaged or vulnerable status, the project must propose and implement specific mitigation measures (IFC PS 1, para. 12). Guidance Note 50 further elaborates the rationale for prominently identifying and addressing gender risks through social assessments (IFC PS Guidance Note 50).

Finally, the Voluntary Guidelines on Governance of Tenure establish an obligation for companies to recognize and respect all legitimate land tenure rights, assess social and environmental impacts, and Do No Harm, and embrace FPIC (free, prior, and informed consent). These obligations extend to men and women in affected communities. The Voluntary Guidelines acknowledge that different national models and systems of governance typically address minerals and other extractive resources than address land, but then go on to suggest that states consider the application of the guideline tenets to such other resources, as appropriate (VGGT Preface).

These instruments and standards provide a strong foundation for advocacy efforts and elaboration of best practices in extractives projects.

## 2.2 Land tenure is relevant to extractive development

Land tenure is relevant to extractive development for a number of reasons. First, extractive development has substantial impacts on the use of land, and often results in devastating and irreversible changes to the nature and quality of the land. For example, agricultural land may be developed into a quarry, grazing land can have a road or pipeline built through it to support the transport of raw materials, or areas surrounding an extractive project might be used to store by-products, tailings, or raw materials and equipment.

When extractive development impacts land, it affects those communities of people who live on, have rights to, or derive benefit from land. Land is a primary asset and the basis of livelihoods and sustenance for rural people. Land and resource rights are therefore fundamental to rural economic development and food security, as well as environmental and cultural sustainability of rural and indigenous communities.<sup>3</sup>

From a legal perspective, there are typically two approaches for allocating and managing sub-surface rights: (1) surface and sub-surface rights to land are unlinked, where surface rights are governed by statutory or customary tenure systems, and sub-surface rights are reserved to the state by law; and (2) surface and sub-surface rights are held by the surface rights holder, as determined by the statutory or customary land tenure system.<sup>4</sup>

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<sup>3</sup> Feiring, Birgitte 2013. Indigenous peoples' rights to lands, territories and resources. Rome: International Land Coalition.

<sup>4</sup> See Halland, H., Kannan, S.P., Lokanc, M., and Nair, A. (2015) *The Extractive Industries Sector: Essentials for Economists, Public Finance Professionals and Policy Makers*, the World Bank Group.

In either case, an understanding of land tenure is required to ensure that the processes of licensing, negotiation, risk and impact assessment, consultation, and compensation. In the first approach, a private sector investor interested in carrying out an extractive project obtains permission to do so from the state, via a license or permit or similar, by negotiated contract or lease, or by law or regulation. In such cases, the state and/or company must identify and engage with surface rights holders to clarify rights and undertake processes for resettlement. In the second approach, the private sector actor negotiates directly with the surface rights holders to gain legal rights to operate. In both cases, an analysis of land tenure is necessary to identify who or what (formal and informal) entities can provide this permission to operate.

People in communities affected by extractive development can have a right to information about the project and to participate in decision-making processes regarding the project, should be meaningfully consulted, and in some cases have a right to provide or withhold their free, prior, and informed consent. A limited number of jurisdictions<sup>5</sup> legally require that land-connected communities are involved to some greater or lesser extent in the extractive development process. Increasingly, even where not mandated by domestic law, some international and industry standards require that companies consider and engage with communities and individuals whose land rights and uses are affected by the extractive process. To establish who has land rights requires an understanding of the land tenure system.

Rights holders may need to be resettled and otherwise compensated to allow for the construction of a mine, or they may need to be compensated for loss of land-based livelihoods. Ideally, people who have legal or legitimate rights to land should participate in social impact and mitigation analyses and be among the key beneficiaries of negotiated benefit-sharing arrangements.

Finally, the “communities” discussed above are largely defined by their shared relationship to land. To the extent that there is opposition to or conflict linked to extractive development, it will often come from those whose land rights and uses are most affected by the extractive project.

### 2.3 Land tenure is gendered

While land tenure systems are context-specific, one commonality in many land tenure systems – particularly, but not limited to, customary, traditional, or informal systems – is that the rules determining the various rights and obligations related to land are different for women and men and have different impacts on men and women. While there is significant cultural variation, typically men’s interests in land are more clearly recognized, acknowledged, and highly valued than those of women. Similarly, social norms influence the nature and extent of land rights and how women and men interact with land tenure systems, determining such things as which women and which men can use which land and for what purpose; which women and which men can make decisions on how

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<sup>5</sup> For example, Canada, Papua New Guinea, and Australia.

land held by a collective group is used and allocated; and which women and which men participate in making, or are informed of, key decisions that affect the land.

These gender differences are accounted for in a number of different ways depending on the context (e.g. transfer of wealth along the male line, payments of bride price or dowry, women's reproductive role, use of income, and agricultural yield within the household), but in a majority of contexts they also reflect differences in women's and men's relative social power, voice, and agency in a community.

### 2.3.1 Women are often not considered land rights holders

In many customary tenure systems, land is considered to be "owned"<sup>6</sup> by the collective group. The group membership is defined, and rights to land are based on membership in a group or affiliation with a member of a group. Group membership is often culturally defined and based on lineage. Membership in the collective group also determines who governs, makes decisions, or is consulted on decisions that affect the land.

Very often women are not considered members of the collective group. Reasons for this vary, but can be largely related to patrilocal<sup>7</sup> marriage practices where these exist, exchange of wealth at marriage (bride price<sup>8</sup> or dowry<sup>9</sup>), and patrilineal<sup>10</sup> inheritance practices. In these settings, while a woman may be permitted to use land that has been allocated to her husband or father, this use alone does not guarantee rights that are equal to those of group members. These rules of membership, which are strongly linked to and reflect land tenure, very often determine who has a seat at the table during extractive development consultations and decision-making, and the degree to which women are excluded or are able to participate in such processes.

