



Preventing corruption in community mineral beneficiation schemes

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Abstract

This paper analyses patterns of corruption and corruption risks related to community mineral beneficiation schemes (CMBSs) that distribute benefits funded by mineral revenues to communities. It analyses insights from existing scholarship on CMBSs, evidence from seven cases of corruption, and lessons from guidance documents on reducing corruption in the mining value chain. The aim of the paper is to stimulate debate and further research about the suitability of anti-corruption strategies for CMBSs. It argues a key flaw in these materials is that they lose sight of the fundamental purpose of CBMSs: local-level development controlled by the community. Existing work on corruption in CMBSs places too much emphasis on administrative measures to manage risks and prevent wrongdoing. A better approach is to first understand local political dynamics and ambitions for development, and then use these insights to improve CMBS design. The optimal mix of anti-corruption initiatives will flow from this work, including clarity about which measures are best controlled by which stakeholders. This paper makes 10 policy recommendations to improve CMBS design or reform CBMSs so they deliver benefits, enhance community control over development and better control corruption.

Introduction

Historically communities have fared poorly from mining projects, especially in developing countries where they lost land without compensation and saw few benefits from mine revenue. Mining has created inequality within communities, as some families or leaders benefitted from jobs, consultancy or sitting fees, gifts and other benefits, or local contracts, but others did not. Indeed, mining has disrupted communities' social fabric and structures at the same time as it created opportunities for corruption and self-enrichment by company representatives and government officials. All of this occurred in a context usually characterised by minimal or no transparency around profits and revenue management.

Community grievances around these injustices has fuelled violence against mining company staff, sabotage of operations, resentment of central governments that permitted the mine but did not channel revenue back into communities, and a wave of law suits (especially from Indigenous communities) challenging mining companies' exploitation of their land. One of the responses to these grievances was for governments, mining companies and communities to broker 'community mineral beneficiation schemes' (CMBS). A CMBS is a scheme for compensation and distribution of mineral revenue-funded benefits to mine-affected communities.

Examples of CMBS-funded activities include:

- Resettlement of communities (including construction of new housing)
- Health and education services
- Agricultural infrastructure (such as irrigation networks or markets)
- Infrastructure development (such as water, sanitation, electricity and roads)
- Training and employment opportunities
- Local procurement (e.g., sourcing food, hardware, machinery and equipment, fuel, or local tradesmen), and
- Direct cash transfers to community members.

In some cases CMBSs are voluntarily implemented by mining companies, but a legal requirement for CMBSs has also proliferated around the world, to better ensure the rights of parties are identified and protected. Jamaica was the first country to adopt such a law in 1974, and between 1986 and 2012 another 32 countries followed suit, with exponential growth from 2000. There are now 42 countries having, or considering, such laws. These are mostly in Africa and Asia-Pacific, but there five in the Caribbean/Latin America (Colombia, Ecuador, Guatemala, Jamaica and Peru) and three in rich jurisdictions (Australia, Canada and Greenland) (Dupuy 2014).

International organisations focused on the extractive industry, its impacts and associated development, have also called for mining companies and governments to invest in sustainable development via CMBSs and developed policy frameworks to guide the delivery of benefits. The connection between mining and community development was first mentioned in the 1992 Rio Declaration on Environment and Development, and reiterated in the 2002 World Summit on Sustainable Development. *The Berlin Guidelines for Mining and Sustainable Development*, adopted in 1991 to provide guidance on environmental issues, were revised in 2002 to include a focus on community development. In 2001, the International Council on Mining and Metals adopted a Sustainable Development Framework in which Principle 9 explicitly focuses on community development, and in 2005 it produced a *Community Development Toolkit* for members. In 2011, the Global Reporting Initiative published a 'Mining and Metals Supplement' that

includes guidance on issues specific to local-level development, such as consultation, community rights and resettlement. More recently, the Natural Resource Governance Institute's (NRGI's) *Natural Resource Charter Decision Chain* (2015) calls for compensation and national benefits for affected communities (Precept 5.3) and local benefits for affected communities (Precept 5.4).

Negotiation of CMBSs has sometimes been made possible by the creation of political space, via peace agreements to end conflicts, for the renegotiation of community rights. In other cases CMBSs were a response to a political and security environment that made mine operations untenable. The hope was that CMBSs would reduce tensions and allow mines to operate with reduced security-related costs and less negative publicity. In yet other cases, democratisation has allowed communities to be more forceful and more successful in demanding benefits from mining. CMBSs have now become a common and prominent element in mining companies' corporate social responsibility (CSR) programmes.

This paper focuses on corruption in CMBSs, 'corruption' being defined as 'the abuse of entrusted power for private gain' in keeping with Transparency International's definition. There is considerable research on the developmental impacts of CMBSs by scholars interested in mining. There is also a large literature on mining and development, in which the social, political and economic impacts of corruption are a core theme. However, there is a gap in knowledge about corruption specifically related to CMBSs, notwithstanding their proliferation.

It is difficult to accurately conduct a broad survey of corruption in CMBSs due to a lack of good evidence. Corruption is likely to be significant because of the opportunities CMBSs create through poorly managed risks and poor design. The two cases discussed for which good evidence is available – Ghana and Sierra Leone – demonstrate systemic failures in these CMBSs before they were reformed. Allegations of corruption in other cases discussed in this paper also suggest that systemic vulnerabilities exist in these CMBSs. Despite the high likelihood of widespread corruption in CMBSs it remains an under-reported, under-researched phenomenon.

The aim of this paper is to stimulate debate and further research about the suitability of anti-corruption strategies for CMBSs. It analyses insights from existing scholarship, evidence from seven cases of corruption and lessons from guidance documents on reducing corruption in the mining value chain, and argues a key flaw in all these materials is that they lose sight of the fundamental purpose of CMBSs: local-level development controlled by the community. There is also an over-reliance on administrative measures to prevent corruption. This paper argues that a better approach is to first understand local political dynamics and ambitions for development, then use these insights to improve CMBSs. The optimal mix of anti-corruption initiatives will flow from this work, including clarity about which measures are best controlled by which stakeholders. Ten policy recommendations are made to improve CMBS design, so they deliver benefits, enhance community control over development and better control corruption.

Research approach and methods

Good data about corruption in CMBSs is of limited scope and quality, and therefore a survey of case studies could not be the sole source of evidence driving the arguments in this paper.¹ The seven cases that are analysed illustrate common corrupt acts, perpetrators and anti-corruption strategies relevant to CMBSs, but only two of them – Ghana and Sierra Leone – contain detailed evidence allowing a fuller analysis.

Fortunately, there is practitioner guidance material, such as toolkits, about preventing corruption in mining, some with a focus on CMBSs. Guidance documents were identified through the websites of major global civil society organisations (CSOs) focused on improving the developmental impacts of mining. They are the basis for the section on corruption risks in CMBSs and are used to identify measures for preventing corruption.

Because applying common anti-corruption measures can undermine the goals of community self-development that underpin CMBSs, this paper also considers the concept of community development and speculates on how the optimal balance in corruption and governance control between communities, mining companies and government can be achieved.

Research for this paper involved the following steps:

- A literature review
- Identification and analysis of cases of corruption in CMBSs. Cases were identified through:

A call for case studies sent out in May 2016 via www.goxi.org and UNDP's Asia-Pacific Integrity Action Network (ap-intact@groups.undp.org),² and

An open source (internet) search for cases, and an attempt to identify cases in the following databases: <http://star.worldbank.org/corruption-cases?db=All>; www.oecdwatch.org/cases; www.traceinternational.org/compendium; and <https://fcablog.knack.com/enforcement-database#enforcement-index/>. These databases did not yield additional cases.

- Identification and analysis of risks and risk factors relevant to corruption in CMBSs in practitioner guidance documents from Extractive Industries Transparency Initiative (EITI) (2016), OECD (2016), NRGi (2015), and UNDP (2016), as well as Wolfe & Williams (2015).
- A peer review of the draft paper that provided feedback and suggested revisions.

The seven selected cases are from Cameroon, Ghana, Liberia, Papua New Guinea (PNG), Sierra Leone, and Zimbabwe, as well as one anonymous case (see Annex 1 for an outline of these cases). Criteria for inclusion were:

- Only cases relating to mining (not oil or gas) were selected
- Cases could be either for an entire country-wide scheme or relevant to a specific mine

1 Good quality evidence about corrupt acts and perpetrators usually only becomes available when there is a public trial through which it enters the public domain.

2 The call for cases requested information in English or French only, not Spanish (which may have yielded cases from Latin America).

- Sufficiently reliable data about the corrupt acts and the parties involved had to be provided (reliability was established by evidence of triangulation from different sources by the authors).

Several cases were excluded because the source material referred to corruption without any evidence or even a record of a reliable source making the initial allegation. A key problem with identifying cases of corruption in CBMSs is that while there are many allegations of waste and misuse, it is not always clear whether this is because of inefficiency, incompetence or corruption, or all of these factors.

Even with the evidence requirement for the seven cases selected, analysis was constrained by a lack of detailed information. The primary purpose of these cases is therefore to illustrate types of corruption that can occur in CMBSs, examples of perpetrators and strategies that might be useful to prevent such corruption, rather than provide a body of evidence for extensive analysis of systemic risks for corruption in CMBSs.

Literature review

Much of the scholarship on CMBSs focuses on the degree to which multi-stakeholder participation enhances transparency and accountability, and consequently also enhances the developmental benefits to communities of mining. A small subset of this work, focused on Ghana and Sierra Leone, researches actual cases of corruption and the negative impact this has on communities and state-society relations. There is also a literature on corruption in mining more generally and the extent to which community leaders and traditional authorities are implicated in this corruption, especially around the issue of consent to a new development. However, the literature has a gap around causal relationships, risk factors and potential anti-corruption strategies in the context of CMBSs. The optimal location of control over anti-corruption measures – that is, which parties should control these measures – has also been ignored as an issue.

