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BRIEF

Critical Minerals, Indigenous Peoples and Local Communities, and Conflict



OCTOBER 2024

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Critical Minerals, Indigenous Peoples and Local Communities, and Conflict

Date of Publication: October 2024

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Front cover photo: Open pit nickel mining and polluted lake in Mindanao, Philippines. Photo credit: MARYGRACE

Back cover photo: Socio-environmental catastrophe caused by the collapse of a Vale mining dam in Brumadinho, Brazil. Photo credit: Vinícius Mendonça, IBAMA

This document was produced for review by the United States Agency for International Development. It was prepared with support from the Integrated Natural Resource Management Task Order 7200AA18D00020, under the Strengthening Tenure and Resource Rights II (STARR II) IDIQ.

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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INTRODUCTION

[Critical minerals](#) are at the center of emerging debates about the transition to renewable energy. Just as fossil fuels have been the backbone of global energy needs for more than a century, several dozen minerals will make possible the green technologies of tomorrow's energy systems. Minerals, such as lithium, cobalt, copper, nickel, graphite, aluminum, rare earths, silver, and zinc are expected to experience dramatic increases in demand in the coming decades.

The growing demand for these minerals prompts difficult questions about who might be affected by their extraction. There is a long history of conflict between mining and Indigenous Peoples and local communities (IPLCs) in [Latin America](#), [Africa](#), and [Asia](#). In June 2023, [a study by an international team of researchers](#) found that around 25 percent of environmental conflicts involving Indigenous Peoples were caused by mining. Researchers found that Indigenous communities were negatively impacted by land dispossession, biodiversity loss, water pollution, soil degradation, and lost livelihoods. According to a [recent global mapping](#) of 5,097 critical mineral projects, 69 percent of existing or planned projects are located on or near IPLCs' lands.¹ Accelerating demand for critical minerals is increasing pressure for new or expanded mining activities in IPLCs' lands and territories and is already raising concerns about the increased potential for conflict.

TABLE 1: Critical Minerals with Projected Demand Increases by 2025 under 2-Degree Global Warming

Mineral	Projected % Increase from 2018 (2020 est.)	Key USAID Countries
Graphite	494%	Mozambique, Brazil
Lithium	488%	Chile
Cobalt	460%	Democratic Republic of Congo
Nickel	189%	Indonesia, Philippines
Silver	99%	Mexico, Peru
Rare Earths	37%	Burma (Myanmar)

Source: Hund, K., D. LaPorta, T. Fabregas, T. Laing, and J. Drexchange. 2020. "Minerals for Climate Action: The Mineral Intensity of the Clean Energy Transition." <https://pubdocs.worldbank.org/en/961711588875536384/Minerals-for-Climate-Action-The-Mineral-Intensity-of-the-Clean-Energy-Transition.pdf>.

There are ample opportunities to prevent or mitigate such conflict. Despite uneven and incremental progress, there have been many initiatives in recent years by governments, businesses, and civil society groups to promote responsible mining. IPLCs have organized to increase their capacity for advocacy, to build networks for collaboration, and to defend their legally recognized rights. Dialogue and collaboration among these stakeholders will be necessary to ensure that critical minerals do not become a new source of conflict.

This issue brief examines these issues in three parts:

Part I describes some of the longstanding sources of conflict between mining and IPLCs and the evolving efforts by governments, civil society, companies, and IPLCs over the past two decades to improve mining standards and performance.

Part II presents two case studies that describe the experiences, perspectives, and emerging concerns of IPLCs with respect to critical minerals. These echo many of the asymmetries of power and unresolved grievances that marked previous mineral exploration and exploitation.

Part III suggests possible areas for action to build on the international standards, legislative reforms, civil society engagement, IPLC activism, and lessons learned over the past 20 years to promote responsible mining. These provide the basis to work collaboratively with IPLCs to achieve a conflict-free critical minerals transition.

¹ According to the authors, "the focus of our analysis is the lands of Indigenous peoples and peasants as reflected in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)" ([Owen et al. 2023](#)).

PART I:

SOURCES OF CONFLICT

BACKGROUND

Conflicts between the mining sector and Indigenous Peoples and local communities are not new. Disputes over land rights, displacement, livelihoods, corruption, gender-based violence (GBV), forced labor and child labor, human trafficking, lost cultural practices, land degradation, water pollution, toxic chemicals, and absent or inadequate community consultations and consent have beset mining for minerals like gold, diamonds, and copper for decades.