Even where women are considered members of the landholding collective group, or where they are consulted, other barriers can prevent them from protecting their interests in land, as discussed below.

### 2.3.2 Gendered norms of behavior, division of labor, access to power, and social status determine whether women can assert their interests in land

There are a number of gender-specific norms and roles that create barriers to women asserting their rights and interests in land. These barriers can relate to rules around the appropriateness of women

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<sup>6</sup> Ownership as a term can be inappropriate for customary tenure, especially where rights are collectively held. It is used here for simplicity.

<sup>7</sup> A pattern of marriage where the couple settles in the husband's home or community.

<sup>8</sup> A marriage practice where a sum of money or quantity of property is paid to the bride's family from the groom's family.

<sup>9</sup> Amount of money brought with the bride to her husband or his family on marriage.

<sup>10</sup> Where descent is determined along the male line; in particular, this determines inter-generational transfer of wealth and rights to land and property.

disagreeing with men in public or prohibitions against women speaking on matters that are considered “men’s business.” This is compounded by the fact that land is often the most important asset of rural communities, and therefore the control over this important asset is attached to local power and authority that women often do not have. In practice, when a woman challenges a decision made by a male member of her family, clan, or community, she may face social and economic repercussions. Furthermore, women may lack experience or confidence to speak in public settings, and can be ridiculed for attempting to do so.

Another barrier relates to women playing a more private, home-bound role, while men play more public roles. This means that women access information differently than men, and often this results in women having access to less information than men, perhaps because the man is the public face of the family and attends public meetings where information is shared or because women are busy attending to household tasks and do not have time to receive information. Social norms may limit women’s movement, so they may not be able to attend or travel to a forum where information is given or decisions are made.

Even when women choose not to participate in public processes, there can be gender power dynamics at play. Women may assume that a decision-making process is biased against them and therefore that participation is futile. There may be considerable social cost for a woman to assert rights against a man in her community or her family. Where women have the cultural responsibility for maintaining peace, they may face pressure to agree with their male counterparts. If a woman has to assert a right against a male family member, she may lose his protection or assistance in the future (e.g. if she wishes to return to her family because her husband has died but she had spoken against them in a public forum, that social support may be denied her).

While these dynamics are common barriers to women’s participation in negotiations and decision making, this does not mean that women are silent or powerless. There are many examples of women using their agency and roles within their communities to resist a proposed project, influence negotiations, or participate in oversight of promised benefits and safeguards.

### 2.3.3 Customary tenure systems are common and can disadvantage women

Most extractive development within emerging-market countries takes place in areas of legal pluralism,<sup>11</sup> where both statutory and customary tenure apply. While statutory tenure may provide the legal basis for an extractive project, there is a growing trend within development practice to better recognize customary tenure. Customary tenure systems are built on culturally specific definitions of justice and social cohesion, yet they can be disadvantageous to women, who often have lower status and power than men in the same community. Also, while customary tenure systems can effectively support the interests of customary community members, such systems can

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<sup>11</sup> Legal pluralism is the existence of multiple legal systems within one population or geographic area



be disrupted or undermined by external pressures, and compromised by elite capture, corruption, and vested interests.<sup>12</sup>

Extractive development can be the trigger for opportunistic behavior among those who already wield local power at the expense of others, and since women are typically less powerful within a community, and because their surface rights to the land slated for extractive development are weaker than those of men, they are more likely to be among the losers. A gendered analysis of both the statutory and customary land tenure systems can help identify the legal, social, and cultural norms and practices that influence how and whether women engage in extractive development processes, and also how women and men will experience the extractive project.

#### 2.3.4 Women's uses of land are unseen or undervalued

Women are important users of land, and, in some places, they make up the majority of agricultural labor.<sup>13</sup> Though men and women often farm together, men and women often use land for different purposes (e.g. in some places, women use land specifically to produce food for household consumption, while men use land for cash crops).<sup>14</sup> In addition, women and men use land-based produce and income in different ways: in general, women tend to use the output of their labor in a way that directly benefits their household, for example feeding, educating, and caring for family members, while men tend to prioritize spending on other things.<sup>15</sup> Because of these differences, women's and men's interests in land differ.

However, gender differences in uses, interests, and perspectives only tell part of the story. Overwhelmingly, men's concerns with regard to land are more highly valued than those of women and this mirrors gender dynamics in other aspects of social and cultural life. For example, in some places, even though women in fact farm land, they are not considered "farmers" when it comes to offering extension services that target farmers. In practice, women's interests in land are often unseen or undervalued by both the community and by outsiders. This is part of the reason why the impacts of extractive developments can be felt differently by men and women. It can also explain why gender must be taken into account when seeking to understand the effect of an extractive project on a community's development.

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<sup>12</sup> See de Schutter, O. (2015) *Tainted Lands: Corruption in Large-Scale Land Deals*. *International Corporate Accountability Roundtable and Global Witness*, available at <https://bit.ly/2gRlmij>

<sup>13</sup> See Doss, C., et. al. (2011) *The Role of Women in Agriculture*, ESA Working Paper No. 11-02, The Food and Agriculture Organization of the United Nations, finding that there is significant variation across and within countries and among regions.

