

Step 4 Research Guide: Socio-Environmental Impacts in the Mining Sector

Diagnosing Corruption in the Extractive Sector:
A Tool for Research and Action
Annex. Step 4 Research Guide

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What does this area of focus cover?

This area of focus covers the intersection between corruption and social and environmental abuse in the extraction and processing of metals and minerals. Corruption can play an important but often overlooked role in facilitating harm in the extractive industries (comprising oil and gas exploration and operations as well as solid minerals mining and processing). It can both obscure negative impacts and impede accountability for social and environmental abuse.

The mining sector poses significant socio-environmental risks. It is the economic sector associated with the largest number of killings worldwide of land, environmental and human rights defenders. And a major increase in demand for minerals and metals is occurring for use in the energy transition.¹ We refer to these as “transition minerals.”²

Although this guide has a particular focus on transition minerals, many socio-environmental impacts also arise from the mining of precious metals and gems such as gold and jade. Readers could also use much of the guide in researching similar issues in the oil and gas sector, since there are common forms of corruption between the two; however this would require additional research and analysis.

Negative socio-environmental impacts from mining include harm to people and their communities and to the natural environment. Harm to people and communities could include a failure to uphold community rights, such as Indigenous peoples’ right to free, prior and informed consent (FPIC); the criminalization and harassment of human rights and environmental defenders; forced evictions related to the expropriation of land; sexual assault and harassment; child labor; and the abuse of workers’ rights and safety.

Affected people may be those who work for the mine or who live around it. And harm may occur, as indicated above, on a community or societal level as well as to individuals. For example, through the impacts

of mining, communities may become divided and leaders may be coopted. Mining may disrupt and break affected communities’ cultural traditions, particularly when corruption is involved.

Environmental harm may include illegal (or even legally permitted) water pollution, air pollution or deforestation, and the mismanagement of toxic waste, drainage and tailings (mining waste byproducts).

Forms of socio-environmental harm are often interconnected. For example, affected people may experience negative health impacts caused by pollution. And the forced eviction of communities may enable deforestation. Although grand corruption (abuse of high-level power) can also cause significant socio-environmental harm by stealing resources needed for infrastructure or services like healthcare and education, this guide concentrates on mine-site examples.

The increase in demand for transition minerals presents a particularly high risk of corruption and negative socio-environmental impacts. Booms in demand for commodities often exacerbate corruption due to increased opportunities for rent seeking and pressure to fast-track production. Further, a large proportion of transition mineral reserves occur in locations that score poorly on Transparency International’s Corruption Perceptions Index.³ Many such reserves are also in areas where risks of negative socio-environmental impacts are high. The majority of the world’s transition minerals are additionally located on the periphery of Indigenous peoples’ territories and in some of the world’s largest extractive economies.^{4,5} More than half the world’s lithium, copper and nickel reserves exist in arid climates at risk of desertification.⁶

Between 2010 and 2022, more than 500 allegations of human rights abuses in key transition mineral supply chains were recorded.⁷

This research guide supports users to identify how corruption can worsen these socioenvironmental risks, the underlying causes of this corruption, and measures to help address it.

1 Ali Hines, *Decade of Defiance: Ten years of reporting land and environmental activism worldwide* (Global Witness, 2022).

2 The technology required for electric vehicles, consumer electronics and electrical energy storage presently uses combinations of cobalt, nickel and manganese, or lithium iron phosphate, to form the cathode. Both technologies also use large volumes of graphite for the anode. Other base metals and transition minerals and metals, including copper, steel, aluminium and rare earths, are also critical for renewable energy infrastructure.

3 Expert Group on Preventing Corruption in Transition Minerals, *Preventing Corruption in Transition Mineral Supply Chains: An Urgent Call for Action* (NRGI et al., 2022); Transparency International, *What Does the Energy Transition Mean for the Mining Sector?* (2022).

4 Hermes EOS, “The balancing act—companies and indigenous rights” (2016); Federated Hermes, “When companies and indigenous peoples collide” (Jan. 2018).

5 Arctic Today, “Indigenous cultures must not be forced to bear the brunt of global climate adaptation” (25 Nov. 2021).

6 International Energy Agency, *The Role of Critical Minerals in Clean Energy Transitions* (2021), 12.

7 Business & Human Rights Resource Centre, “Companies leading the transition to renewable energy are failing in human rights responsibilities” (7 Jun. 2023).

How to use this research guide

The independent expert should identify the forms of corruption in their area of focus by reviewing forms of corruption that have occurred in the past or could occur in the future. The expert should gather information on which forms of corruption are of greatest concern. Then, in Step 5, the expert and user should use the diagnostic table to prioritize the forms of corruption. The aim should be to focus on forms likely to occur and cause significant harm.

Evidence for answering this question will include:

- Legal cases of past corruption cases and their social and environmental impacts. Forms of corruption that have arisen in the past might arise again, unless reforms now make this less likely.
- Interviewee perceptions of areas where corruption and socio-environmental impacts are happening or could occur in future.
- Published evidence of where corruption and socio-environmental impacts occurred in the past. Sources of evidence would include the media, non-governmental organizations, parliament or other legislatures, and development organizations. Evidence may be from large mining operations or from artisanal and small-scale mining (ASM).
- The presence of red flags (warning signs and observable symptoms of corruption) linked to past forms of corruption and socio-environmental impacts.

This diagnostic tool helps users identify the intersections between corruption and the social and environmental impacts it can cause, and how social harm and environmental degradation foster corruption. Users should prioritize instances where corruption causes the most severe and prevalent socio-environmental impacts, and where environmental impacts have serious social consequences and impact human rights, such as rights to a healthy environment, to work and to peaceful assembly.

Box 1 provides examples of the intersection between corruption and socio-environmental impacts.

The guidance below has four parts:

Preliminary questions

- A. Which forms of corruption are of significant concern?
- B. What causes the different forms of corruption?
- C. What measures could help prevent corruption?

The main guidance document contains further advice about Step 4, including definitions of key terms, potential information sources, and guidance on how to summarize and present findings. The independent expert should read the main guidance document in combination with this research guide.