In 2005, USAID published [Minerals and Conflict: A Toolkit for Intervention](#), which broadly examined linkages between minerals and violent conflict, identifying the main drivers and initial lessons learned. With recent experiences, such as “blood diamonds” in Sierra Leone and the use of mineral revenues to fund armed groups in the Democratic Republic of the Congo (DRC), the toolkit had an important focus on the use of minerals to finance violence. In line with the focus of this brief, however, it also described what it termed “lower-scale violent conflicts,” which did not relate to financing belligerents’ war efforts, but rather, tensions and disputes that occurred between industrial mining and IPLCs or—to a lesser extent—between artisanal and small-scale mining (ASM) and IPLCs. Recurrent problems included the following:

- **Land rights and access** – Mining proceeded “without informing or consulting local communities, particularly Indigenous Peoples, whose rights to the land may be unrecognized by national law.” Communities also received insufficient compensation for land.
- **Social and environmental effects** – Mining activities caused “damage to water, arable land, forests, wildlife, and hunting or fishing grounds,” including negative effects on livelihoods produced by “illegal and unregulated ASM.”
- **Distribution of mining wealth and benefits** – Revenues and royalties were siphoned off by corrupt actions of government officials, a problem compounded by the belief of local communities that mining “has not employed enough local people or channeled sufficient benefits to them through direct compensation, community development funds, and broader social investments.”
- **Mineral wealth and corrupt elites** – Mining reinforced exclusionary politics when “the diverted benefits of mineral wealth enrich elite groups and increase the power of the ruling clique.”
- **Entry, construction, and exit** – Mining site development produced “severe and irreversible impacts on local communities, particularly when the communities rely on intact ecosystems.”

Since that time, USAID has implemented a number of policies to address the root causes of many of these issues. Policies on core issues have included the following:

- USAID’s [Private Sector Engagement Policy](#) states that private sector engagement includes “holding the private sector accountable for making inclusive business investments that have a positive social and environmental impact on communities.”
- USAID’s [Anti-Corruption Policy](#) supports collaboration to “improve the efficacy and impact of social movements and collective action to counter corruption and advance reform.”
- USAID’s [Policy on Promoting the Rights of Indigenous Peoples \(PRO-IP\)](#) recognizes that resource extraction projects often have harmful effects on Indigenous Peoples and seeks to strengthen engagement and empower Indigenous Peoples “to advocate for, and exercise, their rights and practice self-determined development.”

RESPONSES, IMPROVEMENTS, AND CONTINUING CHALLENGES IN THE MINING SECTOR

Within the mining sector itself, a variety of responses to these problems in the past two decades by governments, mining companies, civil society groups, international organizations, and IPLCs helped to bring about some improvements. A collection of normative commitments, multi-stakeholder guidelines, and legislative reforms have created a set of good practices for monitoring, reporting, and certification that—despite gaps and implementation challenges—have created a very different operating environment for the mining sector. Some of the most important efforts include the following:

Responsible sourcing

One early set of responses addressed the problem of the mineral-conflict linkage through requirements for responsible sourcing. A pioneering effort was the [Kimberley Process](#), a trade regime of 85 countries that implemented safeguards to track and certify rough diamonds as “conflict-free.” The Kimberley Process has shown both the promise and complexity of such efforts, as it has a relatively narrow focus that does not address issues, like land dispossession or working conditions, and it has had difficulty holding non-compliant countries accountable. [Section 1502](#) of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act directed the U.S. Security and Exchange Commission to issue rules requiring publicly traded companies to disclose their use of conflict minerals—designated as tin, tantalum, tungsten, and gold from the Democratic Republic of the Congo (DRC) and adjacent countries. Here, too, the results have been mixed, as it has been easier to increase industry interest in compliance than to improve conditions on the ground. Coming into effect in 2021, the [EU Conflict Minerals](#)

[Regulation](#) covers the same minerals for EU-based importers, with requirements for an independent third-party audit of supply chain due diligence.

The [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#) (last updated in 2023) provide recommendations to multinational enterprises for addressing topics, including human and labor rights, climate change, environment, bribery, and supply chain due diligence. The 2016 [OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#) provides an overarching framework on due diligence to companies in all mineral supply chains to both respect human rights and avoid conflict specifically in conflict-affected and high-risk areas. The [Responsible Minerals Initiative](#) is a coalition of more than 400 companies that supports conflict-free sourcing of minerals, especially for the designated conflict minerals of tin, tantalum, tungsten, and gold. The Initiative’s Responsible Minerals Assurance Process promotes third-party audits to certify the conflict-free status of smelters or refiners of the designated conflict minerals.



Quarry lake in Tahirpur, Bangladesh. Photo: Hasin Hayder | Unsplash

Multi-stakeholder governance groups

The [Extractive Industry Transparency Initiative \(EITI\)](#) is a coalition of governments, companies, and civil society in 57 countries that promotes transparency, good governance, and accountability by taking a “follow (and disclose) the money” approach throughout the extractive industry value chain. EITI generates information on licenses, contracts, and fiscal and legal arrangements, and identifies the beneficial owners of mining operations. The [Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development \(IGF\)](#) helps governments develop laws and policies that support livelihoods, ecosystems, gender equality, and social and financial benefits in large and small-scale mining operations. The [Public-Private Alliance for Responsible Minerals Trade \(PPA\)](#) is a multi-stakeholder initiative to promote responsible mineral supply chains, due diligence systems, and governance through research, pilot projects, and direct engagement with supply chain actors. The Alliance initially focused on tin, tungsten, tantalum, and gold supply chains in the DRC, but has broadened its mineral and geographic scope.

