

UN Department of Economic and Social  
Affairs –  
Division For Sustainable Development

COMMISSION ON SUSTAINABLE  
DEVELOPMENT (CSD)

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4th Implementation Cycle

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Topic: Mining

UN Department of Economic and Social  
Affairs –  
Division For Sustainable Development

“Mining Industry in XXI:  
Assessing Sustainability, Global and  
National Governance, and  
Participation of Local Communities”

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# Introduction: Setting the Scene

- Increased Mining Activity in Developing World with Global Commodity Boom
- Conflicts arise at community level: Why so common? What causes? What means of preventing or resolving?
- How to understand and overcome these conflicts in a larger national and global perspective? How to integrate different levels?

# Structure of Today's Session

I. The Global Level

II. The National Level

Exercise 1. Designing International Arrangements

I. The Community/Local Level

Exercise 2. Materiality Matrix

# I. The Global Level

# I. Global Level

- Absence of a Global Governance Regime for Community Engagement/Relations in Mining
- Some fragments....
  - U.N. Declaration on Rights of Indigenous Peoples, ILO Convention 169 on Indigenous and Tribal Peoples (22 countries ratified) --> *“free prior and informed consent” (FPIC) for all development activities*
  - Industry initiatives (ICMM Position Statement on Indigenous People and Community Development Toolkit) ☐ *“open dialogue” and “timely, accurate and relevant information”*

# Absence of a Global Mining Governance Regime on Community

## Engagement

- IFI initiatives (IFC/Equator Principles, IFC Stakeholder Engagement Manual, World Bank safeguards)  principles of consultation
- Problems:
  - 1) Principles without much implementation guidance
  - 2) principles often in contradiction: consent or consultation?
  - 3) Absence of enforcement and compliance monitoring

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**Table 1. REVIEW OF SELECTED COMMUNITY ENGAGEMENT APPROACHES**

	#1: PREPARE COMMUNITIES BEFORE ENGAGING	#2: DETERMINE WHAT LEVEL OF ENGAGEMENT IS NEEDED	#3: INTEGRATE COMMUNITY ENGAGEMENT INTO EACH PHASE OF THE PROJECT CYCLE	#4: INCLUDE TRADITIONALLY EXCLUDED STAKEHOLDERS	#5: GAIN FREE, PRIOR, AND INFORMED CONSENT	#6: RESOLVE COMMUNITY GRIEVANCES THROUGH DIALOGUE	#7: PROMOTE PARTICIPATORY MONITORING BY LOCAL COMMUNITIES
<b>Industry Initiatives</b>							
ICMM Position Statement on Indigenous Peoples <sup>1</sup>	❖	0	❖	❖ ❖	0	❖	0
ICMM Community Development Toolkit <sup>2</sup>	❖ ❖	❖ ❖	❖ ❖ ❖	❖ ❖	0	❖ ❖ ❖	0
IPIECA Guidance Document on Sustainable Social Investment <sup>3</sup>	❖ ❖	0	❖ ❖	❖	0	❖	❖
<b>Financial Institution Policies and Guidance</b>							
IFC Performance Standards / Equator Principles <sup>4</sup>	0	❖ ❖	❖	❖ ❖ ❖	0	❖	0
IFC Stakeholder Engagement manual <sup>5</sup>	❖ ❖ ❖	❖ ❖	❖ ❖ ❖	❖ ❖	0	❖ ❖	❖ ❖
World Bank Safeguard Policies <sup>6</sup>	0	0	❖	❖ ❖	0	❖	❖
<b>Host Government Laws</b>							
Philippines Mining and Indigenous Peoples laws <sup>7</sup>	0	❖ ❖	0	❖ ❖	❖ ❖ ❖	❖ ❖ ❖	❖ ❖ ❖

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# Parallels to Weaknesses in Global Governance of Other Aspects of Mining

- Transparency of negotiations and deals regarding revenue and royalties (EITI)
- Environmental Norms (tailings, carbon emissions, etc.)