Preliminary questions

Before researching the corruption-focused questions that form the core of Step 4, the independent expert should answer the preliminary questions below. This will help them to:

- Update their understanding of the area of focus prior to conducting interviews
- Clarify the scope of their research (e.g., focus on one metal or mineral)
- Identify relevant sources of information and potential interviewees

Researching the preliminary questions should be brief, although the work needed will depend on the independent expert's familiarity with the subject. The expert should revisit the Step 2 research as a key source of information at this point. The preliminary questions should provide background information only, and the independent expert does not need to capture these findings in detail in the Step 4 report or diagnostic table.

→ Box 1.

Examples of the intersection between corruption and socio-environmental impacts

Bribery and corruption in the licensing process undermine environmental and social impact assessment requirements

A Chinese-owned company allegedly acquired licenses to operate a lithium mine in Namibia through fraud and bribery, apparently brokered by a technical adviser to the Minister of Mines.⁸ The acquired license is intended for ASM operations. However, the company allegedly operates a full-scale industrial mine at the site. By obtaining this form of license, the company may have avoided undertaking an environmental impact assessment. Amid further concerns about the mine, there are allegations of traditional community leaders granting permission in return for gifts without community input.

Bribery and corruption in the licensing process undermine land rights

In Indonesia, a landmark ruling by the constitutional court in 2013 granted local communities the right to take stewardship and ownership of customary forests. Investigations have shown nickel mining concessions on the island of Sulawesi granted on the basis of forged documents to bypass public bidding processes, with concessions allocated without necessary permits.⁹ This has contributed to deforestation and destruction of ancestral community land. In other cases, provincial government mining agencies have been unable to produce the required environmental impact analysis, forest permits or licenses for toxic waste management when sought

through freedom-of-information requests.¹⁰ There have also been concerns about the role in the mining industry of high-ranking politicians and politically exposed persons.¹¹

Private companies unduly influence key environmental regulations

In Chile, one of the leading lithium companies made nearly USD 15 million in improper payments to political figures and others connected to them. The company, Sociedad Química y Minera de Chile, used the payments to unduly influence legislation in favor of the mining industry, including regulations regarding water use.¹² Lithium mining in Chile takes place in the Atacama desert where water resources are scarce; further water depletion impacts the region's unique ecosystem and the Indigenous peoples who depend on these water resources to sustain their communities.¹³

Extortion and corruption create unsafe and unfair working conditions

Research in the Democratic Republic of Congo (DRC) found evidence of state officials extorting illegal payments from ASM miners, while ignoring unsafe working conditions that breached the DRC's laws, including on child labor.¹⁴ Families, including young children, washing and sorting cobalt ore said they had to pay an agent of the government's technical service for the ASM sector, the Service d'Assistance et d'Encadrement du Small Scale Mining, CDF 500 (approximately USD 0.50) per day to work there.

8 Global Witness, "A rush for Lithium in Africa risks fuelling corruption and failing citizens" (14 Nov. 2023).

9 Tempo, "Tentacles of the Nickel Mines" (Pulitzer Center, 3 Feb. 2022).

10 Mongabay, "FOIA lawsuit suggests Indonesian nickel miners lack environmental licenses" (24 Jan. 2023).

11 Tempo, "From Nickel to Deforestation" (Pulitzer Center, 3 Feb. 2022).

12 U.S. Securities and Exchange Commission, "Chemical and Mining Company in Chile Paying \$30 Million to Resolve FCPA Cases" (13 Jan. 2017); Deutsche Welle, "Chile's lithium—blessing or curse?" (5 Nov. 2018).

13 Natural Resources Defense Council, "Lithium Mining Is Leaving Chile's Indigenous Communities High and Dry (Literally)" (26 Apr. 2022).

14 Amnesty International and Afrewatch, "This Is What We Die For": Human Rights Abuses in the Democratic Republic of the Congo Power the Global Trade in Cobalt (2016).

Examples of the intersection between corruption and socio-environmental impacts (continued)

Since then, despite work to address the issue of child labor in the DRC, unsafe and unfair working conditions persist

Research in 2020 found that five large industrial mines in the DRC, accounting for 40–45 percent of global cobalt supply at the time, relied heavily on a form of subcontracting that erodes workers' pay and access to pensions and health insurance.¹⁵ Interviewees alleged that under resourcing in the state labor inspectorate has contributed to rampant corruption among inspectors and that non-Congolese subcontractors subvert legislation restricting their activities. Grand corruption has had a major impact on the availability of public funds in the DRC, impairing crucial regulatory and enforcement work to address socio-environmental impacts.

Conflicts of interest undermine safety regulations

In January 2019, a tailings waste dam collapsed at an iron ore mine near the town of Brumadinho in Brazil. The collapse led to the death of 272 people and extensive water pollution. In 2022, the U.S. Securities and Exchange Commission charged Vale, a publicly traded Brazilian mining company, with making false and misleading claims regarding the safety of its dams.¹⁶ Concerns have been raised about conflicts of interest between the safety responsibilities of the dam certifier, the German company TÜV SÜD, and its role as Vale's client, with TÜV SÜD's Brazilian employees allegedly falsifying calculations to achieve fraudulent safety results.¹⁷ Investigative journalists and academics have also warned about lobbying and political donations in Brazil leading to undue

influence over the mining approval process and to the creation of weak state institutions, with the authorities reducing the Brumadinho dam's risk rating eight weeks before its collapse.¹⁸

Corruption undermines effective enforcement

Illegal gold mining in Colombia is often carried out by organized crime, paramilitary and guerilla groups. Research has outlined how these groups often extort from ASM miners, bribe officials to disregard their activities and launder the proceeds of their corruption through legal companies.¹⁹ One investigation reveals how illegal river dredger operators pay a percentage of their income to landowners, the local community council and law enforcers, who warn them of any raids.²⁰ Illegal gold mining has led to severe water pollution and associated health impacts, with abnormally high mercury levels in the blood of people dependent on impacted water sources.

Foreign enablers use front companies to obscure their role in illegal mining

An investigation has shown how rare earths are illegally mined in the Kachin border region of Myanmar controlled by militias.²¹ Business representatives allegedly negotiate directly with the militias instead of applying to the central government for permission to mine. And the militias allegedly operate domestic companies as a front for foreign-owned businesses and supply China's state-owned enterprises. Rare earth mining in Myanmar has reportedly caused water pollution and other local ecosystem damage and increased threat of landslides. There is also a high risk of the proceeds funding military abuses against civilians.

