Policy and Regulation in Artisanal Mining Communities: Examining Strategies, Experiences and Key Lessons

Sam Spiegel
University of Cambridge

Presentation Objectives

1) Review key governance challenges in ASM sector
   - What are the main challenges with regulating and formalizing ASM?
   - How to address socioeconomic & environmental goals?
   - What does a “participatory approach” mean?

2) Concrete lessons from recent development programs
   - highlight insights from UN pilot initiatives in Tanzania, Zimbabwe and Indonesia
   - examine the importance of building collaborations with poorer ASM communities (unlicensed and licensed)

3) Outline policy options and points for discussion
80 to 100 million people depend on ASM
- “push factors” and “pull factors”

Populations are diverse – often both women and men; working on land (reef mining), in forests, in rivers (alluvial gold panning), etc.

Work as organizations, groups, associations, individuals, families

Usually working without official legal status – “informal sector”

The value of sharing ideas about licensing models…

- Many governments have not yet developed “artisanal” or “small-scale” mining policies.
- Some countries have “artisanal mining” laws (non-mechanized)
- Some countries have “small-scale mining” policies (mechanized)
- Multiple definitions need to be discussed… Do laws exclude/marginalize ASM?
From the Perspective of Miners Interviewed...

- Lack of assistance
- Policing and military crackdowns do not work

Are Regulations and Administrative Procedures Too Complex and Bureaucratic?

- Many miners do not know how to apply for a mining license
- For many people, the laws are bureaucratic, excessively complicated (need to travel long distance to cities on the other side of the country), and mining licenses can be expensive
- Miners want to know their rights and obligations; but there are unclear environmental regulations/guidelines on mercury use/best practices – and no support services available

How to remove barriers to adoption of cleaner practices?

- Integrate mercury reduction into community development priorities
- Build trustful relationships; continuous support for communities
- Work with leaders - strengthen formal and informal governance
- Seek out vulnerable groups (women amalgam burners, etc)
- Improve marginalized groups' participation and access to licenses
- Promote equitable distribution of resources and opportunities
- Participatory diagnostic of community development plans
Case Study 1: Training ASM Workers in Tanzania

Are there “legal spaces” where ASM communities can work?

Tanzania Mineral Rights Map
- mostly large & medium size companies

1) Government has begun a process of DESIGNATING SPECIAL ASM AREAS (and developed mercury management guidelines)
2) Create policies that ensure companies relinquish concession areas that are not used after a certain time period
3) Policies promoting collaboration between companies and ASM groups
- Other study findings: improving local access to micro-finance and technology assistance is key

Policy Goals:
Finding the right local organizations to support

- Field experiences show that numerous benefits accrue when governments and other agencies form partnerships with local groups, to assist miners and improve technology
- Increase funds for local district offices to provide outreach services in mining areas
How can governments develop effective mercury policies?

Numerous studies indicate that:
- Criminalizing mercury use is often not an effective approach
- Improvements can be made by setting simple minimum requirements for eliminating mercury misuses and hazards in ASM (in Law/Policy/Regulatory Codes of Practice)

Case Study 2: ASM policy in Zimbabwe...

Projected increase in ASM population

➢ 1 million ASMs working in Zimbabwe sector
   (included non-mechanized and mechanized ASM)
GMP Policy Recommendations in Zimbabwe: Focus on Milling Centres

- Focus on national policies to reduce Hg misuse & replace inequitable technology in mills
- Hundreds of registered milling centers nationwide
- Mills are main sites of pollution
- Fixed centers, often near villages

Managing Concessions and Mills: Community-based monitoring through multi-actor accountability

Mine owners, mine managers, and gold dealers are legally responsible (as well as miners)
Eliminating Major Hazards in Milling ("Centralized" / "Semi-Formal" ASM)

Need to Simplify or Replace "EIA" (Environmental Impact Assessment) Protocols

Model needs to be specific for ASM (not designed for LSM):
- Simple, Clear
- Address all major risks (incl. Hg)
- Streamlined, Not bureaucratic
- User-friendly
- Appropriate for subsistence workers

Policy options: Replace EIA system with Environmental Management Plans (EMPs) or simplified set of Regulatory Codes
National environmental regulations –
Top-down model in Zimbabwe…too expensive
(designed for LSM)

Case Study 3:
Policy Lessons in Indonesia

Rural Gold Mining Areas

Urban Gold Shops
New Mercury Management Policy Adopted in 2007 (Central Kalimantan)

- Engaging 5 local government departments, working with UN project workers, focused on developing a new mercury management regulation while conducting outreach campaigns that promoted environmental health education and technology training.

- Main focus on gold shops in urban areas, less on rural mining areas.

Program’s results in urban gold shops proved to be very successful (>40 gold shops adopted fumehods. The program was not successful in rural areas due to limited resources and as the government is currently uncertain about how to manage the mining activity.

New Mining Law to License/Regulate Small-Scale Miners

“People’s Mining Law” (2006)

- Establishes licensing framework for ASM individuals and cooperative mining.
New Law on “People’s Mining” Adopted in 2006 (Katingan District, Central Kalimantan, Indonesia)

3 key concerns raised in response to new regulation:

- 1) Policies are irrelevant if special land areas are not designated for ASM

- 2) Need to developing plans for educating miners about how to comply

- 3) Effective implementation requires stakeholder dialogue and administrative coordination (especially between local government and central government)

National Mercury Trade – Not Easily Regulated

Some Ideas:
- Raise Capacities to detect and halt illegal traffic in Hg
- Raise the legal classification of Hg to the class of Hazardous Substance (requires labeling, licensing, etc)

Priority: Building Miners’ Capacities
The Move Toward International Mercury treaty
Underscore the Need for Local Capacity-Building

Policies to improve access to microfinance and equipment
Conclusions/Lessons Learned

- Regulation approaches are most effective when governments actively support ASM communities and create incentives for miners to formalize.
- Community-based approaches for decision-making, management and monitoring are key.
- Simplified regulatory requirements (e.g. mercury policy, etc) are more effective than complex ones; multi-actor accountability is key - miners, mine owners, etc.
- Multiple types of ASM licenses need to be accessible; promoting fair access to land is key.
- Participatory approaches can lead to great benefits.

Next two presentations

*Laura Barreto,  
Director of Material Research Efficiency Group, based in Canada  
(Presentation - Lessons on ASM Policy in South America and Mongolia)

*Ms. Olinda Orozco Zevallos  
Presidenta  
Instituto Redes de Desarrollo Social, based in Peru  
(Presentation - Lessons on ASM Policy in Peru)