



Business & Human Rights
Resource Centre

Stop and listen

**Pathways to meaningful engagement
with rightsholders in the global rush
to mine for transition minerals**

DECEMBER 2024

Contents

Executive summary	3
Context and approach	5
What does community engagement mean as a concept and a practice?	7
Who is responsible for community engagement?	7
How do power and incentive structures shape community engagement?	8
Way forward: a framework for meaningful engagement	11
Sidelined, obstructed and attacked: community engagement in practice	12
Legal loopholes and the Paragominas mine in Brazil	13
Weaponising engagement at the proposed Sijimali bauxite mine in India	16
Sidelining community voices in Covas do Barroso, Portugal	20
Conclusion and recommendations	24
Pathways toward meaningful engagement	25
Recommendations	27
Endnotes	29

Executive summary

The urgency to fight climate change is driving a global scramble to extract the transition minerals required to power vast solar operations, wind farms and transport electrification, at enormous scale. The mining sector has a well-known history of human rights and environmental abuse: the Resource Centre has tracked [630 such allegations](#) in transition minerals mining operations since 2010. The extractive sector has long been the [most dangerous for human rights defenders](#) (HRDs). This should raise alarm as the new mining boom comes with significant threat: cutting corners on social and environmental safeguards to accelerate mining licensing and permitting frameworks, predicated on the false logic that engaging communities and identifying environmental risks will slow down project development rather than ensure viability and sustainability.

In fact, as this report sets out through case studies and analysis, failure to meaningfully engage rightsholders can lead to social unrest, conflicts, [litigation](#) and significant financial consequences for companies and investors – all threats to the swift energy transition on which fighting the climate crisis depends. On the other hand, corporate commitment to “meaningful engagement” can underpin an energy transition that is fast because it is fair: in other words, built on [fair negotiations and true access to information; respect for human and environmental rights; and commitment to shared prosperity with mining-affected communities](#).

To this end, meaningful engagement between frontline communities, Indigenous Peoples, governments and mining companies has never been more important. But as a range of national laws and standards begin to incorporate this as a pre-requisite for transition mineral mining project approval, it is essential to define what this means. With this report, the Resource Centre has analysed **three emblematic cases of community engagement to begin to answer this question, and to highlight risks that the rush to mine transition minerals can pose to community engagement where the right to public participation is not safeguarded:**



In Odisha, India, the public consultation for environmental clearance for the **Sijimali Bauxite block**, owned by **Vedanta Limited**, took place in a context of strong rightsholder opposition and state-backed repression.



In Portugal, prosecutors sought annulment of **Savannah Resources'** environmental permit for the proposed **Covas do Barroso lithium mine**, based on violations of domestic law and international commitments, given risks to heritage and the environment. This case follows widespread resistance to the mine from the surrounding community in the face of a failure to respect public participation rights: state agencies consistently failed to provide project-relevant information.



In Brazil in 2023, quilombolas, Indigenous Peoples and other communities brought a public action calling for the licence of the **Paragominas bauxite mine** pipeline to be revoked on the basis of irregularities in consultation around the licensing process. This follows decades of tensions and conflicts between the **Mineração Paragominas** mine, its operators and surrounding communities.

These three cases provide powerful warnings for companies and states seeking to expedite the process of extraction at the expense of public participation rights, as well as important lessons.

Pathways to meaningful engagement require, first and foremost, a clear and robust commitment by producing states to this process, including:

