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# Social licence and mining: A critical perspective

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ABSTRACT

In 2002 the International Institute of Environment and Development published the landmark report Breaking New Ground: Mining, Minerals and Sustainable Development (MMSD). The report portrayed an industry distrusted by stakeholders and under threat from opposition groups. When read closely, the MMSD report reveals an inextricable link between industry's 'survival' instincts and the notion of a social licence. Within the context of a growing divergence around the expectations of minerals-led development, social licence has emerged as an industry response to opposition and a mechanism to ensure the viability of the sector. The objective of this article is to reinvigorate discussion and debate over how best to frame the industry's social and environmental obligations and how these obligations can be met by the sector. Where social licence has contributed to raising the profile of social issues within a predominantly industrial discourse, a primary failure is its inability to articulate a collaborative developmental agenda for the sector or a pathway forward in restoring the lost confidence of impacted communities, stakeholders, and pressure groups. We argue that a necessary first step in this process is for industry to reconcile its internal risk-orientation with external expectations which requires a less defensive and more constructive approach to stakeholder engagement and collaboration.

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## Introduction

In the industry study Breaking New Ground: Mining, Minerals and Sustainable Development (International Institute for Environment and Development, 2002), the authors outlined what we consider to be the fundamental driver behind the social licence to operate concept. Simply stated, that the industry "is currently distrusted by many of the people it deals with day to day". Without proffering a definition, the MMSD authors declared that industry players had "failed to convince some of its constituents and stakeholders that it has the 'social licence to operate' in many parts of the world" (International Institute for Environment and Development, 2002: xiv). As we understand it, the social licence concept as used in the MMSD report represented the sector's efforts at reaching out to stakeholders—global to local—and a broad attempt to articulate the many ways in which companies are responding to societal and community expectations.

It is important to note that these efforts took place against the backdrop of intense discussion about the industry's contribution to sustainable development and scrutinising debate about its corporate social responsibilities. A careful reading of the MMSD

report reveals an inextricable link between industry's 'survival' instincts and the notion of a social licence. Using the MMSD report as a historical lens, this link can also be understood as an attempt by industry to reconcile the needs and expectations of stakeholders with its own business imperatives at a time when the sector was under collective threat from a range of external stakeholders for having failed to resolve this very problem.[2] Within the context of a growing divergence around the expectations of minerals-led development, social licence has emerged as an industry response to opposition and a mechanism to ensure the viability of the sector. As a cue for engaging in dialogue about the role of the minerals industry in sustainable development and poverty alleviation (Hilson and Murck, 2000), we argue that rather than open up critical enquiry 'social licence' serves to limit discussion and debate on these increasingly important topics.

The MMSD project was an independent two-year process of collaborative research and consultation that sought to explore and locate the industry's contribution towards sustainable development. The finalisation of the report in 2002 is widely regarded as a symbolic point in the history of the sector's engagement with broader debates about 'development'. Although it has been

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[2] In 2000, for example, The World Bank Group announced that it would conduct a comprehensive review of its activities in extractive industries in response to stakeholder concerns, primarily environmental and human rights organisations. The final report Striking a Better Balance: The Extractive Industries Review was released in 2004.

subject to critique (*cf.* Corpuz and Kennedy, 2001), the MMSD process represented a collective 'opening up' of the industry to alternative thinking about mining and its contribution to development. The end result was a final report that sought to grapple with the industry's approach to 'impacts', rather than focusing only on a more traditional set of reputational 'issues'.

The recent commissioned series by the International Council on Mining and Metals (2012) on the industry's contribution to sustainable development highlights the significance of discourse and 'perspective' and their influence over corporate decision making. Putting social licence directly in the frame, the authors of the report argued that:

> "[…] the concept of a social licence to operate has been widely accepted by the industry as an essential attribute of success. It has prompted companies to look well beyond their self interest. However in practice, the social licence too, tends to be focused on more immediate decisions and actions. A contribution perspective would push the boundaries and open opportunities for greater stability over the longer term" (International Council on Mining and Metals, 2012: 5).

Given (i) the ongoing debate over the relative benefits and negative impacts of the sector and (ii) the corporate imperative to secure a 'social licence' in order to remain viable, a critical discussion about the function and value of 'social licence' is long overdue. With the exception of work that has sought to describe its 'character', 'components' and 'dimensions' (*cf.* Thomson and Boutilier, 2011), social licence as a concept has received scant attention in the scholarly literature (Corvellec, 2007). It is occasionally used by scholars as a frame to expose poor industry performance (*cf.* Browne et al., 2011) but in these instances the notion itself falls outside the scope of critique. The purpose of this article is therefore two-fold: firstly, it offers a critical examination of the term social licence and its usage by industry; and secondly it re-locates this critique in the context of wider debates about mining, sustainable development (SD) and corporate social responsibility (CSR). This second objective is addressed in the final section of the article, which calls for a more proactive industry stance towards these broader frameworks.