Some scholars argue that the multi-stakeholder arrangements typically underpinning and guiding CMBSs can bring transparency and accountability to revenue management, including reducing corruption risks (Hills et al 2009, Stechhahn 2009, Oxfam 2012) and being the catalyst for strengthened standards, legitimacy and public confidence (Søreide and Truex 2011). Global initiatives to reduce corruption in the mining sector, such as the EITI, NREGI and Publish What You Pay³ – as well as the UN's Sustainable Development Goal no.17 (Revitalize the global partnership for sustainable development) – all emphasise the benefits of multi-stakeholders partnerships for development. That is, partnerships, especially involving communities, will improve developmental impacts, including a reduction in corruption, negative social impacts and environmental damage.

Yet, we know that the leaders and staff of not-for-profit and community organisations – key stakeholders in CMBSs – sometimes engage in corruption, including in the extractives sector (Shilling-Vacaflor 2012, Foster 2015, Burton-Bradley 2015, Robertson 2016, OECD 2016). In particular, there are numerous reports of mining companies offering bribes, gifts and benefits to community leaders to consent to mining projects (Rovillos et al 2005, Cariño 2005, Decoodt 2012, Wetzlmaier 2012, Burton-Bradley 2015, Robertson 2016). If community leaders, government officials or mining companies have been willing to engage in corruption at the consent stage of a project, a simple risk analysis of motivation would conclude they might also be willing to engage in corruption once a CMBS is operational.

Practitioner guidance materials produced by some international organisations focus on the issue of corruption in CMBSs, but this is almost never based on case studies. Rather, it is based on an analysis of risks elsewhere in the mining value chain. Chapter 7 of the OECD's *Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives* (2016) describes corruption risks associated “with malpractice in public spending or social expenditure by private companies” (p.103), although the focus is on private companies, whereas corruption in CMBSs frequently involves government officials and community leaders as well. The EITI (2016) Standard's Requirement 6: Social and Economic Spending, focuses specifically on improving transparency around social expenditures by extractive companies

3 See the EITI Standard's Requirement 6: social and economic spending; NREGI's Natural Resource Charter's Precept 5 (the government should pursue opportunities for local benefits and account for, mitigate and offset the environmental and social costs of resource extraction projects); and Publish What You Pay's mission statement at www.publishwhatyoupay.org.

although it does not require social expenditure by extractive companies.⁴ Transparency International has also developed a corruption risk assessment tool for use by TI Chapters with significant mining industries. This internal project to enhance transparency and accountability in the awarding of mining sector permits, licences and contracts, provides guidance and training on assessing risks of corruption – including some risks related to CMBSs. NRGi's *Natural Resource Charter Decision Chain* (2015) states that “sufficient transparency and availability of information on the management of natural resources to hold officials from the government, private sector and civil society to account” (Precept 2.2) should be available, and this would include CMBSs.

Despite the high likelihood of corruption in CMBSs, there is limited analysis of the issue (see Foster 2015) and only a few suggestions that these risks deserve greater attention (Plummer 2012, Ernst & Young 2013, Herbert Smith Freehills 2015). Fortunately, there is good quality research available on corruption in CMBSs in Ghana (Adimazoya 2013; Standing & Hilson 2013; Standing 2014; and Dupuy 2016) and in Sierra Leone (Dupuy 2016). These scholars analysed systemic weaknesses that facilitated corruption, emphasising a lack of accountability of traditional authorities in the CMBS design as a key problem. Because of the quality information available in Ghana and Sierra Leone there is more discussion of these cases in this report, compared to other cases.

Notwithstanding this research, there is an overall lack of analysis of cases of corruption in CMBSs, causal relationships, risk factors, and potential anti-corruption strategies. The likely reasons for why this gap exists, tell us something about the sensitivities around CMBSs, especially the role of traditional authorities, as well as the lack of consequences for corrupt acts in some jurisdictions.

The main reason for this gap is simply that there are few well-researched cases of corruption that move beyond allegations to evidence. It is a cliché to say that corruption is a secretive activity and therefore perpetrators go to great lengths to hide their activities, making good evidence difficult to obtain. In fact, in the cases selected for this paper the corruption was blatant. The problem is that even when corruption is obvious it has not been investigated or prosecuted, so it is difficult to come to definitive conclusions about what happened and who was involved.

Another reason is likely to be the effort that has been made by CSOs to ensure CMBSs are part of mining developments. Dividends for communities from mining activities have been hard won and programmes remain vulnerable to pressure by governments and industry efforts to wrest back control (and revenue).

A third reason is sensitivity to exposing corruption, especially if this results in the cessation or curtailing of activities. The consequences of exposing impropriety create pressure – especially at the community level – to ignore or cover-up corruption, an incentive that exists in community development programmes elsewhere (Ensminger 2017).

Scholars' failure to connect corruption involving community leaders in CBMSs to the most widely used legal instrument for prosecuting corruption, the US Foreign Corruption Practices Act (FCPA), is also a factor. The FCPA bans mining companies from making payments to foreign government officials, but

⁴ Where social expenditures are mandated by law or contract with a government, the name and function of any third party beneficiary (such as a community organisation or special fund management organisation) should be disclosed (Requirement 6.1(a)). Where there are discretionary social expenditures and transfers from mining companies to communities, such as CMBSs, these should be monitored “through a reporting process designed to achieve transparency commensurate with the disclosure of other payments and revenue streams” (Requirement 6.1(b)).

due to a lack of test cases there is uncertainty about whether traditional authorities could also be classified as foreign ‘officials’ or ‘fiduciaries’ (see Brown 2009; Pinkowski 2013; Funk and Cohen 2014; and Charleton 2015).⁵ This ambiguity means mining companies may be able to bribe traditional authorities and argue they have not breached the FCPA. Brown (2009), Pinkowski (2013) and Foster (2013) argue that traditional leaders *should* be classified as ‘foreign officials’, e.g., where they represent communities that have signed sovereignty treaties with federal authorities (such as Canadian and US First Nations), or are a member of a royal or chiefly family (such as Middle Eastern monarchs, and chiefs in countries where traditional authority is a recognised element of community governance, such as in many African countries and in PNG). If and when the US Government turns its investigative attention to this issue, mining companies would have an immediate incentive to stop providing gifts, facilitation payments, or other rewards to traditional authorities. This development is likely to also focus further research on corruption in CMBSs.

Finally, mining companies have an incentive to ignore corruption in CMBSs. Their CSR budgets are small in comparison to profits, which can be in the billions over a mine’s life-cycle. Mining companies may prefer to accept some corruption by community leaders and government officials, rather than modify or cancel corrupted activities or pursue corrupt individuals. Interestingly, having a CSR programme has been found to reduce penalties for mining companies that are found to be corrupt (Hong and Liskovich 2016), creating an incentive for companies to maintain even a corrupt CSR programme as insurance against the size of fines imposed for corruption in other parts of the business.

Models of CMBSs

CBMSs follow three basic models (Dupuy 2016), each of them giving a different emphasis to the community, mining company and the government in terms of their influence and power:

- **Company-led:** in this model the CBMS is part of the company’s CSR programme. Community leaders – and possibly even government officials – may have input into decisions about which activities to fund. However, implementation and management of activities and budgets is led by the mining company itself.
- **Government-led:** the government collects revenue from mining and channels a portion of these revenues into CMBS activities, which government officials implement and manage. In some cases, communities will have input into what activities are selected and how they are implemented.
- **Government-funded, community managed:** the government collects revenue from mining but transfers those funds to the community, which then implements and manages CMBS activities. This is the most common model.

Guidance material on corruption in CMBSs does not reflect these nuances. For example, the OECD (2016) conceives of social expenditures as being either government-led (lumping traditional leaders with the government ‘side’) or company-led.⁶ CSOs that represent the local community’s interests may also be involved in CMBSs. Grouping government officials with traditional leaders is also an error as these two parties will have different incentives and opportunities for corruption depending on the structure of the CMBS, and they may not necessarily mutually oppose the mining company.

5 Note that Transparency International’s definition of corruption – ‘abuse of entrusted power for private gain’, the definition used in this paper – clearly extends to corruption by any community leader involved in CMBSs. However, TI’s definition lacks the legal weight of the FCPA.

6 See *Corruption in the Extractive Value Chain*, Chapter 7.

Which stakeholder has the most power to influence decisions over CMBS guidance is a critical factor in whether community self-development is likely to occur, and therefore the model used is an important issue. It will shape which corruption risks are likely to exist and what corrupt acts are most likely. This is not complicated: a company-run CMBS that contains little role for government officials will have fewer opportunities for them to engage in corruption, but will have risks around companies offering gifts and benefits to community leaders. Similarly a government-led CMBSs where the government disburses funds and selects activities (and the mining company is relegated to providing the revenue to pay for activities), will have corruption risks involving improper influence on officials to authorise certain activities, such as for friends or relatives. Government-funded, community-managed CBMSs will have more risks around corrupt decision-making and actions by both community leaders and government officials and there is likely to be less scope for mining company representatives to engage in corruption.

Corruption and CMBSs

This section describes common corruption risks in CMBSs, corrupt acts that have occurred in the seven cases and the impact of these acts. It relies on two sets of material as sources of information: the seven cases of corruption mentioned earlier, and an analysis of practitioner guidance documents detailing risks in the mining value chain.

Note that *perceptions* of corruption are more relevant to CMBSs than many other types of business, government or development activity. There is a marked asymmetry of information and power between communities on the one hand (which, in developing countries, are often poor and not always well-organised), and mining companies (which are often well-organised and well-funded) and governments on the other. This asymmetry feeds suspicions that if local development activities are not implemented, or are implemented poorly, or have no lasting impacts, it can only be because of corruption, regardless of the truth.

Guidance materials on managing corruption risks

One way to understand corruption in CMBSs is to examine the *likely* risks given corruption that occurs elsewhere in the mining value chain. Guidance documents from the EITI (2016), OECD (2016), UNDP (2016), and Wolfe & Williams (2015) about preventing corruption in the mining sector have a limited focus on some corruption risks.