- ➔ State respect for fundamental human rights and civic freedoms, including the right of Indigenous Peoples to free, prior and informed consent (FPIC), respect for public participation rights, as features of and in relation to, rights of freedom of expression, assembly and association. Human rights defenders must be protected and their voices not silenced. Critically, states must refrain from relaxing regulatory standards to expedite mining permitting and licensing processes.
- ➔ Early-stage engagement, led by the state, at a point where rightsholders can still influence decision-making outcomes and decision to mine in particular. Engagement should continue throughout the lifecycle of a mine when a decision to mine is reached. States must create space for safe and inclusive dialogue even where – and perhaps particularly where – widespread opposition to mining exists.
- ➔ Processes underpinned by truly accessible information, clear legal and non-legal avenues to challenge irregularities, and an expanded definition of “project-relevant information”, including over “public interest” clauses or exemptions, as well as the use of newly-extracted minerals in the energy transition, and necessity to curb demand.
- ➔ Meaningful engagement from the state should include related information on domestic energy transition policy, including demand reduction, as well as intended end-users for minerals. The energy transition should not be invoked as a justification by states or companies to rush to mining without evidenced substantiation.

Companies themselves, as part of their duty to respect human rights, must also effect meaningful engagement with affected rightsholders. This means adopting robust engagement and due diligence policies, going beyond regulatory compliance requirements – which too often tragically fail to represent the views of the population, Indigenous Peoples, and other communities – where needed. Companies must take urgent note that even with the apparent backing of the state, they may still remain complicit in, and potentially liable for, human rights abuses.

Public participation rights are human rights that must be protected. They matter because while not every mining project will immediately run roughshod over the interests of rightsholders, many have – and the erosion of regulatory safeguards in the rush to accelerate mining permitting and licensing processes only makes this more likely. Meaningful engagement requires a good-faith effort and a willingness to truly listen to the voices of rightsholders and consider a wide range of outcomes in initial engagement – including their right to say no to mining projects.

Context and approach

Being able to participate in and shape public life is an [essential human right](#) and a vital pillar of a functioning democracy. States have, as part of their human rights obligations and their commitments under frameworks such as the [Aarhus Convention](#) and the [Escazu Agreement](#), a duty to protect all public participation rights, also recognised through the [UN Declaration on Human Rights Defenders](#).

All large-scale infrastructure projects, including mining, can have real, tangible and sometimes irreversible impacts on the rights of surrounding communities. Through community engagement, mining-affected individuals or collective rightsholders within mining-affected communities should be able to input into decisions that affect their daily lives. However, their ability to “participate” is different to “consultation”: it requires both due process and the [sharing of power and ability to influence outcomes](#). An [essential pre-requisite](#) is the effective protection of other related rights: in particular, the rights to equality and non-discrimination, to freedom of opinion and expression and to freedom of peaceful assembly and of association. Importantly, companies also have a distinct responsibility to respect all human rights, including all participation rights, as per the United Nations Guiding Principles on Business and Human Rights (UNGPs).

Cutting corners on public participation rights to accelerate mining for new transition minerals: a recipe for conflict?

Currently, increasing pressure from importing states to source and secure supply of transition minerals is leading to a global rush to extract. This creates incentives for producing states to accelerate their mining licensing and permitting frameworks. This is the case with the EU Critical Raw Materials Act (CRMA). According to its Article 9, “Strategic Projects” in the EU will benefit from streamlined and accelerated permitting procedures, causing [concerns](#) that this will come at the expense of robust public participation rights, and [access to justice](#). One other example is Peru’s recent efforts to streamline its mining permit processes – which could [undermine the credibility of EIAs](#).


Such efforts can wrongly suggest that engagement slows development and companies can be emboldened by regulatory curtailments to limit engagement or even violate the right to FPIC for Indigenous Peoples. To the contrary, permitting processes that [fail to embed robust engagement and public accountability requirements](#) create fertile ground for violations of rights, conflicts and eventual failure to secure public buy-in, with significant [financial and operational repercussions](#).

A range of laws and standards have now made engagement with rightsholder communities a requirement. Under the [CRMA](#), for instance, meaningful engagement features as a requirement for potential strategic projects and as a consideration in formation of strategic partnerships.¹ Under the EU [Corporate Sustainability Due Diligence Directive](#) (CSDDD)² meaningful engagement is listed as a part of human right and environmental due diligence. **While the texts refer to relevant international standards and guidance documents, they do little to detail what would make a process “meaningful”.**

Drawing from a review of existing literature and standards, three case studies and interviews with key informants, this briefing aims to shed light on what “meaningful engagement” is from a business and human rights perspective.³

“Community engagement” for the purpose of this briefing is understood to be taking place at the level of the mining project, prior to decision to mine and permitting/licensing, as well as on an ongoing basis, and to encompass public disclosure and dissemination of project-related information; consultation; participation in decision-making, including on compensation and benefit-sharing; receipt of and response to queries and concerns; formation and operation of grievance redress mechanisms; and ongoing reporting to affected communities as a whole.