## Industry usage and application

Over the past decade, the notion of 'social licence' has become embedded within core mining industry vernacular. It is invoked in CEOs speeches, to title sustainability reports and industry conferences on sustainable development, and has become deeply entrenched in corporate sustainability policies, standards and guidance notes, in addition to all manner of corporate literature.[3] While its use is widespread, the industry has approached the term uncritically in the sense that the utility of the concept remains essentially untested within the sector. Instead, the industry positions social licence as one of its greatest challenges. That mining companies make efforts to 'obtain', 'maintain', 'retain',

'renew' a social licence are all taken as given by the sector. Even in the face of doubt about the operational utility of the term on the ground, the industry continues to hold up the idea of a 'social licence' as a plausible and viable construct. Currently, there is an absence of alternative concepts, or an unwillingness to pursue alternatives that engage the tension between short-term profit maximisation and long term value for companies and local communities.

We argue that this proceeds from the industry's inherent (and limiting) risk orientation. Following Louche et al. (2010) in their edited volume *Innovative CSR: From Risk Management to Value Creation*, we assert that the mining industry's dominant risk management orientation limits its ability to formulate a collaborative long-term development agenda.

Notwithstanding extensive uptake by industry, not all companies use the term in the same way or give the term equivalent weight. For those tracking trends within the sector, a diversity of application and use is readily observable. On the one hand there are the 'true believers'—companies and industry actors that use the term to orientate thinking around stakeholder engagement, social investment and community development. Used in this manner, the term becomes an anchor point when trying to convince stakeholders that their expectations will be met. On the other hand, there are companies and industry organisations that appear to recognise limitations in the social licence construct, but continue to use it when referring to external expectations more generally. Some companies may be more restrained in their use of the term—perhaps reckoning with its limitations—but the point has not been reached where the industry at large readily acknowledges the concept's fundamental flaws. The intent of this paper is to make some of these flaws apparent to those within the industry that for various reasons, cannot, or at least has not yet, considered that such flaws might even exist.

Our principal objection to the term 'social licence' is its 'inflated' status and what its usage infers. Despite industry acknowledgement that a social licence is not materially available to companies in ways that are comparable to a regulatory licence for exploration or mining, industry usage rests on an assumption that a 'social licence' can indeed be granted by the communities or stakeholders their operations impact upon. In contrast, legally mandated instruments have specified conditions and obligations, which are monitored by a regulatory authority typically with power to revoke the licence should conditions not be met.[4] In the absence of any internally coherent definition of social licence by industry, what is consistent is the importance of gaining acceptance from stakeholders either in the form of explicit support or by way of lessening opposition. While we accept that the term aids in introducing industry professionals and decision-makers to the social dimensions of mining it can be argued that the because of the inherent complexities associated with the minerals sector, a far more nuanced approach is required beyond asserting that social dimensions are important.

In the absence of a meaningful industry definition, we seek to understand, more precisely, the relationship between social licence and what is inferred by companies when claiming one. On a close reading of this relationship a circular logic is made evident. This logic can be explained as consisting of the following four linked assumptions:

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[3] A quick web-based search reveals that between 2007 and 2012, almost every corporate member of the International Council of Mining and Metals (ICMM), the Minerals Council of Australia (MCA), the Mining Association of Canada (MAC) and the Prospectors and Developers Association of Canada (PDAC) has used the term in one or more of these mediums. The International Standards Organisation (ISO) Guidance on Social Responsibility—ISO 26000—has been widely adopted by the mining industry. One of the key benefits of applying this standard is said to be an "enhanced reputation, greater public trust and a social licence to operate" (International Standards Organsiation, 2012). The term has also been used in publications produced by major 'think tanks' such as Business for Social Responsibility (BSR) (2003) and BSR with AccountAbility (2004), all of which the industry has used as key points of reference.

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[4] The authors acknowledge that in many jurisdictions, authorities do not display the requisite capacity, skills, knowledge, resources or will to monitor permitting conditions. We also acknowledge that in some jurisdictions, even though authorities have the power to revoke legal licences, this rarely occurs. Notwithstanding the challenges of implementation, our point is that regulatory permits and legal licences are institutionalised instruments with a structural and procedural form.