Whether a risk is likely to result in corruption will vary according to the model of the CMBS, as its specific design will be a factor in what opportunities for corruption exist. These guidance documents do not offer explicit advice about risks related to specific models nor the conditions under which corruption impacts might vary. Nevertheless, an assessment of these materials identifies 14 risks relevant to CMBSs. These are organised into five groups, which correspond to five sequential phases in the development and implementation of CMBSs:

1. Negotiations: the main risk for corruption is that community voices get sidelined or ignored, possibly because their leaders have been bribed or threatened in order to minimise their advocacy. Specific risks are:

- Manipulation of negotiations. *Corrupt manipulation of agreements through unauthorised contact between stakeholders, illicit sitting-fees, and the giving/receiving of bribes and other improper gifts and benefits, can result in exclusion of certain community groups from negotiations, and favouring of other groups.*
- Community leaders do not represent community interests. *If the mining company or government can get away with it, there are incentives to deal with community leaders who do not genuinely represent the community, as well as private interests to be gained by community 'leaders' who can obtain such a role.*

2. Social Impact Assessments (SIA): there are significant incentives for mining companies, and possibly some government officials and community leaders, to influence the scope of SIAs so they exclude some groups, favour other groups or make findings that will reduce potential costs, including recommended benefits. Specific risks are:

- The criteria for conducting SIAs are not publicly knowable. *Unclear or unknown criteria for SIAs create uncertainty about what social factors are being considered, creating an opportunity for the company to corruptly manipulate what gets assessed.*

- The accuracy or truthfulness of SIA reports is not verified. *If SIAs' findings are not verified stakeholders can be misled about the social impact of a mine, including information about basic needs, and the distribution and demographic composition of the local population. Companies can subsequently manipulate social impact data, including falsifying impacts, creating false baselines for social indicators and omitting certain groups from programmes.*
- SIA reports are not publicly available once finalised. *Uncertainty around the content of such reports can facilitate corruption if communities or CSOs do not know what findings and recommendations have been made.*

3. Final CMBS design: the main corruption risk is lack of transparency around what benefits communities are supposed to receive. Lack of knowledge about what is in a CMBS allows those responsible for delivering benefits to under-deliver or fail to deliver. The specific risk is:

- The content of final agreements between mining companies and communities/ landholders is not publicly knowable. *Unless there is full transparency about the content of landholder agreements, there is uncertainty around what rights community members have to compensation, local development activities, and other benefits. Lack of transparency allows these rights to be manipulated. For example, compensation packages might be stolen by leaders, or companies can pay bribes to government officials and leaders to reduce what is actually delivered in practice.*

4. Activity selection and implementation: once a CMBS has been designed, there is still potential for favouritism around which activities are funded. Without financial controls on the implementation of activities there are also risks for fraud and misuse of funds. Specific risks are:

- Inadequate processes for selecting activities for funding. *Lack of written criteria or controls over approvals can result in parties responsible for selecting activities choosing ones that favour them, their families or their clan.*
- Inadequate monitoring of expenditure. *Monitoring helps deter corruption and early detection of wrongdoing.*
- Inadequate processes for selecting contractors. *Without background checks on contractors' performance or their connections to decision-makers, contractors lacking in merit may be selected to implement activities.*
- Inadequate monitoring of activities, including the quality of built infrastructure. *Detection of non-delivery or poor delivery of activities is necessary to hold parties to account.*

5. Responding to corruption: unless adequate systems are in place to manage and respond to corruption complaints, there may be little to deter corrupt acts. Specific risks are:

- No investigations or prosecutions of allegations of corruption. *If stakeholders know they will not be prosecuted for corruption they are likely to ignore anti-corruption laws and measures.*
- Potential whistleblowers will not make a report. *If potential whistleblowers think they will be (a) ignored, or (b) persecuted for complaining about corruption, reporting is unlikely to occur.*
- Whistleblowers will not be legally protected. *Laws to protect whistleblowers are critical to encouraging reporting.*
- No written legal agreement to underpin the CMBS. *A legally enforceable agreement helps to deter corruption, punish perpetrators and recover stolen funds.*

When not properly managed, the risks described above can create opportunities and incentives to engage in corruption. Below is a list of 12 common corrupt acts arising from the kind of unmanaged risks described above. Whether these acts are actually illegal or defined as corrupt will depend on the laws of each jurisdiction.

- Biased design of the CMBS to favour certain families or groups
- Giving or receiving illegal gifts, benefits and bribes
- Embezzlement (theft) of funds
- Fraud
- Contractors inflating costs or community leaders inflating sitting-fees
- Misuse of public funds
- Misappropriation or misuse of equipment, especially vehicles
- Trading in influence, e.g., a government official using his or her influence to obtain favourable contractual terms from the community for a friend's company
- Favouritism, e.g., bias activity selection by public officials in favouring certain applicants
- Extortion, e.g., a government official refusing to approve certain activities unless he or she receives a share of the funds
- Unauthorised facilitation payments (speed money), e.g., by a mining company to a community leader to speed up an approval
- Non-declarations of private interests in the mining project or a contractor, e.g., by a community leader or public official

At Annex 2 is a table showing which of these corrupt acts are likely to occur if the 14 risks mentioned above are poorly managed. As discussed in the following section, many of these corrupt acts occurred in the seven cases analysed for this paper.

Seven cases of corruption

This project identified seven examples of corruption in CMBSs in Cameroon, Ghana, Liberia, PNG, Sierra Leone, and Zimbabwe, as well as one anonymous case. Based on corruption risk guidance material there is every reason to believe that corruption is more widespread than these geographical locations.

Annex 1 has basic details about each CMBS and the alleged corrupt acts that occurred. The anonymous, Cameroonian, Liberian, and PNG cases involve allegations of corruption concerning a CMBS for a single specific mine. The Ghanaian, Sierra Leonean and Zimbabwean cases involve allegations of corruption for CMBSs involving multiple mines and communities. With the exception of Ghana and Sierra Leone, the information available contains inadequate detail about many aspects of the alleged corruption. There are some significant gaps in understanding, including the full extent of the corruption that occurred, the perpetrators and the causal factors.

This paper therefore primarily focuses on Sierra Leone and Ghana; the other five are used as shadow cases to fill out lessons for policy-makers and practitioners. The corruption that occurred is illustrative in terms of the types of parties involved, how they were able to 'get away with it' and what preventative action could usefully be taken to stop such corruption happening again.

The seven cases follow a range of models, including hybrid models:

- The anonymous and Liberian cases are government-led
- The Cameroon case is company-led
- Ghana and Sierra Leone follow a government-funded, community managed model
- The PNG and Zimbabwean cases are hybrids. In Zimbabwe, Community Share Ownership Trusts in the mining sector are directly funded by the company (the money does not come via government), but both government and community representatives manage activities. In PNG, mineral revenue is transferred to landowner organisations and national and provincial governments, and they all have some responsibility for some development activities.

As is clear from Table 1, the most common corrupt act was misuse of funds, followed by theft of funds (embezzlement). Other corrupt acts that occurred were nepotism in appointments, favouritism in contracting, misuse of equipment, biased choice of activities, and bribery (in this case community members having to bribe a chief to get employment in an activity).

Table 1: Corrupt conduct in seven cases

Case	What corruption allegedly occurred?						
	Biased choice of activities	Nepotism in appointments	Favouritism in contracting	Bribery	Misuse of funds	Theft of funds	Misuse of equipment
Anonymous			✓			✓	
Cameroon					✓	✓	
Ghana	✓				✓		
Liberia	✓				✓		✓
PNG					✓	✓	
Sierra Leone					✓	✓	
Zimbabwe		✓	✓	✓	✓		

The sample size is limited, but Table 1 clearly suggests the priority for corruption prevention should be strengthened financial controls, which are relevant to both misuse and theft of funds. As discussed in the section on CMBS reform, this is what occurred in Sierra Leone where the government introduced tightened financial controls to reduce widespread misuse of funds and embezzlement in Diamond Area Community Development Funds.

A diverse range of parties were implicated in the alleged corruption across these cases, although community leaders and politicians predominate – see Table 2. There are question marks regarding national government officials in the anonymous, PNG and Zimbabwean cases, because there was insufficient evidence to understand whether officials at this level of government were involved, although the information suggests they probably were.

Table 2: Parties responsible for corruption

Case	Which parties were allegedly corrupt?						
	Mining Company	National Government	Subnational Government	Politicians/their family	Community Leaders	Local NGOs	Contractors
Anonymous	✓	?		✓			✓
Cameroon	✓			✓		✓	
Ghana					✓		
Liberia	✓		✓	✓			
PNG		✓	?	?	✓		
Sierra Leone				✓	✓		
Zimbabwe		?	✓		✓		

What is most surprising given perceptions of corruption amongst politicians, is that they were not involved in *all* the cases of corruption. In cases where chiefs are allegedly corrupt (such as Ghana), and as there is some overlap between customary chiefs and politicians given that chiefs sometimes get elected to national legislatures, there would need to be assessments of each individual to ascertain whether they should be classified as both a chief and a politician. In the PNG case, Johnson (2012) reports that 18.3% of revenue was transferred to landowners and their organisations, suggesting it is landowners who embezzled or misused the funds – but elsewhere he suggests that politicians and government officials also steal funds before they reach communities. In Zimbabwe there are allegations that members of the ruling party, ZANU-PF, routinely dominant Trustee board appointments and corruptly favour certain contractors and projects, but not that ZANU-PF parliamentarians are involved in this corruption (TI-Zimbabwe 2012).

A factor relevant to all cases is that there were few investigations, let alone penalties applied. In the anonymous, Cameroonian, Ghanaian, PNG, and Sierra Leonean cases there is no information that anyone has ever been investigated, charged, prosecuted, or convicted. Only in the Zimbabwean case was there an investigation into five chiefs who had been accused of paying themselves inflated sitting-fees, and a subsequent administrative finding that this was the case. In the Liberian case, Friends of the Earth (Europe) and the Sustainable Development Institute Liberia made a complaint about ArcelorMittal's conduct under the OECD Guidelines for Multinational Enterprises, which was eventually referred to the Luxembourg National Contact Point (the Ministry for the Economy and Foreign Trade), but there have been no prosecutions or penalties (2011).