## II. The National Level

## Root Cause of Community-Level Conflicts

- *Mismatches in Incentives and Priorities in Face of New Mining Projects and Proposals* [?]
- *Suboptimal Governance: skewed benefits and concentration of costs*

## *Mismatches Complicating Mining Governance and Community Buy-In*

- National and Regional Levels vs. Local/Community Level
- State vs. Civil Society

# National and Regional Levels vs. Local/Community Level

- Federal government (Ministry of Mines and Energy) seeks to maximize revenues and promote exports
- State government seeks to maximize royalties and secure political support
- Community/Locality: Experience social, environmental, and economic downsides and trade-offs; projects divide as much as unite

- Local government: complex material tradeoffs and political tradeoffs
  - Will locality, and will incumbents, experience more costs or benefits? Terms of burden sharing with powerful corporations?

# State vs. Civil Society

- State Actors: Promote Economic Development through Natural Resource Extraction, Political Benefits for Incumbents
  - Room for “Collusion” with Private Actors at Multiple Levels of Government, especially Higher Levels
- Civil Society: Diverse and often conflicting development preferences and concerns (jobs, environmental impacts on livelihoods, parallel social investments, etc.)

## Root Problem: Pro-Forma Licensing and Approval Process [?]

Lack of Community “Buy-In” during Pre-Feasibility and Feasibility Stages of Project Design and Approval (Times 1 and 2) [?]

Contested/Delayed Projects at Implementation and/or Operational Phases (Time 3 and 4)



# Top-Down Licensing and Approval Process (1)

- Permitting by Ministry of Mines
- Environmental licensing carried out by environmental authorities
- Technical criteria predominant (feasibility, technology, timelines)
- Close professional links between mining authorities and mining companies
- Regional/local economic development considerations often secondary

# Top down Licensing and Approval Process (2)

- Weaknesses in Environmental Impact Assessment
  - Bias toward approval and focus on mitigation measures
  - Much of bargaining with federal authorities has already occurred (state has surrendered substantial leverage)

# EXERCISE 1

- Construct a feasible and desirable international institutional arrangement for community engagement in mining project considering following key issues:
  - 1) Who would be the main actors and types of actors (intergovernmental organizations, private sector, civil society)?
  - 2) What role would be given to non-state actors (consultative? deliberative?)

(3) Voluntary or binding standards? What penalties for non-compliance?

(4) What key substantive issues and principles (employment, environment, revenue allocation, etc.)?

(5) What monitoring & enforcement mechanisms?

# III. The Community/Local Level

# Mining Companies, Local Governments, and Civil Society: A Complex Triangular Relationship

- Alcoa in Juruti, Pará as insightful case study

# What Degree/Type of Community Buy-In?

- “Free, informed, and prior consent” at one pole for CSOs and in some international soft law instruments
- \* CSR concept of “social license to operate” is fluid and ambiguous
  - Acquiescence or active support?
  - Three basic options: inform, consult, or negotiate?

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# Why Should Business Engage Communities?: The Business Case for Risk Mitigation



# GOVERNANCE OF MINING

## I. INTERNATIONAL LEVEL: IOs + private/public governance

## II. NATIONAL LEVEL:

Ministry of Mines

Ministry of  
Development

*Mismatch*  
1. *Environmental*

Regulation - Taxes - Royalties

§  
§III. REGIONAL LEVEL  
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Company and Regional  
Govern