<sup>14</sup> See for example, Menon, N., van der Meulen Rodgers, Y., & Nguyen, H. (2014). *Women's Land Rights and Children's Human Capital in Vietnam*. *World Development*, 54, 18-31; Doss, C. (2006). *The effects of intrahousehold property ownership on expenditure patterns in Ghana*. *Journal of African Economies*, 15(1), 149-180; Peterman, A. (2011) *Women's Property Rights and Gendered Policies: Implications for Women's Longterm Welfare in Rural Tanzania*. *The Journal of Development Studies*, 47(1), 1-30; Zezza, A., and Tasciotti, L. (2010). *Urban agriculture, poverty, and food security: empirical evidence from a sample of developing countries*. *Food Policy*, 35(4), 265-273; Merten, S., and Haller, T. (2008) *Property rights, food security and child growth: Dynamics of insecurity in the Kafue Flats of Zambia*. *Food Policy*, 33(5), 434-443; Allendorf, K. (2007) *Do Women's Land Rights Promote Empowerment and Child Health in Nepal?*. *World Development*, 35(11), 1975-1988. Chicago.

<sup>15</sup> *Id.*

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### 3. Gender and land tenure implications in extractive development processes

This section first discusses differences and commonalities among extractive industries and then looks at how gender and land analysis can shape and improve good and best practices in extractive development processes. It draws heavily from our experience addressing gender imbalances in land tenure reforms and large-scale agricultural investments, and it is not an exhaustive list.

#### 3.1 Distinct and common gender issues in extractive industries

We know that individuals experience the effects of extractive investments in a variety of ways, depending on gender, economic status, age, ethnicity, and other factors. We know that intended benefits such as job and wealth creation, technology transfer, and access to markets and infrastructure do not reach all affected individuals equally, and that women are generally more vulnerable to the risks of such investments. Perhaps most importantly, we know that where such projects and investments assume that the impacts affect men and women equally and do not consider how men's and women's experiences are likely to differ, such projects can leave women out altogether, or can actually leave women worse off. While these trends are true in general for all types of extractive investments,<sup>16</sup> a brief discussion of how gender issues compare among extractives projects will permit a more nuanced understanding of such issues.

Extractive development presents challenges to policy makers and companies seeking to ensure positive social outcomes of their investments. These challenges appear throughout the natural resource decision chain,<sup>17</sup> starting with establishing the policy and legal framework to enable sustainable, equitable development of the resource, through the discovery, management, and allocation of revenues and, ultimately, the sustainable development of the host country. Many of these challenges are common to all three sectors (oil, gas, and mining). For instance, they all entail the extraction of exhaustible subsurface resources, and all three sectors are subject to a high degree of volatility in terms of price, risk, and costs.<sup>18</sup> Managing oil, gas, and mining investments requires a

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<sup>16</sup> The same can be said of development projects more generally. Indeed, there is longstanding agreement that large-scale infrastructure development, many agribusiness investments, and other development efforts have gender-differentiated impacts. While presenting a nuanced discussion of how impacts compare for extractives projects versus other development interventions or investments is beyond the scope of this discussion paper, such an inquiry would likely yield valuable insights into the particular challenges and effective strategies for achieving gender parity across the range of development projects.

<sup>17</sup> The natural resource decision chain tracks the industry value chain, emphasizing decisions that contribute to better development outcomes. The Decision Chain is the process of converting natural resources into long-term sustainable development, from exploration and discovery to spending the revenues. See The Natural Resource Charter Decision Chain primer, Natural Resources Governance Institute (NRGI) (2015). Available at <https://bit.ly/2mrr9O7>

<sup>18</sup> The World Bank Extractive Industries Source Book (EISB) (2017). Available at <https://bit.ly/2Lig3ca>

legal and policy framework for all stages of the value chain: though there are important distinctions between the legal and policy frameworks for the mining and hydrocarbon sectors, the gender dimensions of those frameworks present similar challenges and require similar approaches (e.g. gender analysis, proactive legislative and policy measures) to protect and support women's rights and support equitable processes and outcomes.<sup>19</sup> Other issues are unique to each sector.

Though the common features of extractives permit a fairly in-depth gender analysis, these sectors are not homogeneous: there are significant differences between oil and natural gas, and considerable diversity within the mining sector among types of minerals.<sup>20</sup> While most of those distinctions are relevant to the resource decision chain,<sup>21</sup> this section will discuss only two key ways in which the mining and oil and gas sectors diverge: differences of scale of rents and social impacts; and the issue of artisanal and small-scale mining.

### Scale of environmental and social impacts

While all of the extractive industries sectors will have significant environmental and social impacts, the degree or intensity of these impacts differs. Mining exploitation, due to the larger land areas and resulting community and environmental impacts involved, tends to have a more significant environmental and social footprint than oil and gas development, and often shifts land away from traditional uses, such as agriculture and water, firewood, and food collection. This makes it especially critical to have strong legal and policy safeguards in place to establish and protect communities rights to negotiate and influence the location and scope of extractive developments, and to shape mitigation, benefit sharing, and project design processes. Because these changes often impact women more acutely than men, creating food security implications and resulting in increased burdens for women, ensuring that women participate in community consultations is especially critical for mining projects. While similar issues are present in oil and gas projects, such projects tend to bring less extensive environmental and land use changes; in addition, the economic and political dynamics (including larger rents and more prominent political profiles) of hydrocarbon projects may further impact the nature of community consultations and the opportunity for women to participate in and shape investment decisions.

### Artisanal and Small-scale Mining

The prevalence of large numbers of artisanal and small-scale miners (ASM) in many developing countries has no corollary in the hydrocarbons sector. The diverse category of ASM can be defined

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<sup>19</sup> However, it should be noted that because the legal and policy framework for mining tends to be quite detailed in contrast to the oil and gas sector, in which model contracts play a central role in establishing terms and processes around an investment, each sector may require distinct advocacy channels and measures to ensure equitable frameworks.

<sup>20</sup> Though, as the EISB notes, the extractive sector is dynamic and evolving: while there is evidence of the differences between mining and hydrocarbons, trends in both sectors are making such distinctions less pronounced, and seem to be heading towards some convergence across extractives. (World Bank at 46).