Table 3 shows the range of systemic weaknesses facilitating corruption. Weak financial controls is the most common factor, but as the sample is small it is difficult to extrapolate to CMBSs more generally. What is most interesting is simply the variety of weaknesses and the fact that they exist at all stages of the CMBS planning and implementation cycle, starting with unclear criteria for what activities should be funded, through to poor human resource management, weak monitoring, and a weak (or non-existent) contract or MOU about what parties are supposed to deliver. Having the latter would make enforcement through the courts more viable, assuming the court system was trustworthy.

Table 3: What allowed the corruption to occur?

Case	Key factors allowing corruption to occur?							
	Unclear criteria for activities	Inadequate checks on approvals	No due diligence on participants	Inadequate management of COIs	Weak financial controls	No quality checks	No monitoring of delivery	No/weak contract or MOU
Anonymous			✓	✓	✓	✓	✓	
Cameroon	✓				✓		✓	✓
Ghana	✓			✓	✓		✓	
Liberia		✓	✓				✓	
PNG					✓		✓	✓
Sierra Leone		✓			✓			✓
Zimbabwe	✓	✓		✓	✓			

It is likely that other factors also allowed corruption to occur, but information was only available for the factors listed here.

The occurrence of corruption does not necessarily mean systems do not work. Systems may expose corruption – and so do their job – but there is no effective way to stop the corruption or to hold individuals to account. In the Liberian case, 100 trucks intended for agricultural purposes were bought using CMBS funds, then handed to politicians. This was, apparently, common knowledge – so the problem is not lack of monitoring. The problem was that no one stopped the trucks being transferred, got them back afterwards or held anyone to account. In Sierra Leone, chiefs did not spend money on activities that were community priorities. This was known, so monitoring of what got funded worked (although not the precise amounts involved). The problem was that the activities on which funds were spent did not go through an adequate approvals process in keeping with the intention of the CMBS, namely with community input into activity selection.

The impact of corruption

Information available from the seven case studies, as well as the broader literature on corruption and mining, demonstrates that corruption in CMBSs can have the following impacts on communities and their development:

- Communities do not receive benefits to which they are entitled, because their leaders, the mining company and/or government officials have engaged in corruption that enabled under-delivery or non-delivery of activities.
- Reduced quality of life if alternative land, water or housing is not provided – so communities not only receive reduced benefits but their living standards *deteriorate*.
- The weakening of rights to self-determination around development and culture (including the cultural caretaker role for the environment), because corruption has prevented community input into decision-making.
- Reduced social capital and cohesion, if corruption benefits certain individuals, families or clans at the expense of others.

The last two impacts – weakening of rights to self-determination and reduced social cohesion – can produce an even greater negative impact:

- The commencement of violence, or resumption of violence in the case of communities where mineral sharing via CMBSs had previously been a factor in the resolution of violent conflict.

Corruption in CMBSs also have a detrimental impact on mining companies, government and politicians, although the negative impacts are largely contingent on the corruption being exposed to the public and investigated. In the case of mining companies, corruption can cause the following:

- Unfair competition in the extractives sector as some companies bear the cost of CMBSs, but others use corrupt means to evade these costs and responsibilities
- Damage to reputation if corruption is exposed, including worsening relations with communities as a result of mistrust
- A reduction in share price caused by a corruption investigation
- Wasted time and resources spent dealing with a scandal, including fines or imprisonment if convictions occur.

The key negative impact on governments is damage to public confidence. Each jurisdiction's political climate will dictate the scale of any consequences, including whether there is a culture of officials or ministers resigning in the wake of a scandal, being forced to choose between public positions and private interests, being prosecuted by the government, or being forced to pay back monies or return property (such as vehicles). In jurisdictions where citizens and communities are already cynical about the honesty of public officials, exposing corruption may not actually make any impact on these individuals' already poor reputation (Fox 2007).

Table 4 indicates the major negative impacts on communities, governments and mining companies of corruption in the seven cases.

Table 4: Negative impacts of corruption on seven cases

Case	Negative impacts of corruption in CMBSs							
	Reduced benefits delivered	Reduced quality of life	Weakened community rights	Reduced social capital	Reduced confidence in govt	Damage to firm's reputation	Penalties/cost of corruption	Unfair competition in sector
Anonymous	✓	✓			✓	✓		✓
Cameroon	✓					✓		✓
Ghana	✓			✓	✓			
Liberia	✓			✓	✓	✓		
PNG	✓		✓	✓	✓	✓		✓
Sierra Leone	✓		✓	✓	✓	✓		
Zimbabwe	✓		✓	✓	✓	✓	✓	✓

CMBSs are designed to both compensate communities for loss and enhance community well-being, so the major impacts from corruption are likely to be a reduction in those benefits when funds are stolen, misused or misdirected – and this occurred in all seven cases, as shown in column 1 of Table 4. Only in

the anonymous case did corruption cause a *deterioration* in quality of life, which was related to a specific compensation issue: housing for resettled families was below agreed standards, so their living conditions went backwards from what they had prior to the mine.

The most alarming negative impacts are reduced social capital and reduced confidence in government. CMBSs may appear to be contained programmes that have a minor impact compared to other government services, but when they affect tens of thousands of people corruption can have long-term consequences for state-society relations (see Maconachie 2012). The fact that corruption in CMBSs in PNG, Sierra Leone and Zimbabwe appears to have weakened community rights, is a serious concern. It means that CMBSs are not just *not* benefiting communities, but are also vehicles for the erosion of their rights.

Despite widespread damage to mining companies' reputations in terms of local opinion, it seems they suffered no financial consequences for engaging in corruption. The only case in which a penalty was applied was the Zimbabwean case, although this involved traditional authorities not company officials. Five chiefs who paid themselves inflated sitting-fees were instructed by the Zimbabwean Minister for Local Government to return part of the money they embezzled (TI-Zimbabwe 2012, pp.118–119). As this penalty involves paying back money that did not belong to them in the first place, it is hardly a punishment.

Corruption in a CMBS with national prominence can affect the reputation of an entire extractives sector and erode confidence in government. Johnson (2012) documents this for the Porgera JV in PNG. He traces revenue from the mine and how it has been distributed, and observes that many commentators agree social development expenditure has left no impact of consequence. Johnson suggests corruption is the cause, without actually naming it:

The lack of ability and willingness by the national government and its agencies to collect, audit, and disseminate information on the large amount of mining revenue has led to rumour and innuendo driving the mining policy debate. Institutions such as landowner groups, statutory government agencies, and landowner companies are being run in an information vacuum. This has created conditions under which the boards that are responsible for the money become unaccountable and large amounts of money become untraceable. *Much of the financial benefits are thought to be consumed in Port Moresby (at the Crowne Plaza), with only a few individuals having access to a large slice of the wealth* [emphasis added]. The Porgera Development Association, the Porgera Landowners Association, the managers of the landowner portion of the equity stake, and local-level government officials have been unable or unwilling to explain where and how billions of kina are spent. This has led to distrust between landowners, the government, and the company. pp. x–xi.

In Johnson's entire document, it is only here in the Executive Summary where corruption is suggested as a cause for the lack of development. Even here Johnson does not allege corruption, but instead repeats 'received wisdom' about what happens with the money. In his conclusion Johnson writes "there is a clear feeling that some money has not been appropriately allocated" (p.96). Without an investigation we do not know if inappropriate allocation is due to poor judgment, bad luck, poor systems, or corruption. Yet Johnson and the other parties whose observations he reports, are so lacking in confidence about the mining sector and government that they assume corruption is the root of the problem.

Potential anti-corruption strategies

Anti-corruption strategies for CMBSs at first glance appear to be like those required for any other kind of corruption. Interventions could focus on imposing more effective transparency and accountability, changing motivations of potential perpetrators and reducing opportunities to be corrupt. Such strategies become complicated in the context of CMBSs, because of their underlying philosophy of enhancing community development, especially *self*-development whereby communities plan, implement and manage activities.

There is no standard definition of community development. The definition used here is an early one recognised by the United Nations: “the organization of comprehensive programmes for social progress based on local self-help and effort, assisted from outside but firmly resting on the existing and emerging felt needs of the local community” (UNESCO 1954, p.1).⁷ In the context of community development programmes funded through a CMBS, the benefits are therefore not just compensation for loss of land or additional services, but enhanced community capacity to guide their own development and opportunities to allow them to do this. The problem created for CMBSs by administrative controls typically used to manage corruption risks, is that they can undermine these objectives.

This section details administrative controls that can be applied to reduce corruption risks, drawing on lessons from the seven case studies and the risk assessment guidance material that is available. It also discusses how anti-corruption work in the context of CMBSs is more complex because of the local development focus, the involvement of community leaders (which creates risks for corruption even while being one of the measures of local self-development), and the goal of enhancing community capacity.

Administrative solutions

Like government-funded services, CMBSs will be more resistant to corruption if systems are in place to track expenditure and the quality of the goods (e.g., infrastructure) and services (e.g., training) delivered. It is straightforward to identify controls to reduce corruption risks in CMBSs based on insights from the corruption that occurred in the seven case studies and from practitioner guidance material:

- A written contract or other legally enforceable agreement that outlines roles, responsibilities, what activities are required to be funded and who is to benefit, including expected quality. The contract should be publicly available.
- Clear, written, publicly available criteria for selecting activities for funding.
- A process for approving activities that is not controlled by a single individual or party, (i.e., not a single traditional leader or a single district official), and for which the roles and responsibilities are described in writing.
- Agreed written process(es) for engaging contractors to implement activities. This might include a public tender process for larger activities, but allow flexibility around engaging local contractors for certain inputs.

7 In the context of CMBSs “assisted from outside” would mean the revenue used from mining to fund activities.

- Basic due diligence, including a risk assessment of criminal background, on individuals who are formally involved in planning and managing activities, including local politicians, government officials and community leaders.⁸
- A system for managing conflicts of interest, including limiting involvement in certain decisions about activities by individuals who may have a private interest related to that activity.⁹
- Financial management systems to track income and expenditure, including disbursement of funds for specific activities, and to detect anomalies. Accounts should be public.
- Monitoring and evaluation systems to ensure communities receive agreed goods and services. Evaluations should be public.
- Recruitment of competent individuals to manage activities, or training to build the skills of capable individuals to do this.
- A communications campaign in the local community about the purpose of the CMBS and the way it is supposed to work. This can both encourage reporting and reduce misperceptions around corruption
- An authority *outside the community* with the power to receive and investigate complaints, as well as to refer those complaints to an appropriate second authority for prosecution.