Environmental licenses  
SEMA

## IV. LOCAL LEVEL:

*Mismatch*  
2. *Development Agenda*

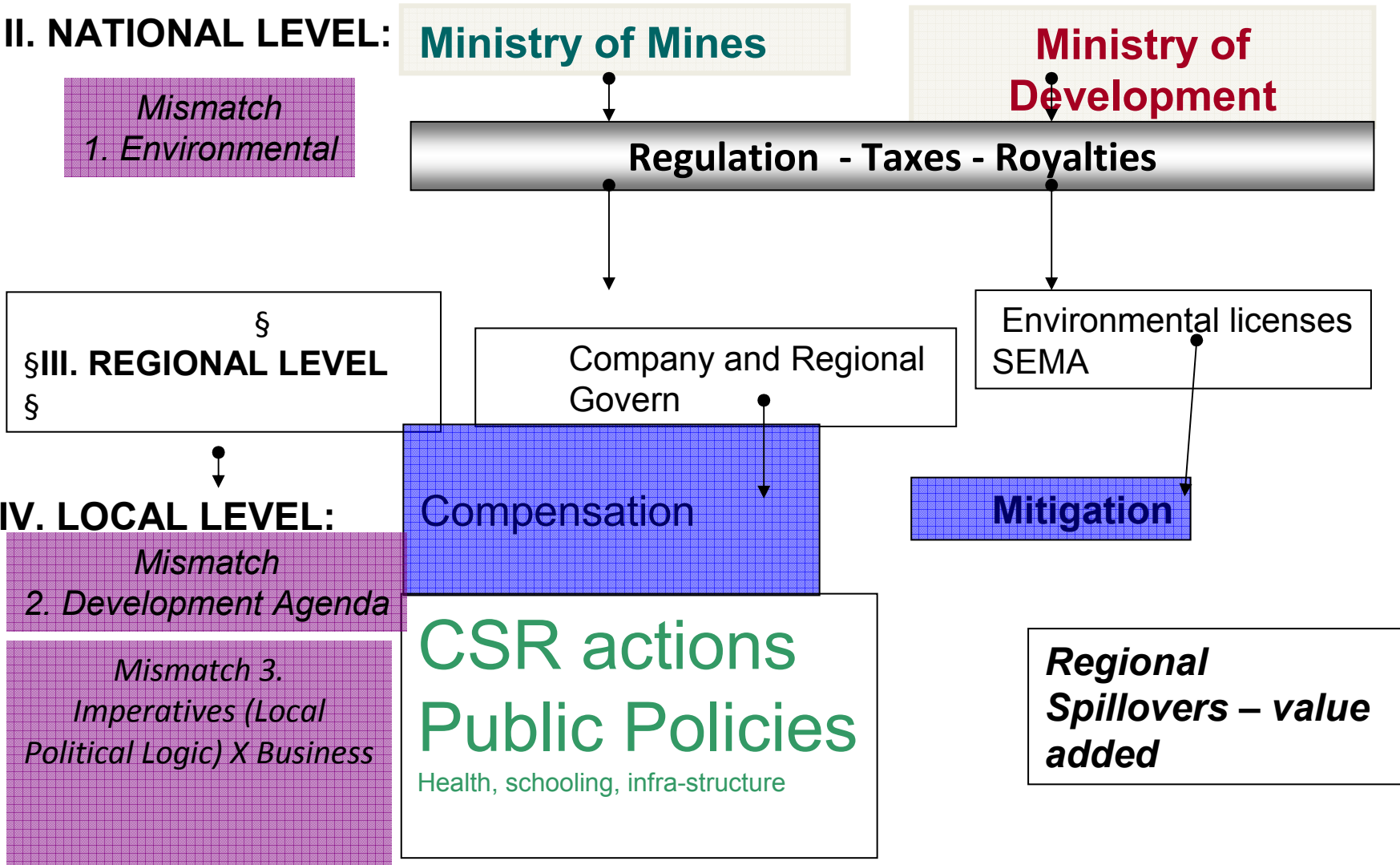
Compensation

Mitigation

*Mismatch 3.*  