15 AID, *The Road to Ruin? Electric vehicles and workers' rights abuses at DR Congo's industrial cobalt mines* (2021).

16 European Center for Constitutional and Human Rights, "The safety business: TÜV SÜD's role in the Brumadinho dam failure in Brazil".

17 European Center for Constitutional and Human Rights, "The safety business."

18 Organized Crime and Corruption Reporting Project, "Behind Vale's Deadly Dams, a Wave of Lobbying" (17 Jun. 2020).

19 Global Financial Integrity, "Illicit Financial Flows and Illegal Gold Mining—New Developments in Colombia" (13 Jun. 2023).

20 Organized Crime and Corruption Reporting Project, "How Illegal Mining Fuels Pollution and Corruption in Colombia's Northwest" (24 Aug. 2021).

21 Global Witness, "Myanmar's poisoned mountains" (9 Aug. 2022).

What are the key attributes of mining and associated socio-environmental impacts?

Before contacting stakeholders, the independent expert should gather up-to-date information about key corruption and socio-environmental issues relating to the mining industry of the country in question. Given the vast scope of this sector and associated topics, it might be beneficial to look at a specific region or mineral/metal. This will help the expert ask specific, well-informed questions and can provide a basis for narrowing the assessment scope.

Identifying the most important stakeholders in this area of focus will also help the expert identify potential interviewees for the Step 4 research and participants for the prioritization and action-planning workshops in Steps 5 and 6. If the expert and users already know they want to focus on certain social and environmental impacts, they can limit the assessment scope to these.

To answer this question, the independent expert should revisit the information on licensing and operations collected in the Step 2 worksheet and report and should consult the Step 4 research guides on licensing and operations for further detail on each of these value chain steps.²²

Some resources that analyze the link between social, environmental and human rights harm draw direct links to criminal activity. Analysis of the intersection between corruption and environmental and human rights abuse, however, is less common.

The following resources can help users understand the broader framework of standards, expectations on companies and regulations regarding social and environmental harm in the mining sector:

- The United Nations Guiding Principles on Business and Human Rights, which set out the responsibility of companies to respect international human rights in their operations and supply chains.²³ The U.N. has also reported on the social and environmental impacts of mining and on the links between corruption and socio-environmental impacts.²⁴
- Organisation for Economic Co-operation and Development (OECD) guidance covering the sourcing of metals and minerals from conflict-affected and high-risk areas, responsible business conduct, environmental due diligence, and corruption and bribery.²⁵
- The Inter-Governmental Forum on Mining, Minerals, Metals and Sustainable Development mining policy framework, which includes guidance for governments on environmental management and mining governance.²⁶
- Business and human rights benchmarks, including those of the World Benchmarking Alliance and the Responsible Mining Index.²⁷

22 NNGI, *Diagnosing Corruption, Step 4 Research Guide: Decision to Extract, Licensing and Contracting, and Step 4 Research Guide: Operations*.

23 U.N. Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011).

24 See, e.g., U.N. Office of the High Commissioner for Human Rights, "Special Rapporteur on toxics and human rights", and Mary Lawlor, U.N. Special Rapporteur on the situation of human rights defenders, *At the heart of the struggle: human rights defenders working against corruption* (U.N., 2021).

25 OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas* (3rd edn, 2016); *OECD Due Diligence Guidance for Responsible Business Conduct* (2018); OECD, *Handbook on Environmental Due Diligence in Mineral Supply Chains* (2023); OECD, *Frequently Asked Questions: How to address bribery and corruption risks in mineral supply chains* (2021).

26 Inter-Governmental Forum on Mining, Minerals, Metals and Sustainable Development, *Guidance for Governments: Environmental Management and Mining Governance* (2021).

27 World Benchmarking Alliance, "Benchmarking for a better world"; Responsible Mining Index, *RMI Report 2022*.

A number of data sources are of potential use to assess corruption and socio-environmental impacts in mining, for example:

- The Business & Human Rights Resource Centre (BHRRRC) and its Transition Minerals Tracker capture publicly reported allegations and company responses to these allegations.²⁸
- The Global Atlas of Environmental Justice documents social and environmental conflicts involving mining companies around the world.²⁹
- Transparency International's Mining Awards Corruption Risk Assessment Tool is designed to identify, assess and communicate findings concerning corruption risks and how these relate to socio-environmental impacts.³⁰
- The Extractive Industries Transparency Initiative (EITI) Standard covers some social and environmental impact data.³¹ EITI requirement 6.1 applies to social and environmental expenditure, and requirement 6.4 applies to the environmental impact of extractive activities.³²
- Country-specific data include information about mining codes, environmental policies, regulatory frameworks and reports from national mineral agencies, as well as country ratification of international human rights treaties. The independent expert or user could supplement this information with further data such as EITI reports, relevant sections of the Resource Governance Index,³³ key laws and regulations, specific contracts (which may be accessible through the www.resourcecontracts.org website), license registry data, company reporting and other industry data.

28 BHRRRC, [Transition Minerals Tracker](#).

29 Environmental Justice Atlas, [Global Atlas of Environmental Justice](#).

30 Transparency International, [Mining Awards Corruption Risk Assessment Tool](#) (3rd ed., 2020), and [What Does the Energy Transition Mean for the Mining Sector?](#)

31 [EITI Standard](#) (2023).

32 [EITI Standard](#), requirements 6.1 and 6.4.

33 NRG, 2021 [Resource Governance Index](#).

Key factors to consider in minerals extraction and processing

Licensing:

- The main laws and regulations governing awards processes, including any subject to reform. The independent expert could examine all aspects of how the government makes awards or focus in on specific processes (e.g., negotiation of large-scale production contracts; environmental and social impact assessment (ESIA) approvals).
- The main government institutions and stakeholders involved in decision-making. These could include mining ministries; ministries dealing with the environment, land, water, forestry, agriculture, Indigenous affairs and social affairs; regional and local governments; and community representatives.
- The identity, size, type and country of origin of companies holding licenses in the sector or expected to apply for licenses.
- Methods the government uses to award exploration and production rights (e.g., auction, competitive tender, direct negotiation and first-come-first-served processes) and official reasons for selecting such methods.
- Related approvals or requirements (e.g., ESIA, community consultation, land access and FPIC requirements).
- Contextual factors such as the commodities extracted, location of extractive operations, number of active licenses and anticipated future trends (e.g., announcements of upcoming licensing rounds or contract negotiations).
- The degree of mining license transparency, including the license registry, contract transparency and beneficial ownership reporting by license-holding companies.
- Significant social, environmental and gender impacts in the sector.
- Issues around the state's sale of assets or asset transfers between parties.