The OECD (2016) in its guidance material recommends governments adopt most of these measures, but one objection to these recommendations is that some require costly sophisticated systems for implementation. For example, e-procurement and computer databases of bidder information for public tenders sound useful in theory, but are impractical for areas with unpredictable electricity, few computers in government offices, few people who know how to use the software, or limited public access to the internet. Computerised systems can also actively work against local procurement, often an objective of CMBSs, because local contractors – who may provide simple inputs, such as labour or consumables for mine operations – will not be able to lodge tenders online. Computerised systems may be perceived to be an obstacle deliberately imposed to limit local involvement.

Another problem with approaches emphasising enhancing government administration as advocated by the OECD, is that the suggested solutions can add layers of bureaucratic complexity. These may be feasible in a wealthy developed country, but it would take large investments and recruitment programmes in most of the case studies analysed in this paper to achieve similar standards. Instead, risk assessments can be used to determine whether such measures are proportionate to the likelihood and impact of corruption.

Standing & Hilson (2013) and Standing (2014) argue that in Ghana bureaucratic measures intended to improve transparency are also unlikely to galvanize civic engagement where “political representation, rule of law and deep-rooted democracy is absent” (Standing 2014, p.78). That is, broader problems of governance are likely to hinder anti-corruption action when the underlying governance of the country

8 Community leaders who participated in violent conflicts or sabotage of a mine development, may have a criminal background as a result of these actions but have been politically ‘rehabilitated’ via a peace process or other agreement. As participation in development activities by such leaders can be critical for ongoing peace, there needs an assessment around each individual, rather than a blanket ban around criminal background.

9 In larger communities conflicts of interest may be unknown and therefore the emphasis might be on detecting those conflicts, e.g., through registers of company ownership or suspicious patterns of awarding contracts by public officials. In smaller communities, especially around mine sites in remote areas, it is likely that many private interests will be known, so the emphasis can be on *managing* conflicts of interests.

is weak, e.g., if there is a poor legal framework for protecting and enforcing community rights, or poor investigation and prosecution capacity. Maconachie (2012) argues Sierra Leone's DACDF also failed to address underlying power relations that shaped governance and decision-making at the local level. Communities' involvement in natural resource planning and their receipt of mineral revenue benefits consequently remained blocked, notwithstanding the goals of the CMBS.

It is feasible that corruption prevention in CMBSs could be part of an investment into broader anti-corruption capacity across the public sector, but this would consolidate state power in communities where it may not previously have had much presence. This is particularly the case with complaint management systems. It would be easy to recommend that local police receive and investigate complaints, but police – whether local or national – are often one of the least trusted and least competent government agencies. Alternative avenues for complaint management, investigation and resolution may be needed.

Building capacity to prevent corruption

Establishing bureaucratic systems as outlined above would ensure many basic controls around expenditure and decision-making are in place. The challenge for all these suggestions is *who* should implement and manage these systems? Directly related to this, is *whose* capacity gets built to perform this role? It is here that anti-corruption work can come up against CMBSs' objectives, because the location of anti-corruption controls matters a great deal for the goal of community self-development.

Not surprisingly for an organisation of states, the OECD (2016) advocates that governments take on these responsibilities, with donors providing funding for relevant capacity building (see pp.107–108). In countries where government institutions work well it is a normal expectation that service delivery is led by government, albeit with community input into the selection of activities and monitoring. In countries where government institutions are perceived to be corrupt or politically biased, especially where there is an ethnic or religious dimension to state-society relations, communities are likely to be wary of any increased state involvement in their affairs, or increased control over budgets intended for local development.

However, while building a community's own capacity to manage its development is an admirable objective, as illustrated in Table 2 there are corruption risks around community members themselves. In the seven cases, local leaders captured projects, improperly controlled funding and resources, and distributed jobs and contracts in a partial manner. Traditional leaders were key participants in the corruption that occurred in Ghana, PNG, Sierra Leone, and Zimbabwe.

Standing (2014) describes the criticisms that the MDF in Ghana has faced:

It is a system that puts into the hands of traditional authorities and district assemblies, which have lengthy histories of embezzling funds, a share of the mine royalties earmarked for local economic development. It is a setup, however, that is undermined by a tendency for elite capture and it may contribute to political corruption at the community level, p.78.

The MDF's design created larger problems around “disappointing economic and social development, and also factionalism and distrust between communities and those who are supposedly operating in their interest” (p.78). As shown in Table 4, CMBSs reduced social capital not just in Ghana, but also Liberia, PNG, Sierra Leone, and Zimbabwe.

Assuming community capacity to manage corruption risks *should* be enhanced, this still raises the question of whether it should be done at the cost of *not* investing in local government. Local government, especially in developing countries and particularly in mining areas that might be remote from the capital, are

typically low priorities for transfer of state revenues, as a destination for qualified public officials and as a target administrative investment (e.g., in financial and human resource management, planning tools, governance systems, professional development, and basic office infrastructure and equipment, including vehicles, computers, photocopies, electricity, and running water). Yet local government potentially has a far broader reach to more communities beyond the mining zone, than an administrative structure specifically focused on the mine-affected community. Getting the balance right for investing in community and government capacity, is a critical factor for the success and longevity of anti-corruption work, especially after mine closure.

Economies-of-scale might make dedicated anti-corruption units feasible for large CMBSs with coverage across many areas (e.g., in Ghana, Sierra Leone or Zimbabwe) or in very large projects where development programmes have an extensive reach into the surrounding communities (e.g., the Porgera gold mine in PNG). In some cases, personnel could be embedded in local or national government agencies, depending on the CMBS model, but in other cases they could be an independent unit that works with all involved parties.

For other CMBSs, especially those focused on single mines, establishing a dedicated anti-corruption unit would be an unwise investment. Mines have a finite lifespan, and any dedicated development of anti-corruption capacity may not survive once the mine closes unless there are alternative sources of income. Is it worth developing a community organisation's capacity to prevent corruption, given that its overall capacity to plan and manage development may be constrained by the life of a mine? If anti-corruption systems are supposed to enhance broader community capacity to engage in development, then investment in community organisations may be worthwhile. If not, then government agencies may be a more cost-effective target for such capacity.

Challenges around community involvement and control over CMBSs do not mean that corruption should be ignored, or that anti-corruption measures cannot be implemented. But they do mean that the local development objective should be kept in mind when anti-corruption strategies are being designed.

Preventing corruption through multi-stakeholder engagement

As shown by the list of measures in the section on Administration Solutions, these focus on adding or strengthening controls over decision-making, especially expenditure. An alternative and complementary approach is to control corruption through the design of CMBSs, especially multi-stakeholder engagement to facilitate transparency over decisions and expenditure.

It is important for the credibility and the goals of CMBSs to have community representatives, especially traditional leaders, involved in planning, implementing and managing activities. Involvement enhances a local sense of ownership over the CMBS – which means the community is more likely to engage, and therefore the CMBS is more likely to deliver what they want. But communities are often unequal places, where some groups are excluded from participation, or feel uncomfortable participating, because of traditional power structures, e.g., women, young people, poorer families, and ethnic or religious groups. CMBSs can institutionalise these power dynamics (Maconachie 2012).

Søreide & Truex (2011) argue that even if genuinely participative multi-stakeholder dialogue occurs, it will not necessarily reduce corruption risks. This is because dialogue does not change structural incentives to be corrupt, e.g., community pressure to fund certain development activities, family pressure to embezzle funds or misuse vehicles, low or unpaid government salaries, or widespread opportunities to steal.

Aside from promoting dialogue, multi-stakeholder initiatives are also advocated because greater citizen involvement and participation by CSOs is thought to promote revenue transparency and accountability (Acosta 2014). The OECD (2016) advocates for hybrid types of governance structures for managing social development funds for this reason (see p.112). In Ghana and Sierra Leone, the primary response to corruption has, indeed, been for donors, and local academics and NGOs to call for greater citizen engagement in order to improve transparency around how much revenue flows to district assemblies and to traditional authorities. Standing (2014, pp.78–79) argues there are flaws in this theory of change.

First, evidence from donor-funded projects that have tried to build citizen engagement and oversight in local government expenditure is mixed. Some studies suggest encouraging results (McNeil and Mumvuma 2006); other studies suggest such projects produce short-term positive outputs only, and any positive impact in terms of engagement tend to dissipate fairly quickly (Sundet 2008; Joshi 2010; McGee and Gaventa 2011). A World Bank-funded experiment in Indonesia on the degree to which different monitoring interventions reduce corruption and enhance the quality of roads in 600 villages in Indonesia, found that increasing grassroots participation in the monitoring process was *less* effective at reducing corruption than the announcement of a probable audit by central government authorities (Olken 2010). In some villages, increased grassroots participation only changed the form of corruption not its overall level, e.g., village headmen stole road materials, instead of villagers' wages.

Second, increased availability of information about revenue flows will not necessarily be the catalyst for anti-corruption action by, for example, citizens or local journalists, because engaging in action depends on time and resources. In poor communities these are in short supply, because individuals with an interest in pursuing anti-corruption action are usually busy making a living from other activities.

Third, citizen oversight bodies that are explicitly created to scrutinise decision-making by local authorities and to hold them accountable can create antagonism and distrust. Anti-corruption strategies can be revolutionary in terms of their impact on patterns of traditional authority. New accountability and transparency mechanisms may seek to involve a broader spectrum of people in decision-making for communities that have been historically controlled by traditional leaders, and who are probably also male and from dominant families.

On the other hand, if a broad spectrum of the community is *not* involved in CMBSs, traditional authority can be consolidated and therefore make socio-economic change less likely. This occurred in Ghana, PNG and Sierra Leone. In these cases, the CMBSs were *designed* to channel mineral revenues to traditional leaders who were able to corruptly use funds for their own benefit, notwithstanding any goal of broader community development.

