



# digging for change:

Towards A Responsible Minerals Future,  
An NGO and Community Perspective



A Report from Members of the Global Mining Campaign  
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# Introduction

**A**s the World Summit on Sustainable Development (WSSD) in Johannesburg approaches, the mining industry is working to improve its image. Mining companies have funded a lengthy study that seeks to assess “mining’s potential contribution to sustainable development.” They are holding conferences to discuss this report and related issues. And they have created a new industry trade association, which has as part of its mandate, the promotion of sustainable development.

But these new positions stand in stark contrast to the on-the-ground impacts of many of today’s mines. All too often, mine projects involve involuntary resettlement of indigenous populations, disruption of local economies and cultures, devastation of river systems and coastal waters by mine waste dumping, and co-optation of local and national governments. Often, promised economic development fails to materialize, and national governments and local communities end up with abandoned mines, vast quantities of waste, and the responsibility for cleaning them up.

Communities and civil society organizations throughout the world believe that the upcoming WSSD may mark a turning point in the way the global mining and minerals industry operates; if they seek to be part of a sustainable future for the planet and

its peoples. To this end it is critical that the global mining and minerals industry’s operations are conducted in accordance with international human rights and ecologically sustainable development principles.

Unfortunately, changing mining industry practice will require a fundamental change in world view by those within it. Mining is inherently unsustainable – it requires the depletion of non-renewable natural and cultural resources. In many cases, mines can be operated more responsibly, with reduced negative impacts. But a truly sustainable global society must take fewer minerals from the earth each year. Instead of requiring ever-growing amounts of minerals and fuels, a sustainable economy will use materials more efficiently, reduce waste to a bare minimum, and rely more on recycling, reuse and renewable energy technology.

The WSSD provides the moment in history for this fundamental change to occur — to shift towards sustainable development by facilitating a transition from ever-increasing mineral extraction and inequitable and unsustainable levels of minerals consumption to a global economy where investment shifts from minerals extraction towards minerals resource conservation, reuse, and recycling.

Reforming the minerals sector will be an enormous task. Mining corporations

and their financiers need to be accountable. While a different attitude in the industry toward environmental and social issues should be helpful, far more than voluntary commitments and vague partnerships between governments, corporations, and civil society will be required to reform the sector.

Governments and international institutions need to develop enforceable standards and codes of conduct for mining companies, clearly define unacceptable practices, and ensure that the rights of affected communities are respected. They need to address the unsustainable global resource consumption patterns that drive continued growth in mining, as they committed to do in Agenda 21, the comprehensive global action plan that emerged from the 1992 Earth Summit of Rio de Janeiro. The industry must also examine the cycle of poverty, debt, and dependency in which many mineral-producing regions and countries languish.

Most importantly, change will come from specific commitments and concrete action. What follows is a set of minimum principles and practices that, if followed, would put the industry on the right path towards sustainability. It was developed by a network of non-governmental organizations (NGOs) and community groups that are part of the Global Mining Campaign Network.

# Digging for Change

## Human Rights

- Through their operations and actions, mining companies must abide by, protect and promote the human rights embodied in international human rights instruments and custom. These rights are indivisible, interdependent, and complementary. Every person possesses these rights by virtue of their humanity. They transcend state borders and do not depend upon ratification by an operation's host country. The aforementioned human rights instruments include (but are not limited to): the UN Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Social, Economic, and Cultural Rights, the draft UN Declaration on Indigenous Peoples' Rights, the Eight Core International Labor Organization Conventions including ILO 169, the Racial Discrimination Convention, the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child.
- Mining companies must not undertake activities within areas of armed unrest, conflict zones, or where regimes or military forces partake in gross human rights violations. Mining companies must not contribute to propping up

corrupt regimes or regimes that engage in gross human rights violations.

- The mining industry must respect gender equity; mining companies must not discriminate on the basis of gender. Including (but not limited to) –
  - Companies must ensure that the concerns of women in the project area are heard, and taken into account in project design and implementation. A social impact statement must be undertaken before the commencement of the exploration phase so that ensuing consultations and negotiations are fully cognizant of the concerns of local women and so that agreements reflect the needs of women.
  - Women must not be discriminated against in compensation payments. Female-headed households must be recognized and compensated in the same way as male-headed households.
  - Preventative measures must be instituted, including staff training, to minimize the impact on local women of the social ills associated with a mining operation. For example, excessive gambling and drinking, prostitution, sexually transmitted diseases, rape and violence.
  - Mining companies must provide equal remuneration for work of equal value.