Operations:

- The main laws and regulations governing mining and processing operations, including any subject to reform.
- The main government institutions regulating operations (such as mining ministries and regulators and government agencies dealing with the environment, spatial planning, labor, immigration and customs).
- The main companies in the sector (including exploration and production companies, state-owned enterprises and subcontractors) and their size and country of origin.
- Non-governmental organizations, community-based organizations and labor unions active on operational issues in the sector.
- Host communities and other impacted groups including Indigenous peoples and other vulnerable populations.
- Physical characteristics of mine sites: whether they are open pit or underground, large-scale or ASM, formal or informal.
- The stage of the project cycle of the most significant projects: exploration, production, closure or rehabilitation.
- The scale of operations (i.e., number of projects, overall geographic size of operations, overall scale of production and the scale of project spending).
- The geographic location of operations and any sensitivities related to this (e.g., social, environmental, ethnic, political or conflict dynamics).
- Relevant aspects of the mid- and downstream value chains, such as whether there is domestic processing, whether natural resources are exported and how the government regulates the export process, the extent and nature of local beneficiation requirements, and who controls the necessary infrastructure or facilities.
- Major financing that enables mining activities and/or their expansion, as well as any key bilateral development or import partners, if applicable.

A. What main forms of corruption cause socio-environmental harm?

Different forms of corruption may cause social and environmental impacts throughout a mining project's life cycle. The same forms of corruption can also occur at various phases. For instance, bribery can influence the contracting and licensing process, and it can also weaken environmental protection agencies and influence subcontracting and security operations.

In practice, there is significant overlap between the forms of corruption, risk factors and underlying causes. Users should not focus too much on categorization. The priority is for the research to capture the main issues.

Undermining the integrity of environmental and social impact assessments (ESIAs)

Public and private actors may seek to undermine the integrity of ESIAs through corrupt means, making it difficult to accurately identify the risks facing communities and the environment or establish the necessary socio-environmental safeguards around mining projects. Withholding information is a systemic and widespread problem in mining.

In some jurisdictions, the full and transparent publication of impact assessments is an integral part of the licensing process and mining code, and a legal requirement, while in others publication may be prohibited by law on grounds of commercial sensitivity.³⁴ Without this information, it becomes difficult for stakeholders, including government officials, local communities and civil society, to understand and voice their positions about the implications of a potential mining project. Pressure to increase the supply of transition minerals may make such supply chains particularly vulnerable to efforts to undermine ESIAs.

Corruption affecting ESIAs may take the form of:

- Companies or government officials making misleading statements, omitting key information or manipulating data
- Conflicts of interest between a company and experts it selects to conduct an ESIA; for example, if there are incentives to highlight the benefits of a project that undermine objective assessment
- Bribery of officials to accept information that is misleading or false
- Government favoritism towards certain companies
- Companies and/or governments illegally withholding ESIAs from key stakeholders

Manipulation of community consultation and land access negotiations

Community consultation is crucial if a mining company is to have a social license (community approval) to operate. Consultation should take place at different stages of the mining process, including when the company seeks initial free, prior and informed consent (FPIC); around agreement of access to or the company's acquisition of land; around ESIAs; and around the negotiation of community benefits.

For Indigenous peoples, FPIC is a human right enshrined in international law. Failing to consult with a community or undermining its land access rights can lead to negative socio-environmental impacts; for example, through forced or poorly managed resettlement, damage to sites of cultural or religious significance, or damage to the natural environment. Women and vulnerable groups may experience disproportionate harm, especially where their landownership is not formally documented, they are excluded from consultation processes, or their needs and concerns are not well represented by community leaders.

³⁴ ICLG (International Comparative Legal Guides), "[Mining laws and DR Congo](#)" (2024); Lexology, "[Environmental regulations for mining activities in Democratic Republic of Congo](#)" (4 Jul. 2019).

Corruption affecting community consultation may take the form of:

- Consultation requirements being bypassed, observed only as a formality and not meaningfully, or conducted in bad faith.
- Consultation requirements being undermined by insider deals, payoffs or bribery to influence the outcome.
- Local leaders conspiring with companies and/or government officials to manipulate negotiations for personal benefit or the benefit of allies or specific social or ethnic groups. This may involve bribery, gifts, employment offers, or benefits from compensation payments or community development projects.
- Bribery or other inducements being offered to government authorities to change land conditions or designations, particularly when associated with mining permit applications.

Undue private influence over laws, regulations and oversight institutions

Companies, lobbyists and industry bodies may seek to exert undue influence over mining laws, regulations and oversight institutions intended to prevent, mitigate or ensure accountability for negative socio-environmental impacts. Such influence can take many forms.

For example, companies or associated actors may target environmental protection agencies and seek to weaken their oversight, regulatory and enforcement capacities to enable mining to start or increase without accountability for negative impacts. They may target anticorruption agencies or the judiciary to undermine the prosecution of civil or criminal cases. Corrupt actors may also seek to undermine requirements regarding social and environmental safeguards, local content requirements (employment or procurement of local people, goods or services), or labor rights embedded in legislation.

These undue influencing efforts may take place in a single instance or be more systemic. More systemic undue influence on policymaking can appear both legal and normalized, often referred to as state, policy or regulatory “capture.”³⁵ This capture, combined with a lack of government resources, may lead to companies bypassing the state’s role, such as conducting ESIA or FPIC processes without government oversight, or obtaining government “rubber stamp” approval of these processes, despite significant conflicts of interest.

It may help to identify connections between different forms of capture. For example, undue influence that reduces mining companies’ tax or royalty obligations can diminish the state’s access to resources it needs to fulfill its core functions.

Drawing the line between acceptable and corrupt behavior can be subjective and context dependent.

