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## ACCOUNTABLE MINING

### HOW MEANINGFUL IS COMMUNITY CONSULTATION?

# CASE STUDY 6: REQUIREMENTS FOR CONSULTATION

Genuine consultation with communities is fundamental to ensure that mining contributes to sustainable development. Ensuring genuine consultation and negotiations with communities is critical to securing the legitimacy of any mining project. Corruption undermines the credibility of the consultation process, the resulting agreements and, by extension, a company's social licence to operate. It can increase conflict between the community and the mining operator, leading to major disruptions to mining activities.

#### RISKS

##### Corruption is more likely to arise when:

- **Consultation only occurs with elites who do not represent community interests** > allowing leaders to take advantage of negotiations for personal gain
- **The negotiation process is not transparent and agreements are not published** > making it difficult to detect whether negotiations have been manipulated
- **There are no clear, binding requirements for consultation** > opening the door for the duty to consult to be ignored or undertaken superficially

If community consultation or negotiations are manipulated, conducted in bad faith or avoided despite legal duties to consult, this can lead to the destruction of livelihoods. It can also negatively impact on the human rights of community members, such as their access to land for subsistence or to natural and cultural resources. Clear and binding processes and standards provide guidance on what constitutes appropriate consultation and safeguard against the risk that affected communities are deliberately bypassed, or consultations are done as a formality and not in good faith.

In **Cambodia**, despite some positive changes to the mining approvals process, there are still no formal guidelines on *who* should be invited to participate in community consultations on social and environmental impacts or *how* agreements should be reached and officially recorded.

If the legal framework for consultation cannot be accurately defined and understood, there is a real risk that the consultation process will be circumvented. One community in Cambodia reported that they felt past consultations had been held in bad faith by the responsible government body, which only notified community members on the day of the consultation, ultimately manipulating the process in favour of the mining company.



## Corruption risks undermining meaningful community consultation were identified across most of the 18 countries assessed in this research

Corruption risks undermining meaningful community consultation were identified across most of the 18 countries assessed in this research. Numerous best practice standards for community consultation have been developed by different global institutions, such as the International Council on Mining and Metals (ICMM) and the OECD. While these voluntary standards and guidelines are important and useful, this result shows that such standards alone are not sufficient. A *legally binding* framework and measures at the national level consistent with relevant international obligations are necessary to prevent and mitigate corruption risks relating to community consultation.



## MITIGATING THESE RISKS

### Measures to ensure that consultation with communities is meaningful and fair:

- Clear process and principles to set minimum standards for the *content, timing, participants* and *mode* of consultations (addressing the questions of What? When? Who? How? And Why?)
- Transparency in the conduct of the negotiation and consultation process
- Publication of agreements and other outcomes of community engagement

Chapter 6 of the Transparency International's Global Report *Combating corruption in mining approvals: assessing the risks in 18 resource-rich countries* provides further details about corruption risks and accountability measures associated with community consultation.

## ACCOUNTABLE MINING

Transparent and accountable mining can contribute to sustainable development. This begins with corruption-free approvals – the very first link in the mining value chain.

As part of Transparency International's Accountable Mining Programme, national chapters – from Africa, Latin America, Central Asia, the Asia Pacific, and North America – have identified and assessed corruption risks in mining approvals.

The six case studies in this series highlight some of the most common and serious corruption risks. These are the key questions to ask *before* corruption gets a foothold in mining approvals processes.



### POLITICAL & ADMINISTRATIVE CONTEXT

Who benefits from mining approval decisions?



### LAND ALLOCATION

How ethical and fair is the process for opening land to mining?



### LICENCING

How fair and transparent is the licencing process?



### LICENCING

Who gets the right to mine?



### ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT

How accountable are companies for their environmental and social impacts?



### COMMUNITY CONSULTATION

How meaningful is community consultation?