Company standards and compliance

The Initiative for Responsible Mining Assurance (IRMA) measures responsible practices in mining through publicly available audits that independently assess social and environmental performance at mine sites, using internationally recognized standards that were developed in consultation with diverse stakeholders. The Mining Principles of the [International Council on Mining and Metals \(ICMM\)](#) define environmental, social, and governance requirements of company members through 39 “performance expectations” on issues, like ethics, human rights, and stakeholder engagement. ICMM’s Position Statement on Indigenous Peoples recognizes their rights to free, prior, and informed consent (FPIC), including the withholding of consent, but suggests companies may wish to consider the right of governments to make final determinations on whether projects should proceed. A more proactive approach is that taken by [FPIC 360](#), a joint project undertaken by Equitable Origin and the Roundtable for Sustainable Biomaterials. Created in consultation with Indigenous Peoples groups, FPIC 360 has created a framework that involves the equal participation of affected communities in the implementation and “co-auditing” of the FPIC process. Other social, environmental, and human rights standards have emerged in recent years, with varying scope and focus; illustrative examples include the [Copper Mark](#), [Towards Sustainable Mining \(TSM\)](#), and [Cera 4in1](#).

Multilateral development banks

The [International Finance Corporation’s \(IFC\) Performance Standards](#) are widely used by the private sector and have been adopted by other multilateral development banks. [Performance Standard 7](#) focuses on Indigenous Peoples and FPIC. It “seeks to ensure that business activities minimize negative impacts, foster respect for human rights, dignity, and culture of Indigenous populations, and promote development benefits in culturally appropriate ways.”

The World Bank has a long history of working on mining sector reforms and, in 2017, began using the [Mining Sector Diagnostic \(MSD\)](#), a diagnostic tool used to comprehensively assess a country’s mining sector. Using input from government, industry, and civil society, the MSD provides information on the sector’s economic potential, management performance, stakeholder priorities, and potential for improvement. The MSD is intended for use by development partners, mining companies, mining-affected communities, civil society organizations, and academic and research groups. Other multilateral banks, including the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development all have their own policies and guidelines on issues like environmental and social impacts, community engagement, labor and working conditions, and revenue management.

United Nations rights-based guidelines and principles

The 2011 [United Nations Guiding Principles on Business and Human Rights \(UNGPs\)](#) comprise a set of guidelines for states and companies to prevent, address, and remedy human rights risks and impacts linked to business operations. They call for states to protect human rights, businesses to respect human rights, and mechanisms to remedy human rights abuses when they occur. Other standards, such as the OECD Guidelines, [are now aligned with the UNGPs](#).

With its explicit recognition in the 2007 [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#), the concept of FPIC has gained wide international acceptance. FPIC allows Indigenous Peoples to provide, withhold, or withdraw consent, at any point, to mining projects affecting their territories. This includes the ability of Indigenous Peoples to [engage in negotiations on the design, implementation, monitoring, and evaluation](#) of mining projects. In the past decade, several countries with critical mineral deposits of known or potential significance have supported FPIC through laws, regulations, or court rulings, including Indonesia (2014), Colombia (2016), Peru (2016), Tanzania (2017), Ecuador (2018), and Bolivia (2019). In each case, however, the implementation of FPIC has been criticized as weak.

IPLC activism to secure rights in mining communities

The adoption of UNDRIP was a landmark achievement for Indigenous Peoples' movements, and IPLCs have built on that success to further strengthen their activism, collective voice, and advocacy for the rights of mining-affected communities. Many of the most active [rights-based](#) movements have been in [Latin America](#). One important path toward ensuring rights and promoting reforms has been legal activism by groups, like the [Interamerican Association for Environmental Defense \(AIDA\)](#). In Asia, the [Tebtebba Foundation](#), based in the Philippines, has expanded its global network and, through the United Nations, has worked on individual and collective human rights, sustainable development, and conflict transformation. Africa-based groups are fewer in number, but [AFREWATCH](#) is representative of expanding efforts to engage in monitoring, research, advocacy, and networking on mining issues. The defense of the legal rights of Indigenous Peoples has had [recent success in South Africa](#). On issues of artisanal mining, the [Alliance for Responsible Mining](#), headquartered in Colombia, works with community-based ASM organizations in Latin America, Asia, and Africa to transform, formalize, and certify ASM as socially and environmentally responsible mining that benefits communities.

The implementation gap

Despite improving industry standards, international and national policy commitments, and IPLCs' advocacy, the mining sector still suffers from a gap between norms and standards and tangible actions that secure Indigenous Peoples' rights in relation to the operations of extractive industries. While principles and statements, like those of the UNGPs, have made it into mining company guidelines and pledges, the voluntary nature of these commitments and practices has resulted in only partial implementation. Failures of governance at the national level—weak legal and regulatory frameworks, persistent corruption, lack of formalization and titling of community land rights, and ineffective or complicit law enforcement—have proved to be formidable obstacles to meaningful change in on-the-ground mining operations.

The private sector has recognized the gap between formal company commitments and actual performance. In introducing ICMM's updated

[human rights guidance](#) (2023) for the industry, President and CEO, Rohitesh Dhawan, observed, "We have undoubtedly seen an improvement in how companies are managing human rights due diligence. But violations have occurred with unacceptable and heart-breaking impacts."