Fourth, funding for 'social accountability' tools that build civic engagement has in some cases been channelled to professionalised NGOs (such as capital city or international CSOs) that may not be representative of their claimed constituents, or serve ill-defined constituents. Promoting and engaging such NGOs can create a barrier to citizen participation at the local level, dilute the local development and capacity building objectives of a CMBS, and reduce the ability of local communities to understanding what is going on – so actually hinder transparency.

Finally, having laws that require transparency as called for by Adimazoya (2013), does not mean transparency will happen. Johnson (2012) points out that the Porgera Development Association is required by law to provide annual reports about activities and expenditures related to the CMBS for the Porgera gold mine to the Minister of Mines. However, the association simply does not do this, but no penalties have ever been imposed as a consequence.

CMBS reform

Concerns about corruption have driven CMBS reform in Sierra Leone and Ghana. Corruption concerns have also seen the rise of a literature advocating the replacement of planned development through CMBSs, with schemes to transfer mineral revenues in the form of cash directly to individual citizens. This literature reconceptualises the role of the state, communities and mining companies in facilitating citizens' wellbeing through mineral revenues.

This section analyses the reforms that took place in Sierra Leone and Ghana. It then considers the arguments regarding cash transfers as an option for reducing corruption in CMBSs.

Redesign of Sierra Leone's DACDF

The Diamond Area Community Development Fund (DACDF) in Sierra Leone is designed to redistribute mineral revenues back to diamond mining areas. It is funded by one-quarter of the three per cent export tax on diamond exports, i.e., 0.75% of the total value of diamond exports. The purpose of the DACDF is to channel these funds to paramount chiefs to spend on community development activities.

Very quickly after the DACDF commenced in 2002, there were reports that chiefs were not using the funds as intended. An estimated 60% of all funds allocated between 2002 and 2003 disappeared and were not spent on development activities (Maconachie 2009; Le Billon and Levin 2009). The design and implementation of the DACDF also meant communities remained excluded from decision-making (Maconachie 2012). By 2004, there was widespread agreement by donors, civil society, the central government, and community members that DACDF funds were mismanaged by chiefs and were not improving communities, and therefore the scheme had to be reformed (Dupuy 2016).

The basic problem was that the design of the DACDF granted chiefs full discretion over how funds were spent and the release of any information about expenditure was at the discretion of chiefs themselves, and excluded communities from decision-making. The DACDF had no mechanism to illuminate chiefs' decisions or hold them accountable. The Sierra Leone-based Network Movement for Justice and Development surveyed 19 communities receiving DACDF funds and concluded that "due to inadequate implementation mechanisms and broad-based participation by citizens in DACDF project decision-making, infrastructural enhancement is yet to translate into long-term and concrete economic opportunities" (NMJD 2006, p.13). I.e., inadequate processes and controls over the implementation of activities and a lack of transparency (by citizens) were the problem.

As a result of these corruption concerns, from 2006 to 2009 the Sierra Leonean Government stopped transferring money into the DACDF and redesigned it (NACE 2009). Dupuy (2016) describes five key reforms:

- A new project proposal and selection process that requires Chiefdom Project Committees to formulate project proposals for their areas, but proposals must be based on community input and assessments of the community's actual needs.
- Mandatory requirements for procurement and public tendering.
- Both the Minister of Mineral Resources and the Minister of Local Government are required to approve all DACDF disbursement requests.

- Two signatures are required for transactions involving Chiefdom Development bank accounts (into which the central government pays DACDF monies)
- A new monitoring and evaluation process for all projects.

Despite some ongoing deficiencies in recordkeeping and monitoring mechanisms, the reforms from 2009 have reportedly enhanced corruption control – and in particular they reduced the risk of elite capture. They also reportedly had a positive impact on the effectiveness of the DACDF, including resulting in more money being channelled towards the intended purpose of the development projects (Dupuy 2016).

Interestingly, given the NMJD's emphasis on inadequate citizen participation as being a key design weakness of the DACDF, expanding participation does not appear to have been a central focus of the reforms. Project proposals must now include community input, but the thrust of the reforms was more about controlling chiefs' discretion and ensuring decisions reflect and satisfy community needs, rather than involving community members at every stage of the process.

Redesign of Ghana's MDF

Criticism of Ghana's MDF resulted in Parliament passing a new MDF Act in March 2016. It is too early to tell what impact the Act will have on development in mine-affected communities, or whether it will reduce corruption. However, it clearly redesigns Ghana's CMBS with a view to enhancing anti-corruption control.

In terms of financial transparency, there is now a requirement for proper account and recordkeeping, including an annual audit by the Auditor-General. This requirement may deter persons motivated to be corrupt, although its usefulness is probably more about identifying fraud and corruption after the fact, rather than preventing it.

A major criticism of the MDF was that ambiguous wording about how funds should be used allowed chiefs to spend revenues on themselves. The Act now explicitly describes the object of the fund as being provision of "...financial resources for the direct benefit of ...

- (a) a mining community
- (b) a holder of interest in land within a mining community
- (c) a traditional and local government authority within a mining community; and
- (d) an institution responsible for the development of mining" (see Clause 2).

Clause 2(c) suggests that parliament made a concession to chiefs' interests, as these have been preserved. The Act does not say how funds or benefits should be distributed amongst these four parties, which also opens the possibility of traditional authorities receiving greater benefits than other parties. The interpretation of "holder of interest in land" is also a critical issue. Does it include spouses of people, especially wives, who are recognised as having title over land? Does it include community members who do not own land but who work the land for others? Is providing labour included as an "interest"? The interpretation of this wording may well be fodder for a future court case.

Greater clarity about how funds should benefit communities is provided in Clause 5: Application of the Fund. There are two clauses relevant to community development:

- (a) redress the harmful effects of mining on affected communities and persons;
- (b) promote local economic development projects and alternative livelihood projects in communities affected by mining sectors.

The wording of both these clauses constrains chiefs' – and other parties' – discretion in terms of the activities they are able to fund using mining revenues.

Clearer criteria for funding have been matched with centralised governance controls, which are the main safeguard against chiefs' unfettered authority and discretion. The MDF is now governed by an 11-member Board that has only one "traditional ruler from a mining community nominated by the National House of Chiefs" (Clause 6(h)). Other board members are mostly drawn from the executive ranks of mining-related government agencies, although of course they may themselves be a chief.

The Act includes measures to manage board members' conflicts of interest. It requires them to disclose conflicts and, if they have one, to absent themselves from discussions over the matter (see Clause 10). The penalty for not declaring a conflict, or not absenting themselves from a matter in which they have an interest, is cessation of their board position. These requirements and the penalty for noncompliance are unambiguous, and should reassure critics who argue the MDF previously allowed personal interests to influence the distribution of funds.

The Board is responsible for managing the MDF, including: financial accountability, Clause 7(d); decisions over disbursement, Clause 7(f); recommending to the Minister for Lands and Natural Resources which funding requests should be granted, Clause 7(h); and a review role over any financial assistance that was provided, Clause 7(i). The creation of the Board, its composition and its responsibilities are a major anti-corruption enhancement.

Each mine-affected community must now also have a Mining Community Development Scheme, through which all MDF-funded activities are administered. Schemes must be administered and operated by a Local Management Committee, but these committees have little discretion other than "to facilitate the socio-economic development of communities" (Clause 17) by administering and operating the scheme (Clause 20). Significantly, the Act subjects committees to the authority of the MDF Board – a significant new control over local decision-making and accountability. In fact, discretion over selection of activities for funding wholly rests with the Board, which approves requests made by Committees.

Committees are required to have a wide-ranging membership, including local civil servants and representatives from each mining company within the district, as well as one representative from a community women's group and a youth group. Committees must include "traditional rulers of the mining community", although the Act does not specify *how many* rulers can be on the committee, raising the possibility of 'stacking' whereby rulers outnumber all other members. Despite this possibility, the legal requirement for collective oversight of operations and administration by a diverse group is an improvement.

There are questions about why reform of Ghana's MDF took so long compared to Sierra Leone's DACDF: 25 years versus 7 years. Sierra Leone's recent history of conflict and weakened political institutions most likely allowed for the creation of controls over chiefs' powers in a way that is not possible in Ghana, where

rule-of-law has mattered. In Ghana, reform of political institutions is harder and slower precisely because it occurs via changes to legislation that must involve parliament and negotiation, as well as chiefs themselves who are powerful actors in Ghanaian politics with few incentives to favour reform. An additional obstacle was that the MDF was initially not grounded in law, but was an administrative initiative and programme. Therefore the laws to which it should be subject and through which it should be reformed, were unclear and were contested by parties opposed to reform. This situation was rectified with the MDF Act, because it embeds responsibilities and decision-making powers in legislation.

Reform via cash transfers

Standing & Hilson (2013) and Standing (2014) offer a more radical and profound solution to preventing corruption in CMBSs: scrap them entirely and switch to cash transfers to individual citizens. Such programmes exist for oil in Alaska, natural gas in Iran, and mineral revenues in Mongolia, and have been proposed for Afghanistan, Bolivia, Equatorial Guinea, Ghana, Iraq, Nigeria and South Sudan.

Research around cash transfers largely focuses on their role in improving developmental outcomes and poverty alleviation (Palley 2003, Moss and Young 2009, Devarajan & Giugale 2011), although there is some evidence that cash transfers actually have a negative impact on health and mortality (Goldsmith 2002, Evans and More 2009). More relevant to this paper, Standing & Hilson (2013) and Standing (2014) speculate on how transfers could be optimised for mining communities including for corruption prevention purposes.

The argument that cash transfers can reduce corruption is straightforward. Standing argues that structures used in Ghana to implement and manage mineral revenue-funded projects – traditional chiefs and the Office for the Administrator of Stool Lands – have systemic weaknesses that allow widespread fraud and embezzlement. It was the original design of Ghana's MDF that allowed chiefs to be unaccountable and created incentives for them to “collude with mining companies to the disadvantage of community interests” (p.76). This corruption has had a negative impact on social capital and promoted factionalism at the local-level.

Standing (2014) argues the MDF has been a catalyst for these problems. He cautions that mineral revenues are not the only source of grievance regarding the chieftaincy, and with Hilson also argues that tensions over mineral revenues are not predominantly due to corruption (Standing & Hilson 2013). However, Standing states “we should accept that the potential of capturing wealth from mining adds to the problem” (p.77). He argues cash transfers would solve this problem because the MDF would no longer be needed.