<sup>21</sup> For example, mining and hydrocarbon exploration processes differ, requiring traditionally distinct procedures for allocating resource rights. Because mineral deposits can occur anywhere (whereas oil reserves occur only in sedimentary basins), and there has traditionally been limited geological knowledge available to guide exploration for commercially viable mineral deposits, the process of assessing an area's commercial potential takes place over an extended period of time, with relatively low costs. These differences may have a bearing on how communities participate in negotiations for resource rights, how and which companies engage with communities over the decades-long period from exploration to exploitation to mine closure, and what power differentials may impact gender dynamics within communities and households.

as mining that is conducted with little machinery by miners who possess few if any legal rights. ASM is especially common in mining for gold and precious stones, and presents environmental, social, and safety challenges, and as a principal means of survival for miners and their communities is increasingly seen as an important element of a country's mining sector.<sup>22</sup>

Though there are trends towards legitimizing ASM to embrace the importance and pervasiveness of small-scale mining, in many countries, ASM activities are considered "illegal." Women, who are often excluded from or underrepresented in formalized employment in commercial mining, tend to participate at higher rates in ASM activities, by one estimate making up an estimated 30 percent of small-scale miners globally.<sup>23</sup> Yet because ASM is often illegal or informal, and because their roles within ASM activities are often associated with transporting and processing, rather than digging, women are often not identified as miners, and often do not benefit from community development programs. As is common in commercial mining employment, women's roles in ASM tend to earn lower pay as compared to those roles performed by men.

Additionally, the informality of ASM activities in many countries contributes to an environment of "lawlessness," with serious consequences for women's health and safety, and with other social impacts. Areas where ASM activities take place often have high rates of crime, domestic violence, and GBV.<sup>24</sup>

Land rights issues impact women's participation and ability to benefit from ASM in ways that are similar to the commercial mining context. Obtaining a license to carry out ASM or to operate and own a mine are the most lucrative and least risky ways to participate in the ASM sector. However, men disproportionately hold these roles. While there are a number of factors that contribute to this, cultural obstacles impeding women's ability to exercise their legally held land and property rights effectively exclude women from ownership and control over ASM activities.<sup>25</sup>

While the commonalities among the sectors support a shared analysis from a gender perspective, the aforementioned distinctions between mining and hydrocarbons development highlight the need to look carefully at the specific context and dynamics at play in any given investment. The following section will discuss these gender related issues of extractive investments, focusing on: (1) community engagement; (2) social and environmental impact assessment and mitigation; (3) community consultation and consent (Free, Prior, and Informed Consent); (4) compensation and resettlement; and (5) benefit sharing.

### 3.2 Community engagement

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<sup>22</sup> The World Bank estimates that there are more than 20 million artisanal and small-scale miners globally, contributing more than ninety percent of national mineral output in some countries. World Bank. (2012). Gender Dimensions of Artisanal and Small-Scale Mining: A rapid assessment toolkit. Available at <http://siteresources.worldbank.org/INTOGMC/Resources/toolkit-web.pdf>

<sup>23</sup> *Id.*

<sup>24</sup> Arend (2011). The World Bank & Gender Based Violence Case Study: the Democratic Republic of Congo. Available at <https://pdfs.semanticscholar.org/8a93/1763036e102b578aa9d7aa61509738a9b7dc.pdf>.

<sup>25</sup> World Bank (2012).

Community engagement is a broad term intended to cover the process of building ongoing relationships with communities.<sup>26</sup> In practice, what is called community engagement exists along a spectrum from informing or consulting with communities to true dialogue and joint decision-making.<sup>27</sup> It can take place at a number of different stages in extractive development and can be part of a number of different processes such as: community capacity-building, sensitization, and education; social impact assessments and social performance; community negotiation, consultation, and agreement making; and obtaining Free, Prior and Informed Consent (FPIC). In some legal contexts, some process of engaging a community is required by law, such as in jurisdictions where Community Agreements are required.<sup>28</sup> Even where not required by law, effective community engagement will always help extractive investors and others involved in extractive development better understand local values, practices, and knowledge. It can also assist with helping affected communities understand the investment and its implications and help them cope with changes to their lives and livelihoods that come with an extractive investment. It can play a role in establishing the social license to operate,<sup>29</sup> and help reduce conflict or opposition from local communities. Once the extractive project is underway, an engaged community can help facilitate good governance in risk and benefit sharing, and assure meaningful monitoring and evaluation of actual impacts during implementation, and mechanisms for meaningfully addressing those impacts.

### 3.2.1 Key gender and land tenure questions and considerations

#### Participation of women requires unpacking gender dynamics

Women's participation in community engagement processes is often poor because of existing gender dynamics in the local culture as well as the dynamics of the dominant society and the culture of the state institutions, civil society organizations (CSOs), and companies involved. When it comes to existing gender dynamics in the culture, whether women are involved in activities to engage the community is strongly linked to rules of community membership and to rules on who has the right to speak and decide on behalf of the community. These roles are most often limited to men either because women are not considered members of the kin group or blood-line and such participation is limited to members, or because there are social norms that give men speaking authority for women and households, or where it is not appropriate for women to speak publicly or in the presence of men or outsiders. Companies and others involved in the engagement process also (often unwittingly) impose their own gender norms in their dealings with communities. Also, companies infrequently have the capacity to address gender issues within a community, and such companies can be put into an awkward position if it is up to them to encourage the participation of women (or others) who would not otherwise be traditionally involved in decision-making in the community.

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<sup>26</sup> See Wilson, E., Best, S., Blackmore, E., and Ospanova, S. (2016) *Meaningful Community Engagement in the Extractive Industries: Stakeholder perspectives and research priorities*, IIED, available at <http://pubs.iied.org/pdfs/16047IIED.pdf>.