What does community engagement mean as a concept and a practice?

OECD [standards](#) and [guidance](#) for the extractive sector emphasise that meaningful community engagement must be ongoing, two-way, conducted in good faith, responsive to stakeholder views, timely, accessible and safe. Parties must be able to express their views freely, and decision-making power should be shared.

However, the actual practice of community engagement is shaped by power asymmetries, differing incentive structures, resourcing imbalances, and the increasing closure of civic space in many countries, including through attacks on HRDs. These dynamics must be understood to consider what might make engagement “meaningful” in the mining sector, marked by box-ticking and tokenism – or worse, aggressive sidelining and silencing of rightsholders.

Who is responsible for community engagement?

The state holds the primary duty for ensuring rightsholders are able to exercise their access to information rights and input into decisions around mining projects. Many countries mandate certain approvals and assessments (including Environmental Impact Assessments [EIAs]) that companies must undertake as part of the licensing process for a project, and these can be entry points for rightsholders. Ensuring safe, inclusive and effective community engagement is particularly critical in situations where projects may involve [involuntary resettlement and expropriation of land](#), as it must remain a last resort option due to its severe and irreversible consequences.

Companies play a central role in community engagement – which must critically inform their human rights due diligence policies to ensure respect for human rights as per the UNGPs. Importantly, companies should align with international human rights standards and go beyond the minimum requirements of a state’s legal framework to pursue more proactive engagement where needed.

Failing to respect due process and legal risks

The Resource Centre's [Just Transition Litigation Tracking Tool](#) found [32 cases](#) of insufficient and inadequate consultation linked to mining and renewables projects between 2012 and 2024 – in half of the cases, the court ordered the project to be stopped or the licence revoked. In Indonesia, for example, the Supreme Court [ruled in favour of local communities](#), revoking the environmental licence for **Dairi Prima Mineral's** zinc mine – a decision based partly on lack of citizen participation in the project's development. In Argentina, in March 2024, the Catamarca Court [ordered](#) the Ministry of Mining to conduct a thorough environmental impact study, including meaningful participation of the affected community and ensuring access to information, following a lawsuit from the Tribe Chief of the Atacameños del Altiplano Native Community of Argentina in relation to lithium mining projects in Los Patos River-Salar del Hombre Muerto.

In Panama, insufficient consultation on the **Cobre Panama** mine's concession extension sparked massive protests, eventually leading the Supreme Court to declare the [expansion contract unconstitutional](#).

How do power and incentive structures shape community engagement?

Rightsolders within mining-affected Peoples or communities often have the least influence over key decisions by the state and private sector that will directly affect them. Power dynamics and incentive structures between governments, Peoples, communities and companies shape the nature and scope of community engagement, often limiting it.

Divergence between government and community priorities

Mining contracts are an agreement between a host government and a company. The interests of the affected Peoples or communities should in theory be represented by the government, however all too often a government's pursuit of resource rents or their framing of mining for the national interest is not aligned with the needs and priorities of rightsolders. In Serbia, for example, the spatial plan of the Jadar lithium mine was revoked after widespread environmental protests and community-led opposition against the mine (which the Resource Centre explored through speaking to local affected communities in [2022](#) here). However, in 2024, the government [reversed](#) its position despite the opposition and is moving forward with the mine – including signing a [strategic partnership](#) for supply of critical minerals with the EU.

