

**RE-SOURCING****Briefing document No 7****April 2021**

Author: Dr. Masuma Farooki

Affiliation: MineHutte

## Advocacy & Awareness Building: Connecting the Two Ends of a Mineral Value Chain

**Abstract:**

This briefing document details the discussions in the 'Advocacy and Awareness Building' session at the opening conference of the RE-SOURCING Project: '[Drivers of Responsible Sourcing – Common Ground, Collective Action, Lasting Change](#)' (18-19 January 2021). The discussion focuses on three important challenges of Responsible Sourcing in relation to its social aspect: How do we ensure that the voices of the most vulnerable groups are heard, find mechanisms that address their concerns and ensure these voices are part of the decision-making process.

The [RE-SOURCING Project](#) aims to build a global stakeholder platform for responsible sourcing in mineral value chains. The project addresses the challenges that businesses, NGOs, and policymakers are facing in a rapidly evolving ecological, social, business and regulatory world. RE-SOURCING is funded by the European Commission's Horizon 2020 programme and runs from 1 November 2019 to 31 October 2023.

## 1. Awareness Building & Advocacy: Session Focus

The interplay of social, economic, environmental and political factors is currently driving the Responsible Sourcing (RS) Agenda across global value chains in the extractive and related industrial sectors. The actors and processes that support this agenda are well identified, as are the RS frameworks and standards proposed and implemented by them. However, the operationalisation of concrete practices is multifaceted, and the RE-SOURCING Project is keen to promote peer learning and knowledge sharing around the how, what and why.

In the session on Awareness Building and Advocacy, at the [opening conference](#) of the RE-SOURCING Project, the discussion examined the challenge of [ensuring that the most vulnerable and negatively impacted groups within mineral value chains are heard and their concerns addressed](#).

Three issues were identified during the discussions: Hearing the voices of the most vulnerable; addressing the concerns they raise; and including these voices in the decision-making process. The full session recording is available [here](#).

### The Session Participants

- [Mark Dummett](#), Amnesty International
- [Ramón Balcázar](#), Observatorio Plurinacional de Salares Andinos
- [Aidan Davy](#), ICMM
- [Diego Marin](#), European Environmental Bureau

## 2. Hearing the Most Vulnerable



The most vulnerable groups, likely to be subjected to the highest negative impacts in mineral value chains, are generally found at the starting point of the chain. These groups include artisanal miners, local communities, workers in industrial minerals mining, workers in mining and smelting operations and their families. At the top end of the chain is the Original Equipment Manufacturer (OEM), for example an automobile maker or a Solar PV manufacturer. The challenge is to ensure that the voices raised at the starting point of the value chain are heard at the end of the chain, addressing the disconnect between the two ends. Four challenges that spur this disconnect were identified:

### 2.1 The Complexity of the Supply Chain

Often mineral supply chains are complex, making it difficult for lead firms to view the multiple nodes and jurisdictions that mineral products travel through. For example, cobalt extracted through artisanal mining in the DRC, through traders, will make its way into China for semi-fabrication and battery manufacturing, before being shipped to Europe for installation in an automobile. The complexity of the supply chain makes it difficult for the end manufacturer to be aware of the concerns that are being raised at the ground level.

### Challenges disconnecting the two ends of a value chain:

- Complexity of supply chains
- Identifying responsible entities
- Auditing is not sufficient
- Disconnected response

While traceability is an important strategy to address this, it is not without complications. The tagging of production batches required for a traceability can be problematic when inspectors cannot be deployed at artisanal production sites or in conflict prone areas – thus they are unable to verify the first tagging point. As a result, tagging is carried out at trading houses, obscuring the true point of origin. Where such tagging information is compromised or not effectively documented, the efficacy of the traceability chain is negatively impacted. The session also noted that traceability in itself is not an end but a means to engage with vulnerable communities. Therefore, while companies may have successful traceability processes, they also need to develop an engagement strategy to directly address the disconnect between OEMs and vulnerable groups. **Transparency and respecting the right of workers and communities is necessary to address the disconnect between OEMs and vulnerable groups.**

## 2.2 Identifying the Responsible Entity

A single mining area may be the origin for multiple supply chains, feeding into multiple OEM manufacturers. Thereby assigning ‘responsibility’ for abuses or improvements at the mine site to a single OEM becomes difficult. In addition, hearing the voices of the most vulnerable would need to be undertaken by all manufacturers sourcing from that area – which is again a **coordination and motivation challenge**. For example, if one car manufacturer engages with a vulnerable community, and the second one does not, responsibility for addressing human rights abuse cannot be addressed alone by the entity choosing to engage.