*Imperatives (Local*  
*Political Logic) X Business*

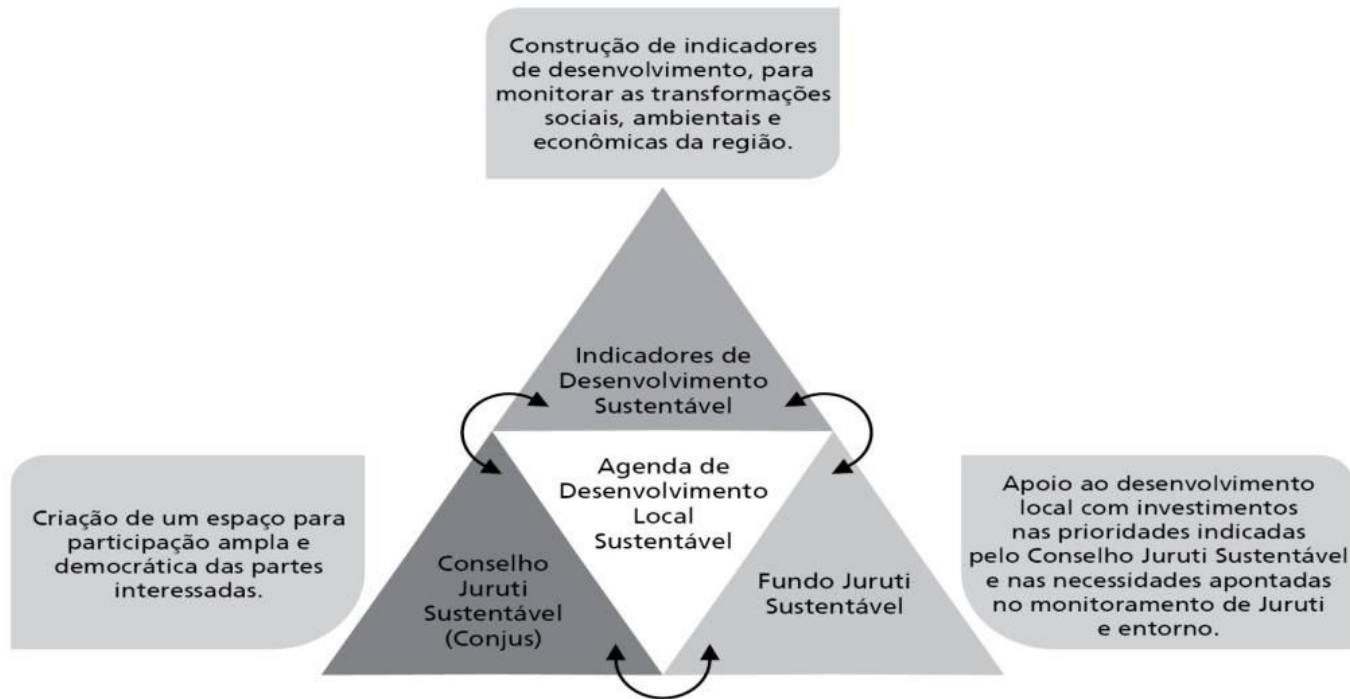
CSR actions  
Public Policies  
Health, schooling, infra-structure