Yet corruption affecting influence over laws, regulations and institutions may take the form of:

- Bribes or other inducements to policymakers and regulators, such as gifts and hospitality or offers to steer subcontracting opportunities to favored entities, in exchange for weakening environmental laws and regulations and social protections.
- Bribes or other inducements to anticorruption agencies or the judiciary to influence prosecution and sentencing decisions.
- Political interference in the work of oversight institutions, including blocking investigations or working to redirect enforcement actions toward less powerful actors or lower-level crimes.
- Policy or regulatory capture. This may occur when government officials or their relatives or allies hold financial interests in the mining sector; when government and companies exchange personnel regularly (the “revolving door”); or when companies finance political campaigns and engage in excessive informal lobbying.

35 On capture, see REF TOOL

Concealment of environmental damage and avoidance of responsibility for rehabilitation

Tailings waste, open pit drainage and chemical treatment plant discharge can all cause irreversible damage to the natural environment and habitats on which people depend for their livelihoods. These negative impacts can have serious implications for communities living around mining or processing sites, for example through water contamination, or for workers' health and safety.

Risks of environmental damage may also arise after mine closure, particularly if a company denies or shirks responsibility for necessary safety measures. Efforts to conceal environmental damage may also be linked to prior acts of corruption, such as efforts to undermine ESIA's.

Corruption affecting environmental damage and rehabilitation may take the form of:

- Falsification or concealment of data on environmental damage.
- Conflicts of interest between a company and experts hired to assess mine, processing facilities or tailings safety, such as certification schemes or auditors.
- Bribery to achieve misrepresentation of or falsified safety or environmental assessments.
- Bribery to avoid rehabilitation and remedial responsibility for damage caused by mining. This may include bribery of government officials, members of a local community or the judiciary in cases where companies face civil or criminal cases.
- Undue influencing attempts to undermine legal requirements around rehabilitation and remediation.

Corruption in contracting, subcontracting or hiring enabling unsafe or unfair working conditions

If companies receive preferential treatment, contracts or subcontracts due to corruption, nepotism or political connections, they may lack the required expertise and/or commitment to ensure a safe working environment. They may consider themselves free to disregard health and safety rules and labor laws without consequence, or may channel opportunities unfairly toward favored subcontractors or groups.

This may lead to consequences of mining and processing drivers, mechanics, welders, security guards and general workers not being paid living wages and/or having to work in unsafe conditions. Subcontracted workers may be at an elevated risk of severe exploitation.

Among the possible broader societal impacts, insufficient wages across a community may make child labor more likely, particularly if parents cannot afford school fees. And the political connections of those involved may make it harder to prevent these practices.

Corruption in contracting, subcontracting or hiring may take the form of:

- Suppression or minimization of workers' rights to maintain the vested interests of powerful elites or politically exposed persons, who may hold beneficial ownership or equity stakes in a project
- Hiring decisions channeling benefits toward certain social or ethnic groups
- Local authorities, both governmental and traditional, soliciting bribes from individuals seeking work
- Bribes or other inducements to obscure the role of child labor in supply chains.

Extortion enabling human rights abuses and unsafe working conditions

Extortion is a form of corruption that involves the direct or indirect use of access to a position of power or knowledge to demand unmerited cooperation or payment through coercive threats.³⁶ The presence of armed actors including non-state actors (e.g., guerilla groups, organised criminals and private security operators) and military or police personnel in mining operations may heighten extortion risks. Extortion can also be carried out by non-armed state representatives, such as enforcement agents who exploit poor understanding of laws and regulations for their own benefit.

Extortion involving armed or unarmed state actors may be more likely when there are few accountability mechanisms in place to prevent abuse of positions of power.

Extortion may take the form of:

- The threat or use of violence by armed actors.
- Demands for sexual favors—a form of corruption that disproportionately affects women.³⁷
- Exploitation of adults through unsafe working conditions or of children through child labor. This form of extortion may be more common in ASM operations where there is more informality.

Erosion of civic space and criminalization of accountability actors

Accountability actors, particularly anticorruption actors and environmental, human rights and land defenders, are crucial for ensuring respect for human rights, environmental protections and the rule of law. Yet corrupt actors may seek to undermine their ability to act effectively.³⁸

This may occur through the erosion of civic space. Governments may pass laws that reduce opportunities for civil society to participate in decision-making, protest or raise concerns. Or channels for civil society action may become unsafe or narrow for other reasons. Accountability actors may face increasing strategies of escalation and confrontation, culminating in authorities criminalizing them.

Criminalization and marginalization may follow a pattern of imbalanced consultation, intimidation, forced evictions of targeted individuals or communities, or armed incursions into territory. The intention may be to illegitimately or illegally annex and take land from communities living there, such as Indigenous peoples.

Mining is the most dangerous sector for human rights defenders.³⁹

Corruption affecting civic space may take the form of:

- Collusion between private sector interests and government officials who have private interests in a mining project to overrule community rights and socio-environmental protections
- Payment or in-kind benefits, such as protection from prosecution, to non-state armed actors and organised criminals to intimidate or harm accountability actors
- Bribes and other inducements to law enforcement agents to arrest or intimidate accountability actors
- Undue private influence on laws that impact the right to protest

³⁶ Transparency International, “[Extortion](#).”

³⁷ NRG, *Diagnosing Corruption, Step 4 Research Guide: Operations*.

³⁸ Lawlor, *At the heart of the struggle*.

³⁹ HRR, “Human rights defenders & business in 2022: People challenging corporate power to protect our planet” (3 May 2023).

→ **Box 2.**

Main red flags relating to corruption and socio-environmental impacts

Certain red flags or warning signs may accompany forms of corruption described above. The independent expert should look out for the following signs during the research process and also consider those relating to the licensing and operations areas of focus.⁴⁰

Failure to respect ESIA processes, community consultations or land rights

- Exploration or production work commences without government authorization or approvals.
- Companies fail to conduct or publish ESIA's, with no legal basis to challenge this.
- Consultation occurs only with local elites, fails to obtain Indigenous peoples' FPIC or occurs too late in the process to be meaningful.
- Forced evictions and resettlement occur, with opaque or inadequate compensation processes.
- Security forces or government agencies abruptly confiscate or occupy land, and/or armed state or non-state actors infiltrate traditional or ancestral lands.
- Companies and/or government agencies lack transparency in engaging with communities, including by using long legal documentation in non-accessible languages, or fail to publicly announce exploratory activities or new or expanded mining operations.

