

# Regulation with participation?

Putting small-scale producers at the forefront of supply-chain regulation

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Global North-based companies held accountable for environmental, social, human rights issues

Responsibility to supply chain actors

“New global foreign accountability norm”  
(Partzsch & Vlaskamp, 2016)

Are you holding

**a product of child labour?**

- **Human rights due diligence (HRDD)**
- **HRDD rapidly and widely institutionalized in international and national law, in ‘soft’ and, increasingly, ‘hard law’ (Landau, 2019)**
- **What about small-scale producers, workers and affected communities ‘at the bottom’ of the chain, often represented by – mostly international – organisations who ‘speak for them’?**



REPRESENTATION



PARTICIPATION

PUBLIC VS. PRIVATE ACTORS



POWER

UNINTENDED CONSEQUENCES





University of Antwerp  
IOB | Institute of  
Development Policy

# Driving participation

Mapping the involvement of small-scale producers in battery-mineral  
supply chain regulation

Sarah Katz-Lavigne

# Regulation

- Literature on human rights due diligence
  - Norm diffusion (Partzsch & Vlaskamp, 2016; Sarfaty, 2015)
  - Outsourcing of regulation (Sarfaty, 2015)
  - Corporate compliance (Krajewski, Tonstad, & Wohltmann, 2021; Ford & Nolan, 2020; Landau, 2019; Martin, 2018)
  - Liability (Bueno & Bright, 2020)
  - Accountability (Postma et al., 2020; Martin, Bravo, & Van Ho, 2020)
  - Transparency (Gardner et al., 2019)

# Regulation

- **Critiques**

- Focus on 'weak links' (Gibb, 2020) invisibilizes structurally unequal power relations
- Focus on weak host state governance (Coumans, 2019)
- 'White saviourism' (Vogel, 2022)
- Who defines 'risk' (Geenen, 2018)
- Alternative normative & knowledge systems (Lamb et al., 2019, Stevano, 2021, Sowman & Sunde, 2021)

# Participation

- 1960s & 1970s: decolonial thinkers (Freire, Fals-Borda)
  - 1980s & 1990s: mainstreamed (Chambers)
  - 2000s: 'tyranny' (Cooke & Kothari, 2001)
  - Repoliticization (Williams, 2004)
  - Social transformation (Hickey & Mohan, 2004)
- 
- Citizen voice & participation (McGee et al., 2018)
  - ICTs: inclusion or exclusion?



# Driving change



- **1 January 2022-31 December 2025**
- **Funded by Research Foundation Flanders (FWO)**
- **Objectives**
  - Map and categorize recent developments in transnational non-state mineral supply chain regulation
  - Understand how small-scale producers participate in these regulatory initiatives
  - Theorize the structural power relations and knowledge/normative systems surrounding these supply chains
  - Propose pathways for how small-scale producers can be put more in charge

# Driving Change

Initial mapping of legal and policy developments

Case studies in Lualaba & South Kivu provinces, DRC

Coordinated by CEGEMI and UNILU

Six months of data gathering using participatory methods

5 teams of 2 researchers (male/female)

2 to 4 sites per team



# Mapping mineral supply chain regulation

U.S. Dodd-Frank Act Section 1502

Regional Certification Manual (RCM) of the ICGLR

EU Conflict Mineral Regulation

2010

2011

2011

2015

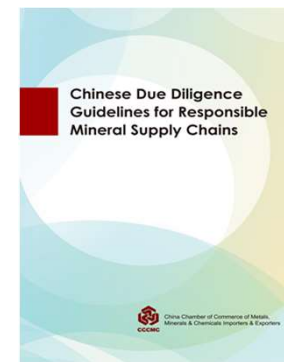
2021

Upcoming EU mandatory due diligence regulation

OECD Due Diligence Guidance



Chinese Due Diligence Guidelines



# Mapping mineral supply chain regulation

- Many “spinoff” frameworks and initiatives, typically based on OECD & Chinese DDG
- Multi-stakeholder initiatives
- Responsible procurement standards, certification schemes
- Some private or multi-stakeholder initiatives aim to include small-scale producers and affected communities in responsible sourcing
- Facilitating their access to markets (Mutoshi pilot, Just Gold, Zahabu Safi...)
- Including them in risk monitoring (Kufatilia, Matokeo)

## Case study. Kufatilia

International Peace Information Service (IPIS) & Ulula (private company creating technology that “amplifies worker & community voices to create more responsible supply chains”)