In contrast, more inclusive approaches by government that facilitate public dialogue over mining and natural resource usage are possible. In Norway, the Biedjovaggi gold-copper mine was put on hold in 2012, a decision reaffirmed by the municipal council in 2015, which placed a four-year moratorium on discussion regarding re-opening the mine, [choosing instead to protect local livelihoods and Sami culture](#) (although [recent developments](#) show the mine could eventually re-open). But such processes are rare, and while the right of Indigenous Peoples to FPIC is often inadequately implemented, – non-Indigenous Peoples communities have limited legal ability to assert a [right to say no to mining](#).

Free, prior and informed consent

Indigenous Peoples have specific rights to give or withhold their FPIC over projects that affect their cultures, land, territories, resources and other rights; including their right to define the process by which FPIC is achieved and to withhold consent through FPIC protocols, regardless of an opposing claim by the government. It is derived from the right of Indigenous Peoples to self-determination and is affirmed within [United Nations Declaration on the Rights of Indigenous Peoples](#) and also informed by [ILO Convention 169 on Indigenous and Tribal Peoples](#).

Broken down, the right means that consent – which may be withheld – must be given in a context without coercion or duress (“free”), prior to the start of any activity that may impact the rights of Indigenous Peoples (“prior”) and with the requisite full information about all impacts, including all potential risks and benefits (“informed”).

For Indigenous Peoples, states and companies should respect their rights to FPIC before any steps in mineral development are taken, however recognition of Indigenous Peoples’ rights in domestic legal frameworks [is often inadequate](#).

More information and guidance: The Resource Centre and Indigenous Peoples Rights International report [Protector not prisoner](#) and Cultural Survival, First Peoples Worldwide and SIRGE Coalition’s [Securing IPs’ Right to Self-Determination: A Guide on FPIC](#).

Power asymmetries between companies and communities

Rightsholders in mining-affected communities are in a position of considerable information and resourcing imbalance compared to companies – a situation only exacerbated by weak regulation and access to information rules. While some companies engage in good faith, many cause and exploit community divisions, persuading only individuals or elites who may be swayed by the opportunity for personal gain. Patriarchal power structures and other systems of discrimination can further exclude marginalised groups from decision-making. Despite growing transparency in the extractive sector, [complete access to information still remains rare](#), further disempowering communities.



Company structures and priorities

Corporate community engagement policies remain woefully inadequate. The [Corporate Human Rights Benchmark](#) found most extractive companies fail to directly engage rightsholders in their due diligence processes. Companies' policies to protect the rights of human rights defenders also remain vastly insufficient, as evidenced by the Resource Centre's [HRD policy tracker](#). The vast majority of mining companies also [do not have an adequate policy on FPIC](#).

Beyond policies, internal company dynamics, culture and practices can also shape community engagement. Those responsible for social performance or community engagement may lack decision-making power and related departments can be insufficiently resourced or skilled to be able to conduct meaningful engagement. Excessive corporate attention to financial variables and short-term returns can contribute to wrongfully interpreting community engagement as “slowing down” project decisions. Joint venture structures, common in the mining industry, can exacerbate the risk of governance gaps regarding human rights and rightsholder engagement.

Gender, intersectionality and community engagement

The experiences of individuals affected by the mining sector are shaped by gender, with gender norms and existing inequalities affecting women, men, and people of other gender identities. Women and girls are often [particularly negatively impacted by mining projects](#), and factors such as age, indigeneity, sexuality and class further shape their experience of mining. Engagement processes frequently fail to address women's specific needs, overlooking factors like literacy levels, work schedules and cultural norms when considering appropriate forms of participation. As a result, women are often excluded from meaningful participation, which leads to outcomes that do not address their needs and may even reinforce or worsen existing inequalities. For example, at the [Sangaredi bauxite mine in Guinea](#), some women were unable to access information related to compensation as that was only provided in written form.

Despite these challenges, women play a key role in resisting harmful mining practices. As leaders and activists, they also face gendered harassment and repression – [targeted both as defenders of their land and as women defying societal gender norms](#).