Concealment of environmental damage and avoidance of rehabilitation responsibility

- The company and/or government authorities obscure, deny or fail to investigate evidence of pollution, contamination and other environmental damage.
- Mining and/or processing generate quantities of tailings waste in breach of safety legislation.
- The company and/or authorities ignore workers' or communities' concerns or claims about health impacts resulting from air, land or water pollution.

Or they threaten or offer inducements to workers or communities to abandon their claims.

- Experts or certifiers that the company or government appoints to assess environmental safety standards or incidents are subject to conflicts of interest or otherwise lack independence.

Unsafe, unfair or abusive conditions in or surrounding mines or processing plants

- Unqualified or newly established companies without track records obtain contracts, or transactions feature commercially unnecessary intermediaries.
- Mines and processing plants offer employment on an informal basis only, including through zero hour contracts or subcontractors, and/or with very low wages or no formal documentation.
- Companies disproportionately hire individuals from favored political, social or ethnic groups.
- Companies do not have adequate grievance mechanisms in place.⁴¹
- Workers or civil society organizations, including women's rights groups, who try to raise concerns about unsafe, unfair or abusive practices—or workers who try to unionize—are repeatedly ignored, obstructed, threatened or offered inducements to abandon their efforts.
- Police, the military, or state or private security agents use unwarranted force against civilians, communities, workers, or environmental and human rights defenders, with impunity for wrongdoing and/or evidence of collusion between state and non-state actors.⁴²

40 For red flags relating to licensing and operation, see NRG, *Diagnosing Corruption, Step 4 Research Guide: Decision to Extract, Licensing and Contracting*, and *Step 4 Research Guide: Operations*.

41 In line with requirements in the *U.N. Guiding Principles*.

42 RAID, "Barrick's Tanzania gold mine one of the deadliest in Africa" (11 Nov. 2022)

B. What causes the different forms of corruption?

For each form of corruption outlined in the preceding section that the independent expert identifies as a major concern, the independent expert should aim to uncover why the corruption has occurred or might occur in future. The following questions could help guide this research and assessment. The questions address corruption risk factors and underlying causes, and the research/assessment should cover both aspects.

- Information on lobbying activity and political donations by companies operating or seeking to operate in the sector
- Information on water, air quality and land use, particularly in arid geographies where water is scarce
- Information concerning forests, endangered species and other biodiversity indicators
- Information on environmental liabilities, rehabilitation and remediation work
- Anticorruption, human rights and sustainability policies and procedures

Which risk factors make corruption more likely to occur?

Certain policies, practices and other risk factors can make systems more vulnerable to corruption. For instance, if institutions tasked with processing license applications are understaffed and underfunded, their employees may be more susceptible to accepting bribes or requesting “facilitation payments.”⁴³ Periods of political transition and major changes in a political administration or a country’s constitution entail large personnel change in ministries and government agencies. Such changes can reduce the effectiveness of anticorruption measures and of actions or processes that address social and environmental impacts.

Significant corruption risk factors relating to socio-environmental impacts include the following.⁴⁴

Lack of transparency

Lack of transparency would include failure to disclose:

- Outcomes of environmental and social audits
- Information on violations, enforcement actions and fines

Weak oversight and participation on the part of civil society, communities and Indigenous peoples

- Lack of meaningful community consultation
- Civil society’s exclusion from or insufficient participation in multilateral initiatives, such as the EITI, or the corporate capture of such initiatives⁴⁵
- Corruption of civil society representatives through payments, inducements or other incentives
- Insufficient opportunities for communities or civil society to participate in the assessment and monitoring of social and environmental impacts, local employment and procurement practices, or the delivery of community development projects
- Poor monitoring and oversight on the part of parliamentarians and other legislators, civil society and the media, particularly concerning social and environmental impacts
- Failure to implement international or regional treaties and conventions relating to FPIC and Indigenous rights

⁴³ A facilitation payment is a small bribe solicited to expedite the performance of a routine transaction or service that the person or entity making the payment is legally entitled to receive.

⁴⁴ To prepare this list of risk factors, we reviewed sources of governance, transparency and anticorruption guidance, selecting policies and practices that relate most directly to the forms of corruption noted above. Sources include: NRG, [Resource Governance Index](#), indicators under subcomponent 1.3 (local impact); [EITI Standard](#), requirement 6 (social and economic spending); Transparency International, [Mining Awards Corruption Risk Assessment Tool](#), annex 1 (common risks); and OECD, [Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures and Incentives](#) (2016), chapter 4 (corruption risks in extraction operations and regulations).

⁴⁵ Publish What You Pay U.S., [“Global Transparency Initiative Fails to Hold Exxon Accountable”](#) (30 Jun. 2021); Oxfam, [“Oxfam will oppose any EITI Board that includes ExxonMobil”](#) (7 Jun. 2023).

Weak integrity measures

- Lack of or inadequate government response in terms of investigation or sanctions when credible allegations arise concerning corruption and socio-environmental impacts
- Failure of voluntary supply chain due diligence or certification schemes to identify and act on corruption, organized crime and money laundering and their use as a substitute for mandatory regulation⁴⁶
- Lack of or weak restrictions on “revolving doors” between personnel in the public and private sectors (e.g., no mandatory “cooling off” periods when former government officials cannot work for companies monitored by their former government employer)
- Lack of or weak restrictions on public officials holding private interests in the sectors they oversee, and a lack of requirements for officials to declare assets and incomes, or weak enforcement of these measures
- Lack of or weak restrictions on companies’ political campaign donations or lobbying
- Lack of or weak controls on conflicts of interest between companies operating in the sector and experts or companies tasked with certifying socio-environmental standards or performance or carrying out ESIA

Weak institutions and processes

- Bureaucratic, difficult-to-access and under resourced authorities responsible for licensing and supervision, with a lack of coordination between authorities
- Lack of clear and robust integrity criteria relating to anticorruption practices, the approval of ESIA, consultations, and surface and land rights, including lack of recognition of women’s and customary land rights
- Low capacity and/or unclear, contradictory or overlapping roles in the government institutions tasked with regulating operations