<sup>27</sup> *Id.*

<sup>28</sup> Canada, Australia, and Papua New Guinea, for example.

<sup>29</sup> A "social license to operate" reflects the trust and confidence society has in a business to behave in a legitimate, transparent, accountable, and socially acceptable way. Social license is built upon or damaged by the way that people view a business. It is a product of perception. It is not formally granted on the basis of legal or regulatory compliance, although its existence is often linked to compliance and usually reflects perceptions of behavior in view of standards or values.

Quotas or other required representation of women can be helpful but are insufficient without additional effort to ensure meaningful participation

Quotas for women's participation in community governance or decision-making bodies are often put forward as a way to ensure that women can meaningfully participate in community engagement processes. Quotas can be symbolically important but are seldom sufficient on their own to guarantee that women's interests are considered or given equal weight to those of men in practice. For example, quotas might be filled by women who are related to male leaders or are otherwise part of the local elite and hence less likely to challenge the interests of local, mostly male, elites. Or the women participating may be charged with playing the role of secretary or providing refreshments to the men instead of participating in decision-making. Also, it should not be assumed that a small group of women who make up the quota can necessarily represent the interests of all women in the community; the experiences of women are usually not homogeneous, and if the quota is made up of women who represent only one kind of experience (e.g. women who are related to male leaders, or women who are educated) then the quota can compound the harm by excluding the least powerful women. Moreover, women who make up the quota might be put in a delicate position of balancing the potentially competing interests of women generally with the interests of their clan or family.

A number of barriers can exist to women's meaningful participation even where there is a quota that has been filled in a balanced and representative way. It may be that women do not have the confidence to speak in the presence of males or community leaders. It may be culturally inappropriate for women to speak on certain matters that relate to land, for example if the land is considered sacred or in the male domain. In some cases, women do not see the connection between their role as caregivers and the land and resources that are affected by the extractive project. In all these cases, it takes time and effort to work with women and men in communities to ensure that women who make up a quota (or otherwise participate in community engagement processes) have the capacity and confidence to engage effectively, and to understand how such engagement benefits them.

Of course, non-representation in a meeting may not mean exclusion if there are other ways for women to influence outside of formal consultations or negotiations. However, these other means available to women must be integrated into the community engagement process if they are to offer a meaningful opportunity for women's interests to be heard.

### Representation alone cannot assure outcomes

Representative and participatory processes and capacity building are a good basis for gender inclusivity in community engagement processes, but are not usually sufficient to ensure that women's participation is equal or even influential on outcomes.<sup>30</sup> If women have been excluded from consultation and decision-making in all other aspects of social and cultural life, it may be too much to ask that they will immediately be able to effectively negotiate with men in the community or outsiders to protect their interests when extractive development processes begin. For women to participate

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<sup>30</sup> Kemp, D., Keenan, J., Gronow, J., Davidson, J. (2009) *Why Gender Matters*. Rio Tinto.

meaningfully, those who are seeking to engage the community should invest in addressing what can be very deeply held biases and practices of both women and men that limit women's participation.

Seeking gender equality may be insufficient to realize positive outcomes for women in community agreements

While greater involvement of women could improve community engagement processes and outcomes, "gender equality" alone may be unlikely to overcome more critical problems of meaningful community engagement. Such obstacles include the unequal power and resources of extractives companies in comparison to those of communities, lack of community access to skilled negotiators, lack of domestically recognized legal rights for communities, lack of attention to implementation and governance of agreements that have been negotiated, lack of access to relevant information for community members, lack of capacity to enforce agreements or seek redress when the terms of an extractive project are violated.<sup>31</sup> Thus, any attempts to improve engagement of women must also work to improve engagement with communities more generally.

### 3.3 Social and Environmental Impact Assessment and Mitigation

Social and environmental impact assessments are often required by the law of the host country or by company policy. At times, social impact assessments are included as a step during the exploration phase that are completed and then never referred to again.<sup>32</sup> Best practice suggests that the social impact assessment should lay the groundwork for the design and follow-on social performance of the extractive project; it builds the foundation for analyzing, monitoring, and managing the positive and negative social consequences of planned extractive development.<sup>33</sup> Social impact assessments should inform the final design of the extractive project, with the final project configuration being shaped to reduce negative impacts and to effectively mitigate those impacts that will ultimately occur.

#### 3.3.1 Key gender and land tenure questions and considerations

Identifying rights to, interests in, uses of, and benefits from land requires an understanding of land tenure

Land tenure analysis can be a strong tool to understand the social dynamics of the land-connected community subject to extractive development. A specific analysis of land tenure dynamics, conducted by a knowledgeable expert, can help identify the web of relationships, rights, and interests that concern land, and influence things like governance, decision-making, control, and management. Such analysis helps to identify who benefits from the land directly and indirectly, who has the right to make decisions about the land, who uses the land and on what grounds their use is based (i.e., is it a right to use, or just a tolerated use), and who has an interest in the land. While a

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<sup>31</sup> *Id.*

<sup>32</sup> Vanclay, F. et. al. (2015) *Social Impact Assessment: Guidance for assessing and managing the social impact of projects*. International Association for Impact Assessment. Available at [https://www.iaia.org/uploads/pdf/SIA\\_Guidance\\_Document\\_IAIA.pdf](https://www.iaia.org/uploads/pdf/SIA_Guidance_Document_IAIA.pdf)

<sup>33</sup> *Id.*

land tenure assessment does not provide the complete picture of the social impacts of an extractive project, it can provide critical insights into social and gender dynamics already in place and help shed light on how women will be affected.