Process is essential but engagement must also have a bearing on outcomes

In the context of Indigenous Peoples' FPIC – which is to be understood as both a procedural and substantive right aimed to safeguard other substantive rights – both process and outcome matter, and several Indigenous Peoples have developed their own protocols.

In contrast, general guidance on “meaningful” engagement typically focuses on the process of engagement, and much less attention is given to outcomes. In the UK, however, the [Gunning Principles](#) have evolved out of case law to apply to public consultation, setting out four tenets for consultation to be considered legitimate: that proposals are still at a formative stage; that sufficient information is provided to give “intelligent consideration”; that adequate time is given for consideration and response; and that consultation responses were properly considered in the final decision. Ensuring feedback shared by communities is duly considered in the final decision and following policy and practice is [also key to build long-term trust](#). The Aarhus convention explicitly states⁴ that effective public participation shall happen when “all options are still open” – i.e., before the decision to mine is granted.

Way forward: a framework for meaningful engagement

To correct those power asymmetries and in a global context of accelerated mining permitting and licensing procedures, five key principles are essential to ensure meaningful engagement can take place throughout the permitting, exploration, operation and closure stages:

- ➔ Effective **protection by the state** of public participation rights, Indigenous Peoples' rights and civic freedoms, including freedom of expression and the rights to free association and assembly, is crucial.
- ➔ Rightsholders need to be able to **influence the outcomes** of the engagement process. States must initiate a public dialogue that is **safe and inclusive** around the decision to mine. **Access to justice** and the possibility to challenge decisions by the State must be guaranteed.
- ➔ Strong **access to information** laws and full **transparency** around project documentation must be guaranteed. Information must also cover relevance of the project in the context of the energy transition to provide an avenue for affected communities and the general public to scrutinise the impacts of accelerated permitting and licensing procedures.
- ➔ Once a decision to proceed with an activity (exploration, extraction, closure etc.) is made, **inclusive governance models** must be considered to ensure better decision-making and benefit-sharing with rightsholders, and ongoing engagement must continue throughout the project lifecycle
- ➔ Companies must adopt **robust policies** on stakeholder engagement, [HRDs](#) and Indigenous Peoples' rights, going beyond legislative and regulatory requirements; resource and capacitate internal teams.

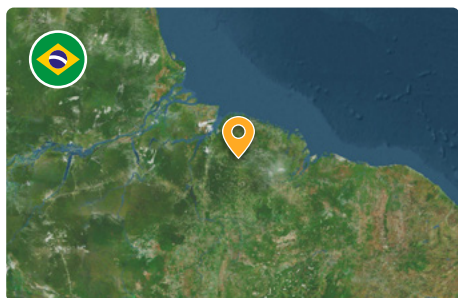


Photo by Mario Ramalho

Sidelined, obstructed and attacked: community engagement in practice



Legal loopholes and the Paragominas mine in Brazil



In Brazil in 2023, quilombolas, Indigenous Peoples and other communities brought a public action calling for the licence of the Paragominas bauxite mine pipeline to be revoked due to irregularities in the licensing process, including failure to respect FPIC. This followed decades of tensions and conflicts between the mine, **Mineração Paragominas**, its operators and surrounding communities.

Operational context

Brazil [ranked fourth globally](#) in bauxite production in 2023, with [over 80% of extraction](#) taking place in the State of Pará, home to [42 Indigenous ethnic groups](#), and [24% of Brazil's public forest area](#). Quilombola communities in Brazil are descendants of enslaved African people who established their own societies in resistance to slavery and maintain a unique cultural identity shaped by their historical struggles, deep relationship with the environment and strong connections to ancestral territories. Approximately 6,000 quilombola communities exist across Brazil, including [264 registered quilombola groups](#) in the State of Pará (the real number of quilombola communities may be higher).

Mineração Paragominas SA, which has been owned by the Norwegian aluminium and renewable energy company **Norsk Hydro ASA** since 2011, is a large bauxite mine located in the state of Pará. The mine was previously owned by **Vale**. In production since 2007, it produces an [estimated 11.4 million tonnes](#) of bauxite annually.