Standing also argues that using bureaucratic measures to control corruption, enhance transparency and hold people to account, adds to the cost and reduce the efficiency of development. Cash transfers bypass inefficiencies in CMBSs and put the responsibility for development back onto government (whether local, provincial or central), rather than CMBSs. Government administrative structures may not be efficient, but at least using them avoids the costly creation of another administrative apparatus (the CMBS).

Standing's argument in favour of cash transfers because they obviate the need for duplicate administrative capacity, misses a critical point about why decision-making about development gets devolved to communities. Establishing mechanisms that allow communities to collectively make their own decisions – even if those decisions are not made in an administratively ‘optimal’ fashion – is a key element of demands

for self-determination¹⁰, as well as the UN's definition of community development. Cash payments distribute resource revenues to individual citizens, but do not allow for collective community input into development where resource revenues are the only source of funding for this purpose.

Gillis (2010) argues against cash transfers for another reason: they can reduce governments' and citizens' interest in natural resource management and good planning around resource profits. Gillis may well be correct in this regard, but the reason scholarship on the anti-corruption attributes of cash transfers has arisen is precisely because some governments have not been able or willing to effectively plan and manage natural resource revenues in the first place (see Palley (2003)). Furthermore, evidence from the PNG case suggests that a poorly managed CMBS can also cause citizens to disengage from management of natural resources and their revenues.

10 There is evidence from the US that devolution of decision-making over development to Indigenous communities also produces better impacts, compared to when outside experts are involved (Cornell and Kalt 1998).

An agenda for action

Despite corruption in CMBSs routinely not being investigated or otherwise addressed, there is interest from donors, governments, mining companies, civil society, and communities in ensuring this happens. Foreign governments and international organisations are also being implicated in efforts to expose and prevent corruption in CMBSs, regardless of whether this is a policy or programme priority – an example is the complaint made by Friends of the Earth Europe and Liberia's Sustainable Development Institute against ArcelorMittal under the OCED's Guidelines for Multinational Enterprises.

For CMBSs that are already established, reform can be difficult because it is highly political as was the case in Ghana. However, while administrative measures may stem the loss of funds they can be a costly and inefficient response that strengthens state control over communities. They can also be counter-productive in terms of achieving desired development impacts. Anti-corruption provisions need to remain at the forefront of reform efforts, but it is equally important not to lose sight of local development and self-determination imperatives.

Policy recommendations

Below are 10 policy recommendations for donors, mining companies, governments, communities, and CSOs that represent communities. Each recommendation has key questions that need to be answered in order to design a CMBS well, including achieving an optimal distribution of corruption controls and authority between stakeholders.

- 1. Research local relationships with government authorities and mining companies.** Is there a history of grievances around exploitation of natural resources? Do local communities accept and trust government authority? If the company has engaged in poor practice elsewhere, will this affect its interest in properly implementing the CMBS?
- 2. Map local power dynamics** in which resource management is embedded, particularly land, labour and social relations (see Dupuy 2016). The mapping process will illuminate the power of community leaders, including traditional chiefs and which groups have lower status within the community.
- 3. Survey local development aspirations** of communities and leaders. Do these correspond with existing government programmes? If so, can CMBS activities be aligned with the latter?
- 4. Understand government ambitions and commitment to development** in mine-affected communities. Are the central, provincial or local governments trying to reduce their commitments to a community by transferring responsibility for development to a CMBS? Do these levels of government accept a degree of self-determination by communities over their own development?
- 5. Determine if a CMBS is the best vehicle for distributing mineral revenues.** Do community structures or state-society relations allow for positive development impacts via a CMBS? If not, alternatives to a CMBS could be considered, such as cash transfers.
- 6. Identify credible mechanisms to investigate and prosecute corruption.** Is there a role for a government anti-corruption agency or police? Is there a role for traditional grievance mechanisms to resolve corruption complaints? Could police or an Ombudsman work in conjunction with traditional grievance resolution mechanisms? Remember that only government authorities will ever have certain powers around investigating financial activity or seizing documents.

7. **Negotiate the CMBS design:** Use knowledge gained from the above research to propose a design, including goals, governance, financial controls, criteria for funding activities, contractor selection, monitoring and evaluation, and a complaints management process.
8. **Communicate with communities about the CMBS.** This requires an investment in good communicators and communication methods, and takes time. As lengthy negotiations are the bane of an investor's life, mining companies will pressure communities and governments to accept any design to move a project forward. These pressures must be resisted.
9. **Finalise the CMBS:** develop a law or other written agreement that describes how the CMBS will work, and who has what roles and responsibilities. Including a preamble that describes the CMBS's objectives in terms of community development and self-determination, can help maintain a focus on the CMBS's broader purpose and resolve disputes over how funding is allocated.
10. **Allow for redesign:** Given that CMBSs need to be tailored for different resource developments, each one will be somewhat experimental and need to be adjusted if problems occur. The CMBS should be evaluated every few years, with provisions for its processes to be revised.

The full list of these policy recommendations can be used to inform the design of a country-wide CMBS. For a CMBS focused on a specific mine development affecting a limited number of communities, they could be scaled down. At a minimum, preparation for a CMBS should include: (1) understanding the history of grievances around mining and between communities and the government – this will help guide the distribution of corruption controls amongst stakeholders; (2) mapping the structure of power within the community – this will indicate which groups most need benefits and which groups will most likely control who gets these benefits, and therefore feed into a corruption risk assessment; (3) identifying developmental ambitions of different groups – this will guide corruption controls around selection of activities; (4) design accountability and complaint management mechanisms appropriate to the scale of the project, with the option for tapping into existing government mechanisms.

Allocating roles to stakeholders

Corruption prevention for CMBSs does not have to be a zero-sum game for control between communities, mining companies and government. There is an optimal balance of control amongst these stakeholders, although that balance will be different for each CMBS. Identifying which stakeholders should manage what controls requires the kind of preparatory research recommended above, as is also argued by Søreide & Truex (2011) and Dupuy (2016).

The role of mining companies is most straightforward, because their job is to generate revenue. It is not to usurp community or government authority over surrounding populations or dictate local development. The recommended research activities and negotiations will cost money, and it is reasonable that these costs are born by the mining company, although they should not be led by the company.

Because of sensitivities around mining company sponsorship of consultations – e.g., allegations that the company is 'buying' consent through exaggerated sitting fees, per diems or luxury venues – donors can play a useful role in funding and organizing these consultations. Note that a donor agency from the home country of the mining company would not be a good choice for certain activities. For example, Australia's Department of Foreign Affairs and Trade (DFAT) would have little credibility hosting negotiations that involved BHP Billiton, because everyone would believe that it is on the side of its fellow Australians and this would diminish the DFAT's own reputation. Many domestic CSOs and some international CSOs probably could not manage negotiations for the same reason. They would be perceived as biased towards the community and lack credibility in the eyes of the mining company and possibly the host government.

Communities and their advocates, such as CSOs, need to be fully involved in the research and negotiation process, but this will only happen if they think they can gain something useful. Good communications about the proposed CMBS are critical in this regard, and local methods of communication need to be understood to achieve this. Mining companies themselves are rarely considered trustworthy sources of information about their own projects, so it is important other parties have control over this.

Citizens of the country – rather than international consultants – are best placed to do local-level research as they are more likely to speak local languages, have local connections and understand cultural and social concerns around land use and authority. The ideal research team might involve a mixture of local knowledge, and people with the skills in developing reports and recommendations suitable for an audience of donors, central government and mining company officials.

Conclusion

The convenient – and conceptually easy – approach to managing corruption risks in CMBSs is to call for a suite of bureaucratic measures commonly used by governments in publicly funded service delivery, and also routinely demanded by donors and international organizations in their various programmes for the extractive sector. Yet in regard to transparency, a major theme of such measures, there is no evidence that it alone will improve development impacts or reduce corruption. Relying on enhanced transparency as the panacea for corruption prevention is a mistake.

Administrative measures designed to improve accountability and transparency have some utility, and will help to reduce some corruption. The problem is that the administrative apparatus for these measures typically relies on government institutions and thus can consolidate state authority over a community. The expansion of state control via a CMBS may be overt or surreptitious, intended or unwitting, but the impact can be the same: it can pervert the fundamental goal of building community capacity and control for self-development. In communities where CMBSs were the response to grievances and violence around the exploitation of natural resources, expanded state control via anti-corruption controls has the potential to jeopardize peace.

Traditional leaders are sometimes seen as the champions in CMBSs because of their role in communicating the developmental ambitions of their communities, and in promoting a local-level agenda in the face of government and mining company interests and pressure. But as evidenced by the seven cases discussed in this report and the research literature, there are just as many risks for corruption around unaccountable traditional leaders, as there are for unaccountable mining companies or government officials. Involvement by traditional authorities is therefore not a substitute for anti-corruption control; they also need to be accountable and their decision-making needs to be transparent.

CMBS design needs to reflect the nuances of each context and maintain a focus on the basic goals of communities in terms of their desire for self-development, rather than these objectives being lost in the effort to stop theft and misuse of revenue. This also means that corruption risk management needs to be shared. There is a role for collaboration by all stakeholders on certain measures; there are also some things that only governments will be able to do legally and (hopefully) effectively, such as some investigative work. There is also a role for independent third parties to perform certain checks, monitor functions and do evaluations. Good preparatory design work as suggested in the policy recommendations will indicate where anti-corruption capacity should best be located, as well as what measures are best controlled by which stakeholders.