The [European Union's Corporate Sustainability Due Diligence Directive](#), approved by the European Parliament in April 2024, addresses corporate accountability gaps linked to human rights abuses and environmental harms, including legal obligations for companies to disclose all relevant evidence. Once the text of the Directive has been finalized, EU member states will need to incorporate its provisions into national laws to enable its enforcement.

Mining activities continue to be privileged by powerful political and economic actors over IPLCs' rights. In a 2020 statement on [business and human rights](#), the European Coalition for Corporate Justice noted the asymmetry between governments' promotion of business activities and "domestic barriers to judicial remedy for victims of business-related human rights abuses."

Focusing in particular on FPIC, the [Columbia Center on Sustainable Investment \(2020\)](#) found that government entities that decide how the state recognizes FPIC "appear to be driven, in part, by what they perceive to be the interests and preferences of extractives investors." Within extractive companies, "the most influential actors seem to be those whose interests are not well-aligned with the spirit of FPIC." As a result, "multiple layers of political realities converge to significantly limit the breadth and depth of efforts to advance FPIC and prior consultation processes."

One of the main implications of the implementation gap is that donors and other supporters of IPLCs' rights and responsible mining need to focus more squarely on public and private power relationships, potential coalitions for change, and [thinking and working politically \(TWP\)](#) in developing their strategies and initiatives. Recent research indicates that [denser networks and alliances](#) are more successful at promoting environmental justice in the mining sector. A 'place at the table' for IPLCs in multi-stakeholder dialogues is [necessary, but insufficient](#). Advancing reforms and improving performance in the mining sector requires the development of constituencies to hold powerful actors accountable on IPLCs' rights.



STRENGTHENING INCENTIVES: THE BUSINESS CASE FOR ADDRESSING SOCIAL AND CONFLICT RISKS WITH IPLCs

While the environmental and social impacts of mining on IPLCs are well documented, researchers, industry groups, and investors are increasingly highlighting the many ways in which adverse social impacts and conflict risks impose significant *business costs* on mining companies. These material costs significantly strengthen the incentives for mine operators to adhere to international business and human rights norms, standards, and good practices.

[Researchers have found](#), for example, “as a result of conflict, a major, world-class mining project with capital expenditure of between US\$3-to-5 billion was reported to suffer roughly US\$20 million per week of delayed production in net present value terms.” Social risks arise in relation to difficult questions, like the distribution of project benefits, unintended effects on local culture, and effective consultation with communities. Disputes over these knotty issues translate into snowballing operational costs, as senior staff often spend [far more time managing social risk than is originally envisioned](#) in their job descriptions.

The business costs of conflict also include serious legal and regulatory risks. In the Philippines, for example, repeated environmental damage from mining tailings spills,

in conjunction with protests from IPLC groups, led to a [moratorium](#) on new mineral agreements from 2012 to 2021.

Reputational risks also represent large potential costs for mining companies. Researchers writing in the [Stanford Social Innovation Review](#) concluded that, “images of environmental destruction caused by a company can result in lasting damage to [a company’s] image and reputation, as well as to its relationships with customers, shareholders, and financial institutions. Indigenous Peoples are organizing protests at shareholder meetings, speaking to the press, and filing lawsuits alerting shareholders to these abuses.”

With the increased scrutiny of mining operations, investors are now looking more closely at the need for due diligence and risk management. In March 2023, [BlackRock](#) issued a statement noting that human rights risks “can materialize in a variety of ways, from fines and litigation to workforce and supply chain disruptions that may damage a company’s standing with business partners, customers, and communities.” As a result, “long-term investors benefit when companies implement processes to identify, manage, and prevent adverse human rights impacts that could expose them to material risks.”



Lithium fields in the Atacama Desert, Chile. Photo: freedom_wanted

PART II:

CASE STUDIES

CRITICAL MINERALS: A NEW CONTEXT AND FAMILIAR CONCERNS

The urgent need to address climate change through a transition to alternative energy generation and storage using critical minerals has modified the priorities and reset the context of the global mining industry. USAID's [Climate Strategy 2022-2030](#) recognizes as a key climate consideration that, “there are significant concerns about environmental degradation and human rights abuses associated with critical minerals and renewable energy technology supply chains.” Countries, like Brazil, Chile, DRC, Peru, Indonesia, and Philippines—all with significant populations of Indigenous Peoples—are important sources of one or more of these minerals. Some minerals, like nickel, copper, and cobalt, have been mined for years, but are now the focus of intensified mining efforts; others, like lithium and rare earths, are relatively new, high-priority minerals in increasing demand for electric vehicles and electronic devices.

Through advocacy by IPLCs and their allies, the recognition of IPLCs' community-based land and resource tenure is gradually increasing. In an analysis of data from 73 countries from 2015-2020, the [Rights and Resources Initiative \(RRI\)](#) found that the global land area recognized as owned by IPLCs increased from 10.6 to 11.4 percent, with another 7.2 percent of global land area recognized as designated for communities. RRI estimates that implementing existing legal frameworks would more than double the latest increase in recognized lands, adding that, “this suggests investment should target promoting and scaling up implementation in these countries.”