*Regional*  
*Spillovers – value*  
*added*



# CASE: ALCOA MINING PROJECT

## JURUTI SUSTENTÁVEL: Uma proposta de modelo para desenvolvimento local



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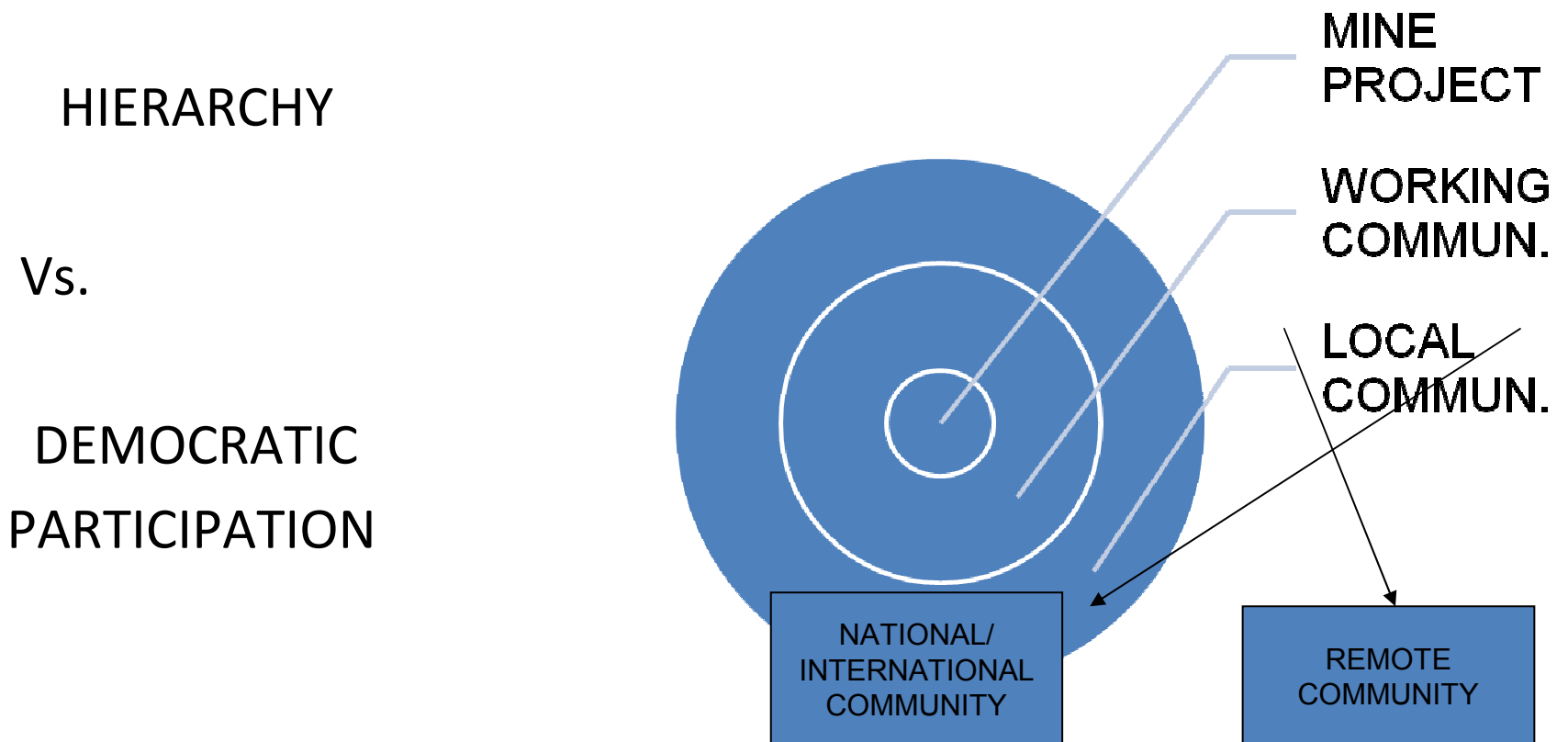
Mayor: collective evaluation and power networks