Annex 2: Corruption risks and possible resulting corrupt acts

Risk	Potential corrupt acts that could result if risk is poorly managed											
	Biased activity design	Gifts benefits, bribes	Theft of funds	Fraud	Inflated fees and costs	Misuse of funds	Misuse of equip.	Improper influence	Biased Activity Selection	Extortion	Facilitation payments	Interests not declared
Negotiations												
1. Manipulation of negotiations		✓			✓			✓		✓	✓	✓
2. Leaders don't represent community interests	✓	✓			✓			✓		✓	✓	✓
Social Impact Assessments												
3. Criteria for SIAs are not publicly knowable	✓	✓						✓				✓
4. Accuracy of SIAs is not verified	✓	✓					✓					
5. SIAs not publicly available	✓	✓					✓					✓
Final CMBS Design												
6. Final content is not publicly knowable	✓	✓	✓		✓	✓	✓	✓	✓			✓
Activity Selection and Implementation												
7. Inadequate activity selection processes		✓	✓		✓	✓	✓	✓	✓	✓		✓
8. Inadequate financial monitoring		✓	✓	✓	✓	✓	✓	✓				✓
9. Inadequate process for contractor selection		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
10. Inadequate activity monitoring		✓	✓	✓	✓	✓	✓	✓	✓	✓		
Responding to Corruption												
11. No investigations or prosecutions		✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
12. Whistleblowers do not make reports		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
13. Whistleblowers are not legally protected		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
14. No written legal agreement for CMBS	✓	✓			✓	✓	✓	✓				✓

Annex 1: Seven cases of corruption in community beneficiary mining schemes

	Case	Allegations	Factors permitting corruption?	Stage?
1	<p>Anonymous: An unnamed multinational mining company was responsible for funding the resettlement of a community located on a mineral deposit. The funding was provided as part of the terms of a contract between the company and the government.</p> <p><i>Reference: OECD (2016), Corruption in the Extractive Value Chain – Case.</i></p>	<p>The subcontractor that built new housing and community infrastructure was allegedly chosen by the mining company because he had good political connections and not because he was the best candidate for the contract, i.e., there was favouritism. The subcontractor also allegedly embezzled some of the funds, so the quality of built infrastructure delivered to resettled communities was poor because of a reduced budget.</p>	<p>Factors permitting corruption are unclear, but possibly include: no due diligence on ownership of the subcontractor; no checks on possible conflicts of interest between the subcontractor and state officials or politicians; no conflict of interest declarations may have been required in a contract (which might have acted as a deterrent); no financial monitoring or audits; no quality control checks on infrastructure; and no withholding of payments until the new infrastructure was certified as acceptable.</p>	<p>Corruption occurred during the selection of contractors, so after the mine was approved but before site works commenced. Misappropriation of funds then occurred during implementation.</p>
2	<p>Cameroon: the US company, Geovic obtained a permit for a cobalt mine. It registered a charity, GeoAID, in the US which was supposed to implement development projects in communities around the mine. A budget of \$4.8m for community development projects was established. Most of these funds were given to Cameroonian organisations, including GeoAid Cameroon and the charitable foundation of Chantal Biya, wife of President Biya. Geovic did minimal site works, then left Cameroon in 2014.</p> <p><i>Reference: Freudenthal (2016): www.africanarguments.org – investigative article.</i></p>	<p>Cameroonian organisations that were supposed to implement local development activities allegedly embezzled Geovic CMBS funds. Villagers around the mine can recall no development activities ever occurring, except for some corrugated iron sheets donated to a school in 2000 and a 'case of medicines'. GeoAid Cameroon staff did not have vehicles to visit communities they were meant to be helping, suggesting the funds were used to pay for salaries – or were possibly misappropriated – but were not used for projects.</p>	<p>There is no information that Geovic ever attempt to control, monitor or evaluate how its community development funds were disbursed. Organisations that received GeoAid funds provided no information about their income or expenditure. It is unclear whether Geovic was contractually obliged to fund certain activities. If so, it does not appear that Geovic was ever taken to court for breach of contract.</p>	<p>The charities receiving the funds misappropriated them before implementation of virtually any project activities.</p>
3	<p>Ghana: The government transfers 20% of royalties from mining into its Mineral Development Fund (MDF). Half of these funds (10% of the total) is distributed via the Office of the Administrator for Stool Development to chiefs of communities in mining areas for local development activities. The MDF was given a legal basis for the first time in 2016 under a new MDF Act.</p> <p><i>Reference: Adimazoya (2013), Standing (2014) and Dupuy (2016).</i></p>	<p>There are alleged systemic weaknesses around the management of funds, including elite capture: many chiefs spent funds on themselves and their entourage, not on local development: "most of the mineral rent that trickles down to the local level is spent on the stool's palace, on ceremonial clothing and regalia as well as on the chiefs themselves" Adimazoya 2013, p.158.</p>	<p>While funds are clearly intended for local development, ambiguous wording of the directive about how funds should be used, allowed chiefs to use funds on themselves. Ghanaians' popular perception is that such expenditure constitutes a misuse of funds, and is therefore corrupt. There are also no formal accountability requirements on chiefs' use of funds, or a system for tracking funds given to chiefs.</p>	<p>Funds are transferred to chiefs, but are then misused rather than spent on community development activities.</p>
4	<p>Liberia: ArcelorMittal Liberia bought an iron ore mine. Part of its investment is an agreement to annually pay \$3m to three affected counties via its County Social Development Fund (CSDF): Bong \$0.5m, Nimba \$1.5m, Grand Bassa \$1m (\$73m over 25 yrs). 20% of each county's allocation must be spent in communities directly affected by the company's operations.</p> <p><i>Reference: Friends of the Earth (Europe)/Sustainable Development Institute Liberia (2011) – complaint made under the OECD Guidelines for Multinational Enterprises.</i></p>	<p>100 trucks bought using CSDF funds intended for agricultural development were handed to politicians. Projects selected for funding were also allegedly the priorities of politicians, not communities. Funds were also misused on activities explicitly forbidden under the CSDF guidelines (e.g., festivals).</p>	<p>Weaknesses that allowed the corruption to occur include: no due diligence on government officials (some of which had past histories of corruption); inadequate systems for ensuring criteria for selecting activities are observed; no checks to prevent biased decision-making; and no penalties for funding unauthorised activities. Perceptions of corruption were fuelled by poor communications about the CSDF and its funding criteria.</p>	<p>Funds were transferred to the CSDF. The problems occurred during implementation: non-priority activities were selected for funding and funds were used for improper purposes.</p>

	Case	Allegations	Factors permitting corruption?	Stage?
5	<p>Papua New Guinea: The Porgera Joint Venture gold mine provides a portion of profits to the PNG Government, which is supposed to transfer the funds to the Porgera Landowners Association (PLOA) and the Porgera Development Authority (PDA), both of which are partners in the JV. Both organisations should use the funds for community development around the mine.</p> <p><i>Reference: Johnson (2012), Lode Shedding research paper for the National Research Institute.</i></p>	<p>There are allegations that funds are embezzled by government officials. Porgera JV transfers profits to the government, but the government allegedly does not then transfer all the funds to the PLOA or the PDA, or if it does the PLOA and PDA do not spend the funds on development activities. There is agreement by community members, NGOs and academics that there is little evidence of development in communities around the mine.</p>	<p>It is not clear if government officials are stealing the money for private use, or whether the government has made a policy decision (possibly informal) to not transfer the money to the PLOA and PDA and instead keep it for other purposes. The end result is the same – little community development – but the role of individual motivation is unclear.</p>	<p>Resource profits are transferred to government, but then misappropriated before most community development activities commenced.</p>
6	<p>Sierra Leone: The government transfers 0.75% of royalties to Diamond Area Community Development Funds, which are controlled by diamond area Paramount Chiefs (80%) and District Councils (20%). The design of the DACDF was substantially reformed between 2006 and 2009 in order to reduce corruption.</p> <p><i>Reference: Dupuy (2016).</i></p>	<p>There are allegations that many (most?) chiefs misappropriated the funds by spending them on themselves and their entourage, not on local economic development. I.e., there is elite capture of the funds, embezzlement and misuse.</p>	<p>There was no transparency around the funds transferred to chiefs; no formal accountability requirements on the part of chiefs about how they spent funds; and no community input into how funds were spent, suggesting there could be deliberate marginalisation of communities in decision-making.</p>	<p>Funds are transferred into DACDFs, but are then misappropriated before being disbursed for development activities.</p>
7	<p>Zimbabwe: Under Zimbabwean law, Community Share Ownership Trusts (CSOTs) are required to have a 10% share of all businesses with a value over US\$500,000 to give economic power to black Zimbabweans. CSOT trustees typically include government officials and chiefs, and are appointed by the government. Trustees allocate funds for local development, including hiring firms to build infrastructure. Because the mining sector is dominated by large companies, CSOTs have become a significant feature of this sector.</p> <p><i>Reference: Transparency International – Zimbabwe (2012), Annual State of Corruption Report</i></p>	<p>Allegations of corruption include the following: the government only appoints trustees who are members of the ruling party (nepotism); there is bias in activity design in that development agendas favour central government and ruling party priorities; contracting firms get contracts based on connections to trustees, not merit (favouritism); local community members have to bribe chiefs to receive employment on CSOT-funded projects (bribery, favouritism); and there is misuse of funds by chiefs who pay themselves inflated sitting fees.</p>	<p>In practice there are: no accountability requirements on Trustees' decisions; no transparency on monies received or spent; no monitoring (e.g., audits); and no penalties when wrongdoing is found. Note that five chiefs were investigated for over-paying themselves sitting fees, and ordered by the Minister for Local Development to repay the money.</p>	<p>Funds are misappropriated before activities commence; there is bias design of activities; and there is misuse of funds during implementation.</p>

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This paper analyses patterns of corruption and corruption risks related to community mineral beneficiation schemes (CMBSs) that distribute benefits funded by mineral revenues to communities. It analyses insights from existing scholarship on CMBSs, evidence from seven cases of corruption, and lessons from guidance documents on reducing corruption in the mining value chain. The aim of the paper is to stimulate debate and further research about the suitability of anti-corruption strategies for CMBSs. It argues a key flaw in these materials is that they lose sight of the fundamental purpose of CBMSs: local-level development controlled by the community. Existing work on corruption in CMBSs places too much emphasis on administrative measures to manage risks and prevent wrongdoing. A better approach is to first understand local political dynamics and ambitions for development, and then use these insights to improve CMBS design. The optimal mix of anti-corruption initiatives will flow from this work, including clarity about which measures are best controlled by which stakeholders. This paper makes 10 policy recommendations to improve CMBS design or reform CBMSs so they deliver benefits, enhance community control over development and better control corruption.