## 2.3 Auditing Alone does not Address the Disconnect

An audit for supply chain due diligence is a snapshot in time and can often be a box ticking exercise. It can fail to capture the reality of conditions at a mining site, or the challenges faced by the labour force. For example, labour leaders trying to organise unions can be often threatened and blacklisted from working for a company – this is unlikely to be captured in a due diligence audit. Therefore, **an audit is not a sufficient tool to allow vulnerable groups to be heard by those at the top of the chain.**

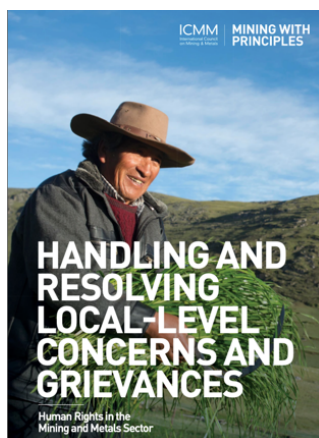
## 2.4 Acting Without Listening

When incidents of abuse or mistreatment are raised in the media or through civil society reporting, OEMs have responded by reiterating their commitment to respecting human rights and willingness to address the issue. In cases from the DRC for example, issues raised around human rights issues have resulted in companies supporting development programmes for the concerned areas. However, the programmes are often administered by people with little intrinsic knowledge of the area and can **fail to bring sustainable change**. The support for development programmes appears to address a company’s annual sustainability report and board of directors, rather than the concerns raised by the vulnerable groups. This kind of strategy is attributed to vulnerable voices still being left unheard.



#### Improving community engagement:

- Draft regulations to level the playing field
- Efforts to enforce fit-for-purpose regulations
- Assist communities to be able to take legal action



### 3. Mechanisms for Addressing Concerns Raised

The second issue raised to protect the most vulnerable groups in mineral value chains is on addressing the concerns they are raising. Progress has been made in this area, with many mining companies having developed engagement and grievance mechanisms to address concerns facing local communities that surround their planned/operational project sites. However, there are tensions within this engagement process. Additionally, the role of governments and their responsibilities in protecting vulnerable communities was also considered during the session. Three key challenges emerged from the discussion:

#### 3.1 Regulations on Community Engagement

The role of laws and regulations in determining meaningful engagement between mining companies and local communities is essential, to ensure the engagement processes take place to an agreed standard and are followed by everyone. However, [regulations that govern such engagement need to be fit for purpose](#), as some of the older mining codes were written to protect the interest of the State and not necessarily the people, particularly indigenous communities. Within mining codes enacted several decades ago, indigenous communities were often marginalized and suppressed, and therefore the current implementation of these regulations do not attempt to protect them.

#### 3.2 Better Enforcement of Regulations

In other regions, where regulations do support engagement, the issues lie with enforcing these regulations and accountability. Enforcement of regulations [can be done by both the host country](#) and the home country of the operating entity. Certain host countries require support, in terms of finances and human resources to enforce regulations. Home countries can require their operating entities to have fulfilled the conditions set out in the host country.

Accountability, through enforcement of regulations is important to support RS. Where companies are in breach of regulations, [communities must have the means of taking legal action](#) against them. The challenge arises from lack of information (discussed in the next section), where communities are unable to produce the evidence to show breaches. As we see an increase in legal cases being brought against companies in their home countries, the need for information that can be used as evidence is increasing. In addition, the session issued a very strong call to have [zero tolerance](#) towards corruption.

#### 3.3 Companies Should be More Supportive of Regulations

The debate around voluntary vs. mandatory engagement strategies rested on the side of mandatory regulations. The advantage of regulations determining engagement mechanisms is that it provides a level playing field for all actors. Non-compliance does not translate into a cost advantage for any actor. Therefore, [companies are urged to support the drafting, enforcement and compliance with regulations](#) around meaningful community engagements in all countries.

**"Most of the time we cannot talk of dialogue. Dialogue is not only hearing the other side's opinion, but also making them part of the decision-making process."**

Ramón Balcázar, Observatorio  
Plurinacional de Salares Andinos



### 3.4 Distribution of profits

One issue raised was the imbalance in the sharing of profits with vulnerable communities. Deliberations followed by strategies and actions need to be crafted for financial revenues to focus on alleviating poverty and duly compensating workers and communities. Increase in expenditure allocation for local communities and increasing wage rates need to be considered.

## 4 Including Voices in Decision-Making

The final topic of discussion in the session was to include the voices of the vulnerable in decision-making processes. The power dynamics between communities and companies are tilted in favour of the latter and without equal power. The result is a [negotiation and not a dialogue](#). Therefore, strategies and processes need to be in place to address this power asymmetry. Four challenges were raised in this discussion:

### 4.1 Indigenous Communities Differ from Local Communities

It is important to clearly understand the differences between indigenous communities and local communities. Unfortunately, history is a testament to the marginalisation and suppression of indigenous communities across the world, with some of that marginalisation continuing today. As noted in [Brazil](#), where the Amazon, home to indigenous communities, was opened up for mining licences in 2017, without their consent. The Brazilian courts later suspended this action. Regulations and strategies must require that indigenous communities are consulted on activity that may occur on their land, and they must also be part of the decision-making process.

Meaningful engagement with communities is understood to be strategies that follow the principles of [Free Prior and Informed Consent](#) (FPIC) and is best conducted between the operating entity and the community directly, without intermediaries. This allows for a meaningful relationship to be built between the two. However, in cases of grievances, a third neutral party, to act as arbitrator and mediator is considered useful.