- Companies must recognize the right to form and join the labor union of his/her choice, subject only to the rules of the organization concerned. No restrictions may be placed on the exercise of this right, and the associated rights to strike and freely operate, other than those prescribed by law.
- Mining companies must respect the rights of small-scale miners already operating in proposed project areas.
- Mining operations must not make use of child labor.
- Companies must have a Code of Conduct and provide training for employees covering such areas as cross-cultural relations, responsible use of alcohol, relations with local women, etc.

## Human Rights: Community Consultation and Consent

- The mining industry must acknowledge that mining is a privilege, not a right.
- Mine operations and operators must be accountable to communities.
- Mining companies must not conduct operations without free, prior, informed consent of all affected communities, which include not only those adjacent to the project, but also downstream communities and others indirectly affected. Communities have the right to say no to mining and to pursue

alternative development strategies. Free, prior, informed consent must be observable by demonstrable and open manifestation of public acceptance. Consent is not static – operators must continually consult with affected communities to retain their consent.

- When mining does occur, mining companies must establish operational plans and procedures by agreement and consent with affected communities, recognizing the unequal power balance between communities and mining companies in any negotiation.
- Operations must not be permitted without full environmental and social impact assessments with adequate opportunity for public input and review.
- Communities must have the right to conduct an independent audit of mine operations and plans. Without precondition, companies and/or the government must fund the cost of these audits, and ensure that communities have the capacity and independence to determine how to conduct the audits.
- A community representative must be able to accompany government inspections of mining operations.
- Communities must have complete access to all relevant information. Such information must be provided in local languages and through culturally appropriate means, in a timely, affordable and convenient manner to ensure informed input and meaningful participation in decision making. Relevant information includes but is not limited to environmental, social, and cultural impacts of the proposal/operations.

- It must be recognized that communities' interests in land are not restricted to legal interests – e.g. communal land use rights, unrecognized indigenous interests, etc.
- The benefits of mining must be shared on a fair and equitable basis with affected communities.
- No community shall be forcibly evicted. In the event a community voluntarily resettles, the community must participate in the negotiation and possess the right to reject the terms and conditions of resettlement.
- No operator may unilaterally close or withdraw from an active project without first consulting with all stakeholders.

### **Human Rights: Indigenous Peoples**

- Mining companies must respect the right of self-determination of indigenous peoples and local communities, and respect the rights of traditional landowners to ownership of their lands and territories.
- Laws/regulations/constitutional provisions must not be amended/repealed/diluted so as to enable the confiscation (de facto or de jure) of indigenous lands for the sake of mineral development.
- Communities, indigenous and nonindigenous, who decide to relocate must have their right to traditional ways of life recognized and respected.

### **Environmental Issues**

- All overburden, tailings and other waste must be contained on site

- Mine operations must not dump mine waste in rivers.
- Mine operations must not dump mine waste in marine environments.
- Mine operations must not utilize "mountaintop mining" or "valley-fill" mine waste dumping.
- Mining operations must not be permitted that would require or would likely require perpetual water treatment.
- Mine operations must not be permitted that use dangerous processes or result in unacceptable harm to a community – where "dangerous" and "unacceptable" are defined by community consent. For example, this definition might include mines that use cyanide processing, that result in long-term damage to other natural resources such as surface water, groundwater, fisheries or farmland; or that produce acid mine drainage.
- Mining operations must not occur within (or in areas that would affect) protected areas (such as IUCN categories I-IV. Marine category V, UNESCO World Heritage sites, core areas of UNESCO biosphere reserves, Natural 2000 sites, and National conservation areas) and sacred sites.
- Mining must not occur in greenfield areas within a country until a funded plan exists to reclaim existing and closed mines.
- No project may be undertaken without a credible, fully financed, legally binding, and enforceable closure and reclamation plan.
  - Closure and reclamation plans (and operations) must leave mine sites in a safe and stable condition, and protect and restore