The large-scale physical intersections of critical minerals and IPLC lands highlight the significance of the political and technical challenges that increase the potential for conflict. These factors occur in different degrees and combinations in individual countries, but include poor natural resource management, inadequate mining codes, weak public administration, and persistent security abuses.

Documented reports of IPLCs' experiences with critical mineral projects are still limited in number, but early accounts that have emerged indicate that this new phase of global mining—involving intensification, new minerals, and/or new locations—brings both familiar social and environmental challenges and new opportunities to change the way people experience mining. In April 2024, the UN Secretary-General, António Guterres, launched a [Panel on Critical Energy Transition Minerals](#), noting that, “for developing countries, critical minerals are a critical opportunity... but only if they are managed properly.”

A [recent side event](#) sponsored by the Right Energy Partnership at the UN Permanent Forum on Indigenous Issues on “Mining of Transition Minerals for Clean Energy: The Human Rights and Environmental Impacts to Indigenous Peoples and their Territories” presented work-in-progress case studies from the perspectives of IPLCs. These early reports offer insights into common misgivings among IPLCs about critical minerals and the potential for local conflict.²

2 The following section is largely based on the online UN event. See also [Mining of Critical Minerals for Clean Technologies at the Cost of Indigenous Peoples' Rights and the Environment](#), Right Energy Partnership, 2024.

CASE STUDIES: PERSPECTIVES FROM IPLCs ABOUT CRITICAL MINERALS

NICKEL IN THE PHILIPPINES: Environmental damage and social mobilization

The negative effects of gold, copper, and nickel mining on IPLCs in the Philippines [have long been controversial](#), and studies have linked the country's mining activities to the [incidence of civil conflict](#). In 2012, President Benigno Aquino III proclaimed a moratorium on new mining agreements in order to promote environmentally sound mining practices and develop legislation to address the question of fairer distribution of revenues. His successor, President Rodrigo Duterte, approved a mining audit that suspended 28 mines, most of which were nickel mines. In the wake of the economic downturn caused by the Covid-19 pandemic, and encouraged by mining advocates seeking to tap into increasing global demand for nickel, Duterte reversed course in 2021 to re-open and promote mining activities across the country.

The Philippines is the second largest producer of nickel, accounting for 12 percent of world production. The Citinickel Mines and Development Corporation (CMDC) operates mining activities in Sofronio Española on the island of Palawan. More than 25 percent of the municipality's population are from the Pelaw'an Indigenous group. Their traditional cultural practices include community representation through elders (*panglima*), a distinctive agricultural system of upland mixed cropping (*kaingin*), and the use of cooperative labor (*uyugan*).

CMDC took an expedient route to claim that it had undertaken FPIC with the Pelaw'an people. The company said that because they had bought the mining permit of a prior approved project (Platinum Groups Metals Corporation), which had done at least some aspects of the FPIC process, no new FPIC was necessary. Instead, they offered the local community a Memorandum of Agreement. The

Pelaw'an people protested to their local government units and the National Commission for Indigenous Peoples, but their appeals were denied.

In 2014, CMDC's operations were shut down for more than six months due to breaching of its siltation control facilities. This resulted in massive discoloration from run-off along the Pasi River to the Pulot River. Studies from environmental groups and regional and national scientists found that CMDC had dumped toxic chemicals into the Pulot River. Local residents claimed these contaminants caused reductions in fish catches and affected crop yields across 9,000 hectares of rice land. Mining operations also altered sacred mountain areas, endangering traditional *kaingin* farming, and displaced Palaw'an healing practices.

CMDC was also [one of five mining firms suspended in February 2017](#) by the



Palaw'ans protesting in 2015 to stop nickel mining. Photo: Bulatlat



Department of Environment and Natural Resources for multiple violations, including failure to secure a Strategic Environmental Plan, lack of a designated Community Relations Officer, and not fully implementing the required Social Development and Management Program. A diverse coalition of Indigenous groups and environmental NGOs mobilized to protest against the harmful effects of CMDC's operations.

One of the Pelaw'an community elders stated that, "the deception of the company to provide jobs, roads, electricity, and additional livelihood projects easily divided the community, including my fellow leaders... up to now, nothing happened with these promises... we haven't seen a single centavo from the royalty fees."

After a field-based investigation by the Philippine Task Force for Indigenous Peoples' Rights, the "grandfathered" FPIC process was recognized as defective and inadequate. According to FPIC guidelines based on the Philippines' Indigenous Peoples Rights Act of 1997, community assemblies should be formed, with voting procedures to be decided by the communities. After these arrangements are in place, a resolution of community consent or non-consent is considered, followed by the drafting and validation of a Memorandum of Agreement (MOA). The MOA should include provisions for the equitable and fair sharing of benefits from the community's natural resources. Entering 2024, Indigenous communities in Palawan believed the FPIC process of CMDC had failed to fulfill these criteria and was both flawed and incomplete.