Gender dynamics are critical to understanding the distribution of costs of extractive development

Gendered division of labor and gender roles or norms that place women in the reproductive role are strongly linked to different uses and interests in land. It is often the case that men's uses of land are more visible or more highly valued than those of women. For example, in the Kyrgyz Republic,<sup>34</sup> pastoralism plays an important economic, cultural, and social role. Indeed, most households in rural areas own some livestock that require seasonal grazing. In that culture, only men are considered pastoralists because they are responsible for grazing livestock; even Kyrgyz women themselves do not self-describe as pastoralists. However, women care for the livestock, ensuring that they survive the pasture seasons. This allows women to generate income from the milk, wool, pelts, and meat, and that income makes a significant contribution to the household's finances. In efforts to sustainably support pastoralism as a viable livelihood in rural areas, much work has been done to promote community-based pasture management in the Kyrgyz Republic, but women have not participated because local women and men, as well as policy makers and program implementers, do not see women as pastoralists. Yet women in fact do have an interest in pasture management, and their interests – such as access to water and eradication of thorns – differ from those of men, whose interests are more closely tied, for example, to pathways and road maintenance linked to their use of the pastureland. Because women are not seen as pastoralists, however, their interests are not included in pasture management decisions at the community level. This example shows how failing to see the gendered dynamics of land tenure can have the effect of missing or under-valuing the cost of a change in land on women.

Gender sensitive methodologies help get to social impacts

Even though land tenure has been a development issue for a long time, the primary research that assesses the social, cultural, legal, and political aspects of gender and land tenure is lacking. Thus, if gender land tenure analysis is to be integrated into social impact assessments, field-based research with affected people is needed, and this raises some methodological concerns. For instance, women may not be permitted to speak on matters of community importance, such as how land and resource are used. Another methodological concern for gathering primary data relates to the subject of research. For example, speaking only to heads of households, women and men, would provide limited information on experience and perspectives of women in male-headed households, who are likely to be more numerous than women who are also heads of households. Also, the household concept may create additional complexity; for example, in areas where polygamy is practiced, a household head may have more than one wife, and the experience and perspective of each wife may differ depending on marriage order, age, or preference of the husband. Moreover, primary research requires time, expertise, and a budget dedicated to identifying and learning about perspectives that may be hard to reach.

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<sup>34</sup> See Giovarelli, R., Richardson, A., and Scalise, E. (2016) *Gender and Collectively Held Lands, Good Practices and Lessons Learned from Six Global Case Studies*, Resource Equity and Landesa, available at <http://landwise.resourceequity.org/record/2826>.



### 3.4 Community Consultation and Consent (Free, Prior, and Informed Consent (FPIC))

The requirement to obtain a community's FPIC has its source in international law,<sup>35</sup> and provides a process to ensure effective recognition, respect, and protection of the right to self-determination of indigenous and tribal peoples. In a few limited cases, it is enshrined in domestic law.<sup>36</sup> The right to FPIC is sometimes extended, via industry or company standards, to groups who do not consider themselves indigenous but who stand to be affected by a project.<sup>37</sup> In addition, FPIC is an appropriate principle to apply if projects are to gain a social license to operate.<sup>38</sup> Obtaining FPIC can lead to more sustainable, socially acceptable outcomes, because it can help address power and knowledge imbalances between communities and the state or private actors, encouraging meaningful agreements on when and where to carry out activities that may have a significant impact on local people and the environment.

In practice, there can be some challenges with FPIC as it relates to extractive development. For example, there can be some question of who is the responsible party for gaining FPIC: the host state or the company. To date, FPIC has been regarded largely as the obligation of governments, while companies have tended to avoid a formal FPIC process where it is not a legal obligation or requirement related to project finance. This reluctance to engage is partly due to companies' discomfort with the prospect of handing over the power of veto to local community representatives.<sup>39</sup> Ultimately the leading role should be taken by the host state, but absent the necessary capacity or political will, it may be necessary for the extractive company to assist in seeking to obtain FPIC to support responsible investment practices and help establish social license to operate.

This challenge creates specific issues for extractive development, particularly when considering "prior consent." If the state legally reserves sub-surface rights or if the state has the power to award concessions, the state may in fact provide the legal permission under domestic law for a company to carry out a project before consent is obtained from the community, effectively taking the power to consent away from the community.

#### 3.4.1 Key gender and land tenure questions and considerations

##### Gaining freely given consent from women

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<sup>35</sup> *United Nations Declaration on the Rights of Indigenous People*, available at [http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf); C-169 *Indigenous and Tribal Peoples Convention Article 6*, International Labour Organization, 1989, available at <http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm>. FPIC has also been authoritatively interpreted into other legally binding international and regional instruments as well. See also International Senior Lawyers Project and Columbia Center on Sustainable Investment (2016) *Guide to Land Contracts: Agricultural Projects*, at 18, available at <http://ccsi.columbia.edu/files/2017/03/Ag-Guide-v17-FINAL-11-Mar-2016.pdf>.

<sup>36</sup> In Peru, Australia, and the Philippines, FPIC is established in national law.

<sup>37</sup> Buxton, A., and Wilson, E. (2013), *FPIC and Extractive Industries: A guide to applying the spirit of free, prior, and informed consent*, in industrial projects, International Institute for Environment and Development.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

The term “free” has gender implications in that women are often without power and status within a community and within households and are not always permitted to make decisions that depart from those of their husbands if married, or their fathers or brothers if not married. This may mean that extra effort is required to obtain the freely given consent of women in a community.