### 4.2 Community Focus is Not Necessarily on RS

Communities do not necessarily care about 'responsible sourcing'; their concerns are more immediate:

1. Yes or No: Being able to say yes or no to a proposed mining activity impacting their areas.
2. Circumstances: Where projects already exist, deciding the conditions under which those projects operate.

The [importance for communities to say 'no' to incoming projects](#) was agreed by both civil society members and the representatives of the mining sector in the session. It



has been noted that communities often bear the brunt of mining operations while consumers in other jurisdictions reap the benefits. Again, as the power dynamics tend to be against communities, processes and regulations must ensure that they have the ability to decline projects in their areas.

There is one addendum to that proposition. The case for saying no [differs between indigenous](#) and other communities. If the State believes it has a wider strategic benefit in allowing for mining activity, then it must consult and negotiate with the communities impacted. However, in the case of indigenous communities, the State has an even higher responsibility to safeguard their interests and preferably not open these areas for mining concessions in the first place.

**"The lack of access to companies and politicians makes affected communities feel completely powerless."**

Diego Marin, European Environmental Bureau



### 4.3 Communities Need Access to Information & Actors

While it is noted that the power dynamics do not often side with local communities, this is not to suggest that communities cannot be [facilitated to be part of the decision-making process](#). The discussion centred around three key access points for the community:

1. Access to information: Details on what the project entails, its negative impact and any positive benefits to be derived.
2. Access to company: Direct access to company officials, engagement through third parties is not considered preferable
3. Access to government: Direct access to the government politicians and officials who are involved in decision-making. For example, it was noted mining concession decisions are often made at the Federal level, with local municipalities and agencies being left out of the process. Communities are unable to access the politicians that are deciding the fate of their communities.

### 4.4 Protection of Human Rights Defenders

Apart from vulnerable communities, those who represent or speak on their behalf are subject to threats and violence. There are numerous cases reported in the media where activists have been killed for opposing mining operations. Therefore, businesses need to treat activists, trade unions and civil society as allies rather than opponents, even when they are asking difficult questions. Protection of Human Rights Defenders is imperative.

### 4.5 Divergence in Community Opinions

Simplifying community engagement to a Community–Company–Government triangle fails to take into consideration the social reality of communities that often do not share the same objectives and views amongst themselves. Within a community and between different communities, there are a range of power dynamics and some members/communities may have more to lose/gain than others. Which members of the community have a voice in decision-making, and how others may have been left out, can lead to further conflicts within the community itself. Similarly, divergent objectives may exist within the government. [Engagement therefore is not considered](#)



a ‘complete’ process on its own, particularly where a company has a different goal for engagement (start a project) while a community may have a different goal (decline a project or disagree on whether the project should move ahead). These conflicting goals need to be negotiated and ideally reconciled on a case-by-case basis, but it should be clear that initiating and completing the process of engagement does and cannot automatically lead to a Social Licence to Operate. Mining companies also need to pay considerable attention to community engagement to ensure that they do not exploit the divergence in community opinions to suit their own needs.

## 5. Conclusion

In exploring the challenges around ensuring that the most vulnerable and negatively impacted within mineral value chains are heard during RS implementation, the session was clear in outlining the issues as discussed above. All three stem from power asymmetries between vulnerable communities, mining companies and governments. Mining companies, through implementing RS standards, have a key community-facing-role to play to address the power dynamics. Some have done so successfully, but for others the implementation remains weak and patchy. The role of the government in this regard also needs to be fully considered and not left to the community and the company alone. The Community-Company-Government nexus is a complex one as each of the three nodes are heterogeneous in themselves. The need for not only giving voice, but also enabling participation of communities in decision making remains a fundamental challenge.

The findings from this session will be taken up in the Road Map development and Global Advocacy Fora being organized under the RE-SOURCING Project over the next three years.



Recommended readings from session:

- EPRM: [Due Diligence Hub](#)
- European Environmental Agency: [Growth without Economic Growth](#)
- COP 26 Coalition: [Resisting Green Extractivism: The Unjust Cost of the Energy Transition – From the Ground up](#)
- EU Science Hub: [Responsible and sustainable sourcing of battery raw materials](#)
- Alvarenga et al., 2019: [Towards product-oriented sustainability in the \(primary\) metal supply sector](#)

## What is the one key-ingredient for successful engagement (CSO, individual affected groups and companies)?

Businesses need to treat activists as allies rather than opponents, particularly when they are asking difficult questions.

*Mark Dummett*

1) Transparency and zero tolerance for corruption

2) Respect the right to say no [for communities]

3) Independent and sufficient knowledge [for communities]

*Ramón Balcázar*

Find a means to bridge the disconnect from local communities and the language that prevails in general discussion around RS, make language more inclusive.

*Aidan Davy*

When engaging with communities, there needs to be a sense of empathy from the side of governments and industry, less focus on hard data, focus on human connection.

*Diego Marin Having*

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Having a real focus on the alleviation of poverty in using financial resources. This takes wisdom.

*Emmanuel Umpula*

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