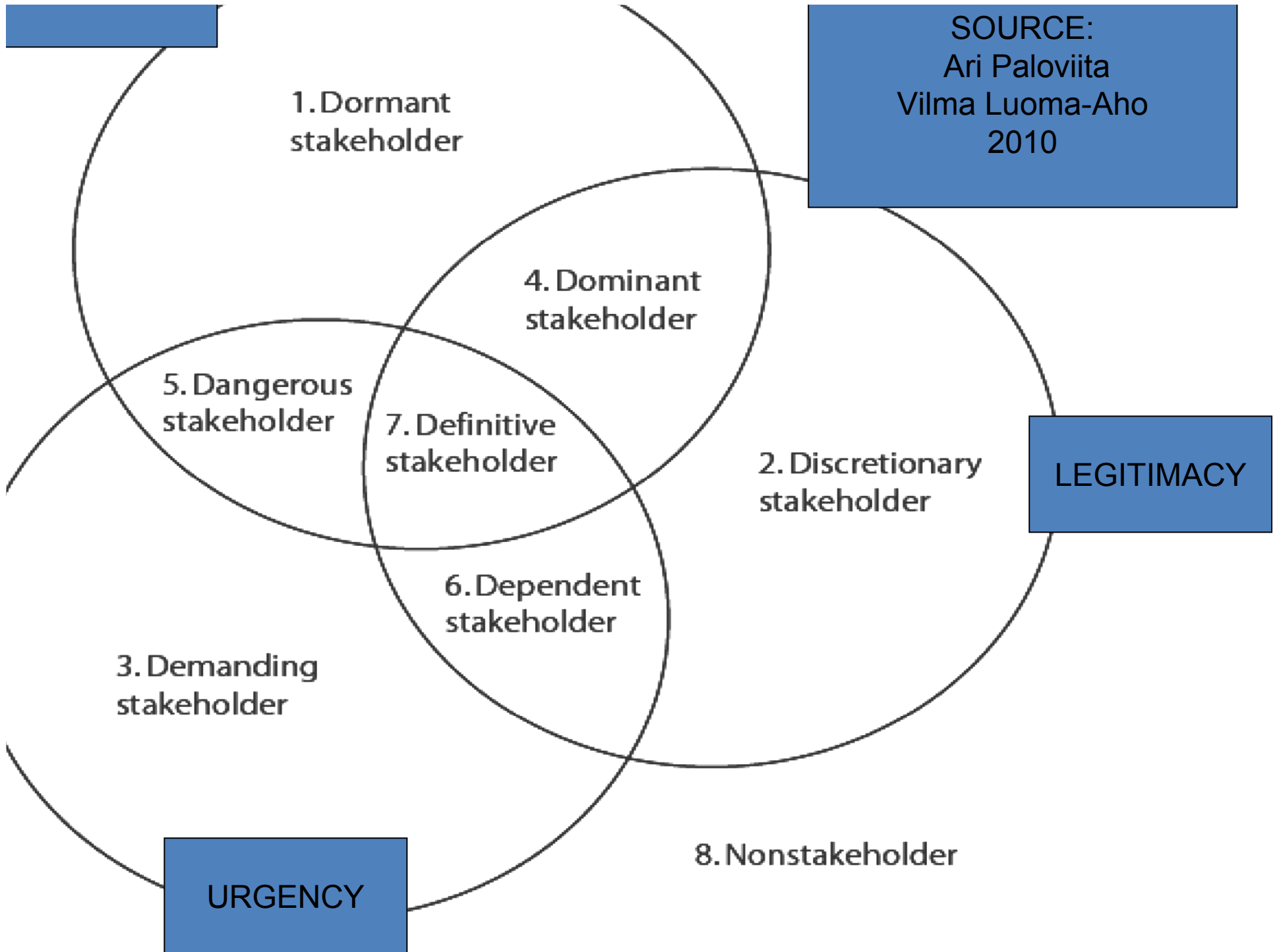
- Company: Transaction costs and information
- Risk management
- Setting up the agenda

Civil Society: funding projects and alliances

# CORPORATE APPROACHES TO LOCAL COMMUNITIES

- STAKEHOLDER INDEX





SOURCE:  
Ari Paloviita  
Wilma Luoma-Aho  
2010

LEGITIMACY

URGENCY

## Exercise 2

### Materiality Matrix



Importance		Low	High
For	High		
Society	Low		
		Importance for	Company

# Principles of Effective Community Engagement (WRI, 2009)

- 1) Prepare Communities Before Engaging
- 2) Determine What Level of Engagement is Needed
- 3) Incorporate Community Engagement into Each Phase of the Project Cycle
- 4) Include Traditionally Excluded Stakeholders
- 5) Gain Free, Prior, and Informed Consent
- 6) Resolve Community Agreements through Dialogue
- 7) Promote Participatory Monitoring by Communities