Informing women as well as men requires efforts to understand cultural and social norms and behaviors

As mentioned above in discussing consultation and engagement, there are also gender dimensions to how information is obtained, and how it is shared and received. First, women are often excluded or discouraged from attending consultation and sensitization meetings. In addition, very often women’s tasks in caring for and feeding the family can mean that they are not able to attend public meetings, unless they are scheduled to accommodate women’s schedules. If women are able to attend such meetings, they may not be able to ask clarifying questions or express opinions because of shaming by men or restrictions on women speaking in public. There are also gender dimensions to literacy and to control over media such as radios and cell phones in some contexts, influencing the efficacy of information shared via those fora for women.

Ensuring that women are among those who give consent

Defining who has the right to give consent has significant gender and land tenure implications. Very often the term “community” is used, and little guidance is provided as to who the community is. In fact, the IFC performance standards seem to suggest the circular definition that the community is whoever the community says it is. Given the potential value of and power associated with being a person from whom consent is required, the definition of the community can become a loaded determination, and is likely to create a context in which those with the least social power will not have a voice. If the community defines itself by membership in the male lineage, for example, women are likely to be excluded from giving consent. If elders or traditional leaders represent the community, women are not likely to be among them. Recognizing that cultures are not static, and rules of membership can adapt and change, such change is not likely without political will or without an understanding of how such a change can benefit the community as a whole. True FPIC would ensure that all segments of the community are adequately represented, although this can be difficult to achieve in practice and can require a significant shift in attitudes towards women in some contexts.

### 3.5 Compensation and Resettlement

Another step in extractive development that has gender and land implications is compensation and resettlement. Resettlement is for physical displacement (relocation or loss of shelter) and/or economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) resulting from a project. Extractive development induced displacement has a number of features that differentiate it from typical development induced displacement, and these features have significant land tenure dimensions. For instance, resettlement related to extractive development can occur in any stage of the project cycle, and this can result in unexpected demands

for land and pressure on parties to manage acquisition and displacement promptly. Relocated communities will often reside in close proximity to extractive production sites and will witness dramatic landscape change, creating tensions between the company and surrounding communities and expectations for employment or a greater share of profits.<sup>40</sup> In addition, often in extractive development the resourcing, planning, and implementation of resettlement defaults to the private sector actor rather than the state.<sup>41</sup> As with all business costs, there is a financial incentive to minimize them.

Many lessons have been learned from past experience of resettlement in development<sup>42</sup> and do not require restatement here. However, there are key gender and land dynamics that are relevant where resettlement is necessary.

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<sup>40</sup> See Owen, J.R., and Kemp, D. (2015) *Mining Induced Displacement and Resettlement: A critical appraisal*, *Journal of Cleaner Production*, 87, 78-488 (stating that identifying and acquiring land that is suitable for resettling people is difficult, and lands may be insufficient to support both the residential and livelihood needs of settlers. In addition, maintaining close proximity to the mining operation can have perceived advantages for some families and individuals who may be unwilling to move and lose access to benefits).

<sup>41</sup> *Id.*

<sup>42</sup> See for example, World Bank Group, *Environmental and Social Safeguards Policies*, available at <http://www.worldbank.org/en/programs/environmental-and-social-policies-for-projects/brief/environmental-and-social-safeguards-policies#safeguards>.

### 3.5.1 Key gender and land tenure questions and considerations

Clearly understanding who has an interest in land within a given context

Terminology and concepts around rights and ownership can create challenges when considering who it is that should be compensated and how they should be compensated when resettlement is necessary. This ties into the relative invisibility of women's interests and uses of, benefits from, and needs from land, as compared with those of men, as mentioned above. Limiting resettlement compensation to people who are "owners" or "legitimate rights holders" can have gendered meanings and inequitable impacts. For example, as discussed above, in a customary land tenure system where the clan holds the superior rights to land, the clan might be considered the owner, holding the power to allocate land to households to use. A woman who is not considered a member of the clan because she has married in may never be considered to have legitimate customary rights if this is the terminology or principle used, even though she will be directly affected by the loss of use of the land. Gendered land tenure analysis can help identify all those who have interest in or derive benefits from the land, and can help ensure that women do not bear a disproportionate or wrongful burden of the displacement.

Understanding intra-household dynamics related to how compensation for loss of land is paid

When cash compensation is paid,<sup>43</sup> whether the compensation will effectively support the household to maintain a similar or better livelihood depends in part on who receives the payment. For instance, if the payment is made to the household head, women in the household may not have access to those funds; and since women's reproductive role normally derives from their labor on land, children and the elderly who are cared for by women may be negatively affected. How cash is paid matters as well. Payments of cash to women may not be sufficient alone to address this issue where, for example, a husband has effective control over his wife's assets, because even if a wife is paid cash, her husband may decide how the cash is used.

Gender sensitive valuation of the cost of resettlement

Gender can figure into how the value of what is lost with resettlement is defined. In cases where resettlement affects the income-earning capacity of the displaced families, compensation alone does not guarantee the restoration or improvement of living standards. Where those livelihoods are land-based, women's uses of and benefits from land may not be visible to outsiders or to men within their own communities. Thus, without a specific gendered land tenure analysis, women's losses may not even be counted as losses. It is often the case that men's use of the land for income-generating activities is viewed as the sole household use that merits compensation, and women's uses may not have an easily defined economic value because they are focused on the support of the family.

## 3.6 Benefit Sharing

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<sup>43</sup> Best practices generally suggest in-kind compensation first, or in combination with cash compensation. However, there can be gender issues in in-kind resettlement as well. If women's uses and interests in land are invisible, as described in other sections, then their interest will not influence how "in kind" will be defined in a given context.

In the extractive development context, benefit sharing<sup>44</sup> means the fair sharing of net benefits of natural resource developments. These are the benefits in excess of costs that should be shared among the government, investors, and stakeholders. Benefit sharing can be handled through some share of net profit of extractive developments accruing to the government at the national or local level,<sup>45</sup> though typically they are used to distribute some of the profits or benefits of the project with the affected communities.