- Multiple authorities involved in allocations of land title or use at local cadastre (official registry) offices, such mining authorities, forestry offices, and agriculture or land extension services
- Rules and practices that fail to align with international standards, including those relating to the management of social and environmental impacts, rehabilitation and mine closure

Practices that undermine fair competition

- Subcontracting arrangements that obscure responsibility in a way that undermines social or labor rights
- Official requirements on foreign companies to form joint ventures with local firms or partner with unqualified entities
- Use of direct bilateral negotiations when open competitive bidding would be more appropriate (e.g., where there a mining asset’s geological potential is publicly known and a number of companies are interested)
- Companies’ use of agents or intermediaries when seeking contracts, permits or approvals from the government or state-owned enterprises
- Contracts and licenses that appear determined by favoritism

Weak enforcement

- Government failure to enforce operational requirements and/or to penalize those involved in wrongdoing (rules exist only on paper)
- Rules and practices that fail to align with international standards, including in relation to the management of social and environmental impacts, rehabilitation, mine closure, and so on
- Unclear, contradictory or overlapping roles of decision-making institutions and individual officials; for example, where institutions have responsibility for advancing the commercial development of a sector as well as its regulation

⁴⁶ Ojo Público, “Prosecutor’s Office: Metalor from Switzerland financed shipments with tons of suspicious gold in Peru” (14 Mar. 2019), and “Company investigated for laundering seeks to recover more than 90 kilos of suspicious gold” (4 Dec. 2018).

Foreign actors enabling corruption

- Foreign companies appearing to undermine socio-environmental protections, including by promoting industry schemes with weak provisions, inadequate audit arrangements and/or no multistakeholder governance as an alternative to mandatory due diligence requirements
- Foreign agents or intermediaries suspected of using corrupt tactics to help clients win licenses
- Credible allegations that bribes, embezzled funds or other illicit financial flows move through shell companies' offshore accounts⁴⁷—using enablers such as banks, service providers that help set up shell companies and secrecy jurisdictions where shell companies are incorporated
- Foreign companies suspected of participating in or enabling the trading of illegally mined metals and minerals
- Foreign actors failing to hold armed state and non-state actors to account for enabling corruption and socio-environmental abuse

What are the underlying causes and motives of the most significant forms of corruption?

The Step 4 research should analyze the underlying causes of corruption to determine how best to prevent and mitigate these causes. Corruption's causes are inherently political and affected by a country's political system and its levels of equality, corporate accountability and transparency in natural resource extraction.

People, institutions and organizations that benefit from corruption have a vested interest in maintaining the status quo. This means that attempts to address corruption and its causes are often considered politically or commercially sensitive, and in some cases are obstructed by vested interests.

The independent expert can collect ideas on underlying causes through thoughtful interviewing, assurances of anonymity, triangulating answers across stakeholders and dialogue with specialists who study the country's political economy. Insights gained on the causes of corruption will be useful in the action planning in Step 6. This should reflect the country's political realities, with the planned actions addressing both underlying causes of corruption and its specific forms or risk factors.

Civil society and anticorruption specialists, political economists and academics have developed a large body of published research into underlying causes and channels of corruption. Much of this literature is specific to particular countries or regions, and users and experts using NRG's diagnostic tool should consult this where relevant.

Some of the following questions are likely to be helpful in your research and analysis.

What is the relationship between political elites and the mining industry?

- Do members of the political elites have a background in natural resource extraction, social or environmental ministries, or the financing, trade and operations of natural resource industries?
- Do they have a vested political or financial interest in the way the country mines its minerals, especially transition minerals?
- Do politicians have a background of supporting or impeding transparency in natural resource extraction, or social and environmental regulation?

Who wins and who loses from the corruption or governance weaknesses? Or who would win or lose if corruption occurred in future?

- Who is formally or informally involved in the different forms of corruption? Who influences events in these areas?
- Who would benefit if corruption took place? Who would lose? Benefits could be financial, professional or political.

⁴⁷ See Transparency International, "Shell company."

- How do geopolitics factor in decision-making? What is the political agenda of the government or of other political powers (e.g., foreign governments) involved in natural resource extraction? How does this manifest in trade agreements or partnerships, including those that are non-binding and/or multilateral?
- What is the country's track record on corruption, the environment and human rights? Which if any actors have a vested political, economic or financial interest in improving the sector or maintaining the status quo?

Are civil society and anticorruption actors able to detect and deter corruption and socio-environmental and human rights harm?

- Are anticorruption actors strong enough to detect and deter corruption? What level of experience does domestic civil society have on anticorruption and holding companies to account for social and environmental impacts?
- How prominent is civil society's role in the mining industry? Does it play a proportionate role in the country's economy and politics?
- Has corruption become normalized? Is corruption in mining allowed to persist because stakeholders consider that "this is just how the system works?" Is this a common excuse?
- Do enforcement agencies have sufficient resources to do their jobs?

How (if at all) are the causes of corruption changing (or not changing)?

- How prominent is the mining sector in the country?
- Does it play a disproportionate role in the country's economy and politics?
- Do wider political or economic events make specific forms of corruption more or less likely? Such events could include a recent or upcoming election, domestic or international conflicts, economic booms or downturns, corruption scandals, and so on.

How transparent and accessible are social and environmental mining-related data?

- Is informative centralized mining-related data available on, for example, air quality, water, land, biodiversity, local communities and Indigenous peoples?
- Do the state and companies adhere to international law on obtaining Indigenous peoples' FPIC as set out in the International Labour Organization Convention 169 on Indigenous and Tribal Peoples and the U.N. Declaration on the Rights of Indigenous Peoples?

C. What measures could help prevent corruption?

The independent expert should gather ideas on anticorruption measures that might help address the identified forms of corruption. These ideas will help inform the action planning in Step 6.

Who might support anticorruption reforms and why?

- What current incentives work in favor of anticorruption reform? These could include commitments by influential politicians, a damaging corruption scandal and resulting public demand for reform, or pressure from international actors or consumer market countries to improve environmental, social and governance (ESG) performance. Incentives might also include a country's EITI multi-stakeholder group's anticorruption commitments or efforts, particularly if they relate to socio-environmental standards.
- Which actors would support anticorruption reform in this area?
 - Relevant domestic actors could include politicians and political parties, government officials, civil society, local powerbrokers, landowners, mining cooperatives, and other business actors looking to connect more with international markets that seek higher ESG standards in mining.