- biodiversity to the pre-mine state nearly as possible.
    - Closure and reclamation plans must be available for public comment before operations begin.
    - Closure and reclamation bonds must be sufficient to cover all reclamation costs, including accident remediation costs.
  - Mining companies must incorporate pollution prevention policies and practices, and environmental management systems into their operations.
  - Companies must maintain a system of environmental monitoring of the area around a mine, including river and marine systems, and have mechanisms in place which ensure that corrective action is taken when the monitoring reveals a problem.
  - Operations must fully internalize all costs associated with mining (the market and non-market costs currently imposed on communities, governments and the environment); operators must bear all immediate and future costs for the damage they do.
- Economic and Mineral Life-Cycle Policies**
- Developed/Consumer countries must recognize and take steps toward compensating producer countries for the ecological debt owed for the social and environmental costs of natural resource extraction.
  - Multinational mining corporations must agree to be held legally accountable, in their home countries, for transgressions of their home country statutes (environmental and otherwise) in their operations abroad.
  - National and international policies must aim to reduce demand for virgin materials, encourage a shift to truly renewable resources, and promote the efficient use of minerals and other materials. This includes reuse, remanufacturing, recycling, and product stewardship.
  - The “polluter pays” principle must apply at all levels: mining companies must bear the social and environmental costs they now impose on communities and taxpayers.
  - Any individual, group or community which suffers a loss of assets, income or amenity as a direct result of the operations of a mining company should receive compensation from the company. This includes:
    - land, crops, productive trees, houses, mining equipment or other property;
    - loss of income such as jobs, access to forest products, or the right to engage in small-scale mining;
    - those who have to be resettled to make way for the mine;
    - those who lose access to clean water, fish, etc as a result of the pollution of waterways by the company’s operations;
    - those who have their physical environment degraded in other ways, e.g. through dust from mine roads.”
  - Government relations with mining companies must be transparent; all subsidies, taxation, and agreements must be subject to public scrutiny.
  - All subsidies for mining, extractive industries, and waste disposal must be eliminated.
  - Governments and industry must promote materials-flow accounting and public information on materials and energy use, in order to identify opportunities for more efficient resource use.
  - Policies that promote mining over other development strategies and land uses regardless of positive or negative long-term benefits must be eliminated in favor of comprehensive, participatory land-use planning and protection.
  - Mining companies must be responsible for the social impact of their employees upon local populations, and in particular on communities which were formerly relatively isolated.
  - International financial institutions (IFIs) and export credit agencies (ECAs) must phase out all lending in the mining sector within five years except in cases which, under specific local or regional circumstances, directly benefit local communities, have a clearly discernable positive environmental effect, or are otherwise necessary to allow societies to move towards a higher level of sustainability.
  - Operations must fully disclose (in local languages) mineral wealth generation, repatriation of profits by foreign-owned companies, revenues received by governments, and expenditure of such revenues.
  - Mining companies must pay a fair extraction fee and/or royalty to governments and/or communities.

## Standards/Enforcement

- Voluntary industry mechanisms, such as codes of conduct, must not be promoted as regulatory alternatives to the legitimate function of governments. Voluntary mechanisms are appropriate for industry internal regulation, but not as an alternative to strong human rights, environmental and labor standards.
- Pressure must not be applied to any stakeholder to reduce/ignore environmental, human rights, social protections.
- Pressure must not be applied to any stakeholder to permit a mine proposal.
- Operations must not be permitted where the potential operator is a “bad actor” – a company which possesses other operations that habitually violate applicable standards or these demands.
- New operations must not be proposed or encouraged in countries that habitually permit or otherwise enable bad actors.
- Permits/supports must be withdrawn from any project operated by a bad actor.
- Operations must abide by the strictest, performance-based standards in the world, whether they be those of IFIs, UN agencies, other multilateral institutions (such as the OECD) or national governments. Operators must not oppose attempts to strengthen these standards where necessary.
- Multinationals must adhere—and be bound—to home-country standards (principle of extraterritoriality) where less stringent standards apply in the country of operations.
- Mining companies and trade associations must support government efforts to strengthen UN agencies, such as UNCTAD, that provide governments with policy guidance and capacity building; at the same time, companies must remain at arms length from such efforts, to maintain their independence.
- The UN’s Global Compact must be replaced with a set of binding corporate accountability provisions, in such areas as information disclosure and environmental and social performance, including respect for human rights by corporations and their subcontractors. Such provisions should be enforceable and include liability provisions and criminal penalties. Governments must develop or possess adequate institutional infrastructure, including technical, human, political financial capacity to enforce such provisions.



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**Global**  
**Mining**  
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**Campaign**

1612 K Street NW Suite 808, Washington, DC 20006  
phone (202) 887-1872 • fax (202) 887-1875  
website: [www.globalminingcampaign.org/theminingnews.html](http://www.globalminingcampaign.org/theminingnews.html)  
email: [mpc@mineralpolicy.org](mailto:mpc@mineralpolicy.org)