LITHIUM IN CHILE: Competing community and company narratives

The *Salar* (salt flats) of Antofagasta in the Atacama Desert of Chile hold what are considered to be the largest deposits of lithium in the world and provide more than 40 percent of world production. As a consequence of Chile's liberalized economic policies after the 1973 coup, investment and tax laws are very favorable to transnational companies. Within the Indigenous Development Area (ADI) of Atacama la Grande, there are more than 21 Indigenous communities of the Lickanantay people.

Five of these communities are directly affected by the mining activities of SQM (Sociedad Química y Minera), which is the largest lithium producer in the world. A [human rights impact evaluation \(EIDH\)](#) conducted by Observatorio Ciudadano and the Heinrich Böll Foundation identified numerous violations of the rights of Indigenous communities in Atacama la Grande. These included the right to FPIC, the right to self-determination and establishment of development priorities, the right to benefit-sharing, and just compensation for damage and land and water rights.

None of the original environmental evaluations nor negotiation processes to obtain SQM's licensing and concession permits included consultation with the people of Atacama la Grande. Rather, these matters were handled by the public sector entity, the Corporation for the Promotion of Production, or CORFO, which was created in 1939 to promote industrialization and production in Chile. More recently, the lack of community consultation has extended to recent modifications in the company's contracts for operations and patent leases. The Indigenous communities hold the Chilean state equally responsible for these outcomes, as the legal "owners of the *Salar*," pointing specifically to the agreement signed between CORFO and SQM.

According to members of local Indigenous communities, SQM has used benefit-sharing on a limited and piecemeal basis that has generated internal conflicts among local Indigenous associations. The overall company contributions are seen by local people as meager compared to company profits, and the support given to individual communities has been similarly minimal.

There have been a variety of environmental impacts of SQM's mining activities on the local Atacama ecosystems upon which Indigenous communities rely, including rivers, lakes, flora, and fauna. Contamination from garbage deposits is also a community concern.



However, the most acute problem is the violation of water rights and lack of water access due to the decrease in water resources caused by SQM's mining operations. According to interviews conducted in Peine by EIDH researchers, Indigenous communities have observed over-extraction of water, decrease in lake levels, and the drying up of lakeside water systems, trees, and vegetation. A common refrain heard is that, "lithium mining is water mining." One Indigenous leader likened the salt flats ecosystem to the heart, which is being deprived of the blood (i.e., water) necessary to sustain it.

However, a different picture of SQM's Salar de Atacama lithium operations was given in [an independent audit approved by the Initiative for Responsible Mining Assurance \(IRMA\)](#). After receiving an initial critical draft report from the audit team in 2022, SQM made use of an approved "corrective action period." In the updated audit of September 2023, [the mine received a score of IRMA 75](#) on social and environmental impact criteria. IRMA 75 "means the audit firm ERM-CVS verified the mine met all critical requirements of the IRMA Standard, as well as at least 75 percent of the Standard's criteria in each of the four areas: social responsibility, environmental responsibility, business integrity, and planning for positive legacies."

SQM received high scores in some areas, including human rights due diligence and community support and benefits, but it had lower scores for community and stakeholder engagement and community health and safety. These were reflected in the qualitative comments of the report. For example, the audit observed that, "SQM Salar came into operation in the 1990s and only started stakeholder engagement with local communities, including Indigenous communities, in 2017/2018. This gap resulted in a distrust of local communities." In relation to FPIC, the report noted, "In 2009, there was a state-led Indigenous consultation process as part of 'citizen participation,' but there was no option under Chilean law for a direct project community consultation process." Stakeholders stated that they want more information on "the mine's impacts on the quantity and quality of water used by Indigenous communities, and air quality."

Eight representatives from four Indigenous communities were interviewed for the audit. Residents of Peine declined to participate.

The divergent perspectives on lithium mining in the Salar of Atacama reflect the evolving, iterative path likely to be faced by both critical mineral companies and IPLCs as they work toward a strengthened model of mining based on shared benefits and social acceptance. As IRMA says of the audit report, "a new opportunity is created for a conversation between the mine, area residents, workers, customers, investors, and other stakeholders to explore priorities for improvement."

BOX 1:

USAID AND FPIC

USAID has noted that, "While obtaining FPIC from Indigenous Peoples is generally the obligation of national governments, among donors, this is a best practice." USAID describes its support for FPIC in several publications, including: [Guidance on Monitoring FPIC](#), [FPIC Monitoring Tool](#), and [Concise Toolkit](#).

USAID's [Policy on Promoting the Rights of Indigenous Peoples](#) (PRO-IP) states: "When Indigenous Peoples are present in or have a collective attachment to the project area and there are either: (i) risks of possible adverse impacts on their human rights, livelihoods, and/or culture; (ii) the potential for adverse impacts on their lands and

territories, natural resources, or sacred sites (whether the land is under traditional ownership title or based on customary use and occupation); or (iii) threats that might result in physical relocation from those lands, then Operating Units (OUs) **must seek the free, prior, and informed consent** (FPIC) of the Indigenous Peoples' communities themselves for the implementation of the project or activity (including mitigation measures), in accordance with international standards." More detailed information on identifying Indigenous Peoples and applying FPIC is provided in the PRO-IP and [Guidance on Monitoring FPIC](#).