Incident reporting  
Follow-up by local CSOs





# Case study. Kufatilia



# Case study. Kufatilia



Information



Representation



Access to phone

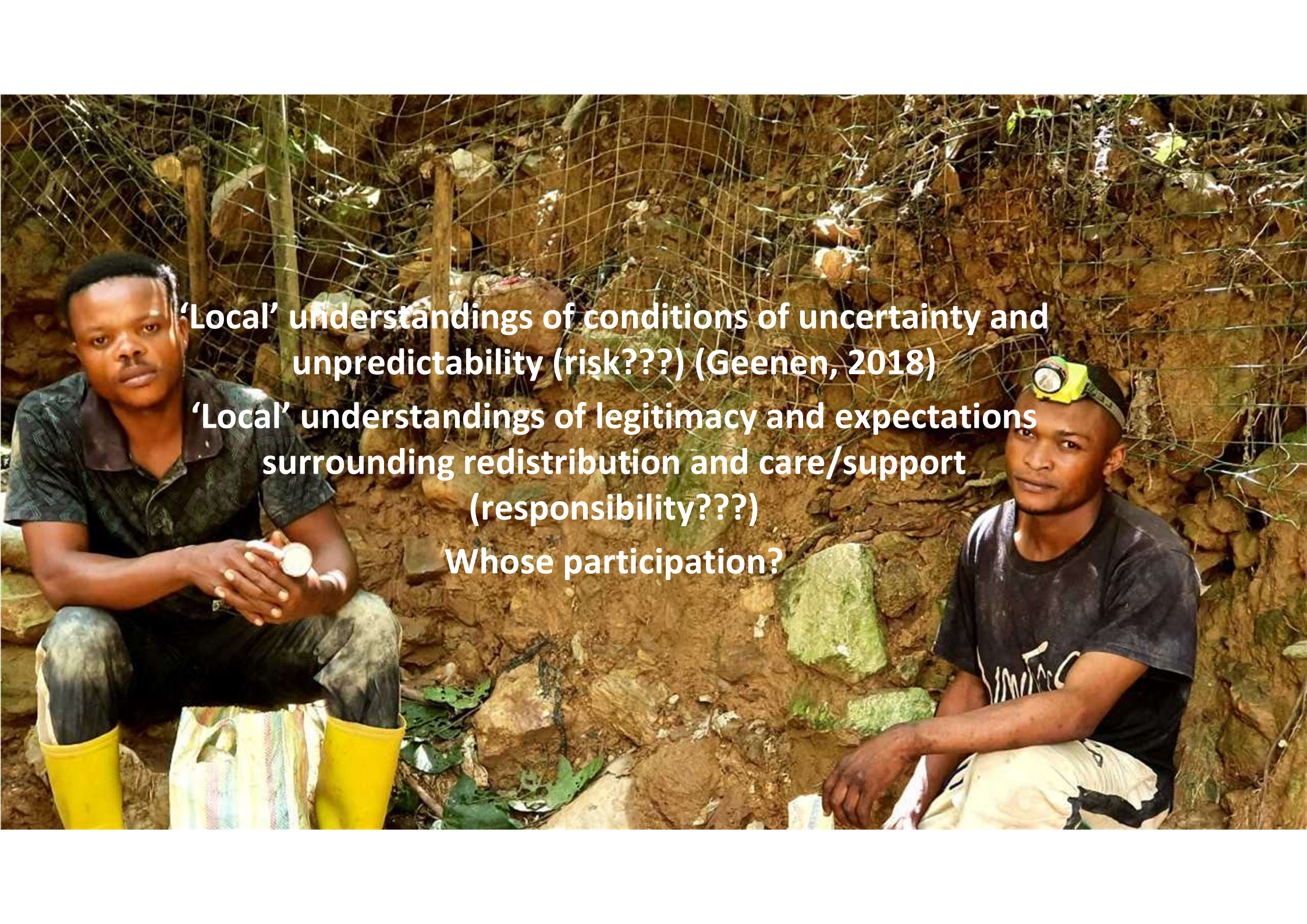


Costs of sending the message



Legitimacy of the follow-up interventions



A photograph of two men sitting on a rocky, uneven ground in front of a wire mesh fence. The man on the left is wearing a dark patterned shirt, dark pants, and yellow rubber boots. He is holding a small white object in his hands. The man on the right is wearing a dark t-shirt, light-colored pants, and a yellow headlamp on his forehead. He is also holding a small white object. The background shows a steep, rocky hillside with some sparse vegetation and a wire mesh fence running across it.

**‘Local’ understandings of conditions of uncertainty and unpredictability (risk???) (Geenen, 2018)**

**‘Local’ understandings of legitimacy and expectations surrounding redistribution and care/support (responsibility???)**

**Whose participation?**



# Structural power & normative/ knowledge systems

## 1) HRDD shapes conceptualization of small-scale producers in mineral supply chains

- Focus on human rights 'risks' and ASM as problematic node in the chain obscures miners' humanity (Ba, 2022) & the need to expand their freedoms & capabilities (Nussbaum, 1997; Sen, 1999)
- Small-scale producers are active, skilled participants with agency (Geenen, 2012), but seen only as exploited
- Conceptualized as producers, not political actors or norm shapers (Acharya, 2004) (no seat at the design

## 2) Top-down attempts to build 'responsible' supply chains

- Focus on 'legitimate' ASM, selected cooperatives, & pilot projects limits participation
- The 'political and civil rights' (Sen, 1999) of 'illegal miners' are routinely violated

## 3) HRDD obscures alternative knowledge and normative systems

- Widespread adoption of OECD DDG blueprint with technocratic steps and definitions
- Empowerment of international and local intermediaries rather than small-scale producers
- Top-down notion of 'risk' and 'responsibility' bypasses and eliminates established knowledge & normative systems

# Conclusion

Samsung  
Newsroom

CORPORATE | PRODUCTS | INSIGHTS | PRESS RESOURCES



## Samsung Electronics and Partners Kick Off “Cobalt for Development” Project to Promote Responsible Artisanal Cobalt Mining in the Democratic Republic of Congo

on September 19, 2019

Audio



Share



# Cobalt

for Development







Thank you!

Looking forward to your questions and comments...

<https://www.uantwerpen.be/en/projects/driving-change/>





Butwa mining site. Kamituga

Picture: Sara Geenen



Loutra. Kamituga  
Picture: Sara Geenen





Mamans bizalu. Kamituga

Picture: Sara Geenen





Ball mill workshop. Kamituga  
Picture: Robert Carrubba





Wooden constructions in the tunnels.  
Kamituga  
Picture: Sara Geenen





Female crushers in Kamituga  
Picture: Sara Geenen





Ball mills in Kamituga  
Picture: Sara Geenen





Burning gold with nitric acid  
Picture: Sara Geenen



Miner in Kamituga  
Picture: Sara Geenen