- International industry associations and civil society organizations, as well as the international donor community, increasingly play a role in due diligence and raising ESG standards.⁴⁸
- Multilateral institutions and development banks will increasingly allocate large sums of capital to transition mineral mining and processing, battery manufacture, and so on. They will therefore be likely to support anticorruption reform in mining.
- Mining companies seeking to demonstrate responsible business practices, and institutional investors seeking to reduce financial and reputational risk, will support efforts to prevent and mitigate corruption through due diligence, investigation and other measures.

What are specific ideas for anticorruption actions?

In generally assessing possibilities for anticorruption actions, the users and the independent expert could consider:

- Of the forms of corruption identified, where is reform most feasible?
- Are there ongoing reforms that could help address one or more of the identified forms of corruption directly or indirectly?
- When corruption cases arose in the past, how did anticorruption actors or processes perform? What can we learn from this record about strengths and weaknesses in anticorruption responses?

To solicit ideas from stakeholder interviewees, the independent expert could ask:

- If you could change one aspect of the mining sector, especially for transition minerals, to prevent corruption, what would make the most difference?
- What policies and practices currently work well in helping prevent corruption and could be further strengthened? Other comparable countries may also provide examples of successful approaches.
- Would fixing any of the risk factors identified in the preceding main section under Question B effectively help prevent corruption? This could include actions to:

- Enhance transparency
- Strengthen oversight and participation
- Promote integrity
- Enact institutional and process reforms
- Increase fair competition
- Strengthen the enforcement of rules
- Address foreign enablers

Would stakeholders recommend any of the following actions that are considered good practices or have proven successful in the past?

- **Enhance transparency and publicly available social and environmental data and information on mining and processing.** This could include ESIA and land access agreements, information on violations, enforcement actions and fines, on water, air quality and biodiversity, and on environmental rehabilitation and remediation work. In EITI-implementing countries, new requirements in the 2023 EITI Standard may help ensure access to some of this information.
- **Enhance transparency and publicly available information on efforts to influence public policy.** This could include information on meetings held between key decision-makers (such as through a lobbying register), on political donations, and on gifts and hospitality decision-makers receive.
- **Strengthen participatory monitoring of licensing, operations, and revenue collection and management processes.** This could include partnerships between monitoring authorities, civil society organizations and host communities; and strengthening the participation of civil society and local communities in multi-stakeholder governance and assessment processes, such as EITI or the Initiative for Responsible Mining Assurance (IRMA), to help ensure the applications of international good practice standards.
- **Develop co-ownership and benefit sharing models with local communities and Indigenous peoples.** This could include sharing profits and revenue to finance community development.

⁴⁸ The OECD defines due diligence as “the process enterprises should carry out to identify, prevent, mitigate and account for how they address these actual and potential adverse impacts in their own operations, their supply chain and other business relationships.” OECD. *OECD Due Diligence Guidance for Responsible Business Conduct* (2018)

- **Introduce or strengthen rules to prevent conflicts of interest.** Such rules could apply to mining ministries and ministries dealing with the environment, land, water, forestry, agriculture, Indigenous affairs and social affairs; for example by:
 - Implementing “revolving door” restrictions that prohibit regulators and companies from exchanging personnel within specified time limits (“cooling-off” periods)
 - Prohibiting officials from holding business interests in the sectors they oversee
 - Regulating companies’ political campaign donations and lobbying activity, and requiring transparency in these areas
 - Requiring public officials to declare their assets and income
 - Requiring operating companies to disclose beneficial ownership information, and screening that information for politically exposed persons who might have a conflict of interest
- **Implement stronger rules regarding anticorruption and socio-environmental impacts.** This could include mandatory conduct and disclosure of ESIA’s and land access agreements; stronger environmental protection and water use provisions; clearer protections for subcontracted workers; ratifying and implementing in domestic law regional and international agreements and conventions that protect the environment and uphold human rights including Indigenous peoples’ rights; for example:
 - U.N. Declaration on the Rights of Indigenous Peoples
 - International Labour Organization Convention 169
 - Article 27 of the International Covenant on Civil and Political Rights
 - Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement)
 - Article 1 of the International Covenant on Economic, Social and Cultural Rights

Mandatory rules should be prioritized where possible over voluntary initiatives, although commitments in voluntary initiatives may still be useful to raise

standards when the political environment is not conducive to legal reform.

- **Strengthen company policies.** Company policies on anticorruption, human rights, sustainability, environmental protection, rehabilitation, working conditions and subcontracting, including appropriate grievance mechanisms, should align with leading international good practice standards. These could include:
 - OECD Due Diligence Guidance for Responsible Business Conduct
 - OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector
 - OECD Guidelines for Multinational Enterprises
 - G20/OECD Principles of Corporate Governance
 - U.N. Guiding Principles on Business and Human Rights
- **Develop strong oversight and enforcement authorities.** Measures to make companies more accountable against anticorruption standards and for their impacts on human rights and the environment could include increasing the budgets of the responsible authorities; training anticorruption agencies and regulators on social and environmental harm; and developing early warning systems for key environmental issues such as water and air pollution or deforestation.
- **Undertake full investigation and, if appropriate, criminal proceedings against those alleged to have committed corrupt acts.** Corrupt actors may include both state and company officials implicated in domestic or foreign bribery cases. In contexts where such investigations have been merited but not taken place, users could consider whether strategic litigation may help ensure accountability and reform. Strategic litigation requires specialist legal expertise, involves risks and may not always be the right approach.⁴⁹
- **Address foreign enablers of corruption and socio-environmental harm through mandatory due diligence laws for companies.** Due diligence laws should cover company responsibility for potential corruption and abuses across the minerals and metals supply chain, including exploration, mining, trade and processing.

⁴⁹ On anticorruption strategic litigation, see U4 Anti-Corruption Resource Centre, “[Strategic litigation and its untapped potential for anti-corruption](#)” (12 Jul. 2023).

About NRGi

The Natural Resource Governance Institute is an independent, non-profit organization that supports informed, inclusive decision-making about natural resources and the energy transition. We partner with reformers in government and civil society to design and implement just policies based on evidence and the priorities of citizens in resource-rich developing countries. Learn more at www.resourcegovernance.org



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