PART III:

A PERSISTENT GAP: CRITICAL MINERALS COMPANIES FALL SHORT ON INTERNATIONAL STANDARDS FOR COMMUNITY CONSULTATION AND CONSENT

As shown in the case studies, the issue of community consultation and consent is a fundamental obligation and practical challenge for critical mineral companies. The fundamental rights of Indigenous Peoples were affirmed in the [International Labor Organization's Convention 169](#) in 1989, and FPIC was explicitly established as a right in the [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#) in 2007. Yet, while FPIC is widely recognized internationally, its implementation often depends on domestic laws and regulations within states. Meaningful consultation and consent—whether as a legal right or as a good practice—is essential for conflict prevention in the mining of critical minerals. Inadequate consultation and consent has been a source of conflict often seen in previous mineral exploration and exploitation—a reflection of the imbalance of power between companies and communities. There are early warning signs that this asymmetry may be playing out once again in the rush for critical minerals.

Companies involved in mining critical minerals have not caught up to relevant international standards discussed in Part I. Oxfam released a [report on critical mineral company public policies and performance](#) in 2023 titled, “Recharging Community Consent: Mapping Battery Mineral Company Public Commitments to FPIC.” The report was based on a survey of 43 companies with major mining in five battery minerals: copper, nickel, graphite, lithium, and cobalt. Among the key findings are the following:

- The battery mineral sector’s approach to FPIC is not ready to support a just energy transition;
- More than half of companies commit to Indigenous Peoples’ rights in general, but only two have clear commitments to respect Indigenous communities’ decisions to give or withhold consent;
- Company policies seem most focused on alignment with domestic laws where they operate and not with meeting international human rights norms and standards;
- Less than half of the companies have transparency or access-to-information policies;
- Only eight companies have policies on human rights and the rights of environmental defenders;
- Thirty-eight of 43 companies have no policies on the gendered impact of operations on communities;
- Public commitments of smaller or junior companies fall short of international norms and standards;
- The cobalt and graphite sectors are lagging international norms and standards; and
- The absence of consent at early stages of project development creates material risks for companies.

These findings indicate that critical mineral companies have major gaps in their policies on community consultation and consent. As noted by a [recent Inter-American Development Bank study of the extractive sector and civil society](#), “a poor engagement process in which community complaints and concerns add up and go unresolved for long periods of time causes and intensifies conflicts, which, in turn, has consequences for the company, the State, and the community.”

Many companies are engaged in updating and improving aspects of their policies, but only a handful have yet to incorporate the use of independent, third-party assessments that focus on social, environmental, and human rights risks. A large gap between commitments and practices is also reflected in the fact that only nine of the 43 companies surveyed have operational or implementation guidance to accompany their policies.



AREAS FOR ACTION

BUILDING ON PAST EXPERIENCES TO DIVERSIFY AND STRENGTHEN FUTURE ACTIONS

[The focus and momentum behind the transition to clean energy and the need for critical minerals provide an opportunity](#) for USAID and other donors to build on the achievements of recent years, address remaining gaps, and apply lessons learned to promote responsible mining and prevent conflict.

The activism, organizational strength, and leadership of IPLCs on extractives, including critical minerals, has continued to grow, creating new opportunities for partnership and collaboration. In recent years, the [Indigenous Peoples Rights International \(IPRI\)](#) has advocated for the development of mandatory human rights due diligence regulations for business operations affecting Indigenous Peoples. This effort has been bolstered with a new report by Christian Aid on [Getting Down to Business: Putting Human Rights at the Heart of a Just and Equitable Energy Transition](#).

In February 2023, [60 Indigenous organizations from Africa, Asia, and Latin America jointly submitted input](#) to the development of the OECD Guidelines for Multinational Enterprises and their Implementation Procedures. Their statement highlighted the need to move from the *recognition* of Indigenous rights by companies to effective grievance mechanisms and specific national laws and procedures for accountability that lead to tangible outcomes.

IPLCs and civil society groups remind policymakers that [the need for mineral extraction can be reduced](#) by maintaining a focus on designing more efficient energy systems, improving public transportation, recycling, and reducing energy consumption.

Many of the environmental and social challenges associated with critical minerals are familiar ones, and their causal or contributing intersections with conflict are indicative that greater efforts are needed to understand and address the underlying dynamics of power, politics, and corruption. Flexible program designs that make use of TWVP, as well as cross-sectoral approaches that address broader issues of inclusive governance and land tenure, can offer innovations that contribute to better outcomes.

The evolving architecture of international standards, corporate reforms, and legal and regulatory measures in the mining sector—along with the growing transnational networks of IPLCs and their civil society allies—provides avenues for future action on critical minerals. Partnerships with governments, communities, civil society, and the private sector offer USAID additional collaborative possibilities to work toward conflict-free, renewable energy.

