

COMMENTS ON MMSD DRAFT REPORT

The report is comprehensive, of a high quality and reflects the effort that has gone into the MMSD Project. A little more proof reading is required to deal with a number of typographical errors.

My comments on the substance are the following:

7-8 – paragraphs 3 and 4

It is not correct to say that the most legally binding form of land title is where it is ‘an individual property right that bestows the right to use and dispose of land’. The other tenure rights that are described in the paragraphs are, generally, no less legally binding and do confer a right to possession and use of land.

7-9 - paragraph 2, first sentence

It is also usually an indication of the manner in which indigenous and rural communities have been marginalized politically and economically.

7-35 - last paragraph

Given the country and location specific nature of the circumstances, etc of indigenous people I think that the study would, at best, develop general guidelines. Much of the real work in developing details will probably have to be done on a case-by-case basis.

7-36

‘National governments should consider...

- developing the capacities...development can take place.’

This suggests a dissonance between property rights that satisfy local aspirations, and development. That is however not the case and I would therefore replace ‘but still’ with **and**. It will therefore read:

‘developing the capacities needed for a definition of property rights that will satisfy local aspirations and create an environment in which development can take place.’

9-22 – box 9-2

The second source is **Manu** [K Sarpong Manu], and not Sarpong.

14-5 – paragraphs 1 and 2

The problem is that of the ‘national framework’ not incorporating or fully reflecting the different legal systems that may exist, particularly those of marginalized indigenous and rural populations. This is, in many cases, the result of colonialism.

‘A mining company from a culture where law is paramount...’ - Customary law is no less law. It may not be possible to ascertain it in the same manner that one ascertains statute law but it is no less binding. The United Kingdom, for instance, does not have a written constitution and government functions according to conventions that are similar to the customary law rules that apply in ‘traditional societies’.

14-23 – figure 14-1

I would think that 1 and 3 [local communities and indigenous people directly affected by the proposed mineral programme] coincide in many situations in a stakeholder engagement process such as the one that is described.

Chapter 16: Agenda for Change

The Report fails to make the point that all the actors that need to be involved in achieving a sustainable development framework - including the World Bank, commercial lenders, insurers, mining companies, etc – also need to build their capacity for developing and working within such a framework.

Bibliography – page 18

Sarpong (2001), should be **Manu, K. S. (2001)**.

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