Because extractive operations are often in environments where state institutions may be absent or weak, benefit-sharing arrangements can be used to try to fill gaps in essential public services such as education, sanitation, and health.<sup>46</sup> Such benefits can help to address the reality that it is unlikely that the profits from the extractive project will “trickle down” to host communities; targeted benefit sharing arrangements are usually needed to ensure that local communities that are most directly affected by an investment receive direct benefits.<sup>47</sup> However, they may be controversial because they have the company playing a role normally limited to the state, and may in fact weaken the capacity of states to fill that role in the long term.

When there is limited local capacity for benefit sharing because of weak government or lack of political will, companies can agree to negotiate agreements directly with communities, and can be involved in directly managing how benefits are shared with affected communities.

### 3.6.1 Key gender and land tenure questions and considerations

Definitions of community can exclude women’s perspectives

In the process of defining benefit-sharing arrangements, the host community perspective is critical to ensuring that decisions made reflect local needs and aspirations. To gain this perspective requires a level of engagement with the community, and raises a number of gender and land tenure related issues that are discussed above in section two.

### Deconstructing gendered definitions of what is a benefit

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<sup>44</sup> The concept of benefit sharing first appeared in the Convention on Biological Diversity as one of the goals of the Convention – the fair and equitable sharing of benefits from the use of genetic resources. See Convention on Biological Diversity. 5 June 1992. <http://www.biodiv.org/convention/articles.asp>.

<sup>45</sup> International Finance Corporation (2015). *The Art and Science of Benefit Sharing in the Natural Resource Sector. Discussion Paper*, 11. <https://commdev.org/wp-content/uploads/2015/07/IFC-Art-and-Science-of-Benefits-Sharing-Final.pdf>.

<sup>46</sup> *Id.*

<sup>47</sup> Wall, E., and Pelon, R. (2011). *Sharing Mining Benefits in Developing Countries*. Extractive industries and development series; no. 21. World Bank, Washington, DC. <https://openknowledge.worldbank.org/handle/10986/18290>.

Assuming that the company or government engages with a community to define benefit-sharing arrangements, culturally determined roles can mean that there will be differences in how and to what extent the needs and perspectives of men and women are expressed, and what benefits are negotiated. For example, if men are involved in activities that require travel, they may focus on investment in road infrastructure, whereas women in those communities may not use the roads often as they are involved in caring for family members and may be more interested in services or assets that promote the wellbeing of their families or that make their routine household tasks easier, such as improving health care centers or the addition of water sources.

Considering the gendered impacts of how benefits are paid

To the extent that benefits are paid in cash or a cash equivalent, our experience in the land sector suggests that men are more likely to be the direct recipient of such payments. This can be because men are culturally considered owners or rights holder of land, and if payments are on the basis of land rights then women can be excluded. It may also be that men are considered the representative of the household, and so payments to the household are made to the (usually male) household head. Or it may be that payments are made to the women and men, but men are culturally (and sometimes legally) entitled to control their spouses' assets, which can include bank accounts and cash savings.

Whatever the reason, when men have direct or effective control over household cash and assets, the potential impacts of those payments are different than if women have control over them. Moreover, such payments can have particularly negative impacts on women. For example, in some cultures, an increase in a man's wealth comes with a social expectation to increase the number of wives he has, with no obligation to improve the lives of his existing wives. Also, there is some evidence<sup>48</sup> to suggest that increases in cash for a male in a household can lead to increases in domestic partner violence, especially when the cash is used to purchase alcohol.<sup>49</sup> Such increases can also lead to increases in sexually transmitted diseases when the cash is used to pay for sex.<sup>50</sup>

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## 4. Way forward

This discussion paper suggests how a gender and land tenure analysis can help enlighten and promote gender sensitive extractive development. Evidence shows, and our experience validates, that women are in a disadvantaged position in many emerging-market societies. Though they are critical to the health, welfare, and care of a family and a community, they lack the power and social status to influence their own lives and the decisions that affect them and their families. Land tenure plays into this challenge because both women and men rely on land to fulfill their personal, cultural,

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<sup>48</sup> See Eftimie, A., Heller, K., and Strongman, J. (2009) *Gender Dimensions of the Extractive Industries*. Washington, DC: The World Bank.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

social, and economic objectives, yet women's interests in or rights to land are often seen or treated as inferior to those of men. Thus, understanding gender and land tenure in a given context can allow for a deeper understanding of how a disruption to the land tenure system, such as through extractive development, will impact women.

This analysis points to entry points and opportunities to advance gender equitable extractive development.

First, increasing the availability of information about how extractives projects impact men and women, and what those impacts mean for businesses and others working to make extractives development more equitable, will support improved practice on the ground. Better information is needed about the specific impacts and causes of differential impacts and social and other drivers of gender disparity in extractives projects. This information will also support better advocacy and will help to strengthen the business case for why gender is relevant and should be central to companies' planning, design, and social engagement processes.

Second, as more stakeholders begin to pay attention to gender in their activities and operations, there is a need to develop and share strategies that effectively mitigate or address gender risks and impacts to leverage social investment to support gender equity and empowerment. Successful approaches for creating a space and facilitating community organization and voice in the context of investment so as to empower men and women in communities is also important. Additional attention is needed to develop and share ways to recognize and account for collective rights while supporting women's individual rights.

Finally, institutionalizing good, better, and best practices for gender integration and policy implementation is key to support the growing number of institutions that are working to proactively address gender in their operations. These institutions need clear guidance on how to effectively integrate gender into impact analysis and mitigation, and how to inform their work with social science and other studies to support better engagement and overall investment processes.