BOX 2:

USAID ACTIVITIES ON MINING

USAID has tackled challenges in the mining sector through many recent program activities. The Agency [supports EITI](#), both through bilateral country assistance and support for its international secretariat. Since 2011, USAID has supported the [Public-Private Alliance for Responsible Minerals Trade](#) and is currently working to broaden its focus from conflict minerals to critical minerals. Since 2014, USAID has worked to improve the regulation of ASM in Afghanistan, Central African Republic, Colombia, Côte d'Ivoire, DRC, Peru, and Rwanda through its [Artisanal and Small-Scale Mining Activities](#). In DRC, USAID has promoted responsible minerals trade through the [Commercially Viable, Conflict-Free Gold Project](#), [Sustainable Mine Site Validation Project](#), and the [Good Governance Activity](#).

USAID supports a just transition to clean energy through community engagement with Indigenous Peoples. In its [Building Rural Community Buy-in for Renewable Energy](#) activity in Colombia, USAID is working with local communities, especially the Wayuu people, to develop inclusive approaches in the use of abundant wind energy. More recently, USAID initiated the [JET Minerals Challenge](#), which catalyzes the development, application, and scaling of innovations to counter corruption and strengthen transparency, accountability, and integrity to meet the unprecedented demand for critical minerals.

Areas for future action by donors, governments, civil society, and private sector include the following:

Consultation and consent: IPLCs and civil society groups agree that FPIC—whether as a legal right of Indigenous Peoples or as a good practice for local communities—is essential. The repeated failures of mining companies to adequately ensure FPIC, and its weak or nonexistent support from national governments, sow the seeds of resentment and distrust by communities and contribute to conflict. Whenever possible, encouragement and support for FPIC or its practical equivalent through facilitation of engagement and dialogue—maintained throughout the life of a mining project—can strengthen the viability and sustainability of critical minerals operations. Mining project implementers should make efforts to include IPLCs in all meaningful decision-making processes, including the creation and enforcement of grievance mechanisms and accountability.

Equitable and fair benefit-sharing: The sharing of benefits with IPLCs from mineral extraction, when it occurs, is often complex and contested. IPLCs seek frameworks for fair compensation and benefit-sharing based on the contributions and sacrifices of Indigenous communities. This may include financial compensation, infrastructure development, alternative livelihoods, and social services. For Indigenous communities, this may also include discussion of relevant cultural and spiritual values that may be affected by mining operations. Greater efforts are needed to facilitate dialogue that can bridge differing perspectives and contribute to shared norms of sustainability and justice.

Capacity building for IPLC organizations and networks: While past experience shows that governments and companies can fall short of their responsibilities as duty bearers, resilience in the critical minerals sector can also be built from the bottom up by supporting capacity building for IPLC organizations and leaders as rights-holders. In particular, Indigenous Peoples networks and leaders can benefit from support that allows them to document, connect, and learn from experiences engaging mining companies and governments to advocate for their rights and develop agreements around mining activities. Mechanisms for early warnings and rumor control can limit miscommunication and help avert unnecessary conflict.

Information and transparency: Many IPLC communities need basic public information on mining policies and processes and their possible impacts affecting water, lands, biodiversity, and livelihoods. Efforts are also needed to increase the transparency and monitoring of supply chains, revenues, and payments. While digital platforms can be helpful, IPLC communities need straightforward public information that is communicated in local languages and culturally appropriate formats.

Supporting IPLCs' community-based land tenure and resource rights: One of the major sources of IPLC grievances is the lack of legal recognition or designation of

community-based lands. Support for these collective rights can reduce the potential for conflict and clarify overlapping claims in areas of mining concessions.

Strengthening civil society and media in monitoring human rights: Human rights abuses at remote critical minerals mining sites, including abuses by private and public security forces, may occur without public attention or media coverage. Support for civil society and local media can help document and publicize human rights violations and bring accountability and remedial actions.

Strengthening State administrative and enforcement capacity: In many countries, there is an evident gap between the State's legal and regulatory obligations with respect to mining operations and their actual enforcement. The advent of a new surge in mining for critical minerals in response to the climate crisis provides a compelling window of opportunity to work with governments to strengthen their political commitment and administrative capacity at all levels to improve, implement, and enforce existing national legislation on mining operations and the obligations of companies to communities.

Convening and facilitating dialogue to promote shared understandings among stakeholders: Communication among governments, companies, communities, and miners is inadequate, low-quality, and undermined by large power asymmetries. The careful use of convening power to facilitate dialogue on an equal footing, build relationships, and clarify differing institutional and cultural perspectives can build resilience and encourage positive behavioral change in the critical minerals sector.

Supporting local NGOs to bridge relationships and build IPLCs' capacities: As the case studies above and [broader research](#) show, local and regional NGOs with experience and credibility play a key role in bridging relationships between IPLCs, government, and the private sector. These groups frequently help communities organize, identify priorities, clarify agendas, and develop leadership and advocacy skills.

Encouraging and supporting industry-wide and mineral-specific private sector coalitions for improved business practices: The critical minerals sector can learn from and build upon two decades of international efforts to improve corporate practices that have created more robust norms and standards for environmental and social responsibility in mining. One recent example is the [Global Battery Alliance](#), a public-private collaboration platform of international organizations, NGOs, industry actors, academics, and governments founded in 2017 at the World Economic Forum to help establish a sustainable battery value chain by 2030.



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