A [244 km pipeline](#) through seven different cities connects the mine to the Hydro Alunorte plant, the world largest alumina refinery, where bauxite is processed into alumina, essential for various renewable energy technologies. Much of the alumina produced at the refinery is consumed abroad, with [only 14% allocated to the domestic market](#) (2017).

Legal and institutional context

Brazil has ratified ILO Convention 169, recognising the right of Indigenous Peoples and Tribal Peoples, including [quilombolas](#), to FPIC under [domestic law](#). As a member of the Organisation of American States (OAS), Brazil is also bound by the American Convention on Human Rights (ACHR) – which, through evolving interpretation, particularly by the Inter-American Commission of Human Rights, also [recognizes the right to FPIC](#) of Indigenous Peoples and Tribal Peoples. Although quilombola communities in Brazil also legally recognised by the [Palmares Cultural Foundation](#) (FCP), the legal framework for FPIC in Brazil remains incomplete, with no specific legal instrument to regulate or provide guidelines for its implementation, [despite multiple attempts](#). While Brazil has also signed the Escazú Agreement, it has not been yet ratified by the parliament.

Current protections for the rights of quilombolas are therefore provided through [interministerial orders](#) and [decrees](#).⁵ These [require mandating](#) that projects undergo an *Estudo do Componente Quilombola* (ECQ) to evaluate potential effects of a project on quilombolas, followed by a *Projeto Básico Ambiental Quilombola* (PBAQ) which outlines mitigation measures. This process is overseen by the Instituto Nacional de Colonização e Reforma Agrária (INCRA), which is tasked with engaging quilombola communities; this is usually done through accompanying or delegating this responsibility to the company.

[Administrative procedures](#) to be followed by INCRA provide some concerning flexibility. For instance, if INCRA deems the community difficult to contact due to logistical reasons, or even due to resistance from the community itself, INCRA's written feedback can be accepted as a substitute for direct community engagement. Moreover, there is [flexibility](#) on the timing of the ECQ, PBAQ and overall consultations, even if these occur after the licence has already been granted.

The issues

Current conflicts surrounding the mine and the pipeline, including those related to consultation, have roots in [legacy issues](#). The conflict can be traced back to 2004, when **Vale** began installing pipelines in the area. Quilombolas viewed Vale as an external threat disrupting their way of life, motivated by a “[vision that was antagonistic to that of the quilombolas](#)”.

Initial discussions were marred by significant transparency issues, as shown in a 2006 report from the Pará's Federal Public Prosecutor's Office which revealed [serious irregularities](#). Vale's pipeline project, originally authorised with an EIA covering 64 km, was later found to span 236 km. This discrepancy violated the terms of the environmental licence and prevented rightsholders and stakeholders from fully understanding the project's impacts and assessing the risks to their lands, livelihoods and environment, undermining the principles of meaningful consultation.

Vale also failed to fulfil agreements made with the communities. For instance, in December 2006, quilombola groups from the Santa Maria de Tracuateua quilombo blocked roads to [protest Vale's failure to meet compensation commitments](#), such as building a community house and health centre, and repairing damaged infrastructure. Vale missed deadlines and refused to pay fines for delays, leading to [further protests and the destruction of a transmission tower](#), before an [agreement](#) was reached in February 2007. The company provided comments in response to allegations.



Photo by Luciana Christante

Continued consultation failures

Despite Vale selling the company to **Norsk Hydro** in 2011, failures to meaningfully engage with the communities, including but not limited to quilombolas, have persisted. In October 2023, the Public Defender's Office of the State of Pará, with the support of 26 Indigenous, quilombola and local groups, [filed a legal action against Mineração Paragominas](#) before the Agrarian Court. It requested the suspension of maintenance works on the mine pipeline on quilombola land in the Quatro Bocas district of Tomé-Açu, arguing that it had failed to obtain the FPIC of quilombola communities living in a 29km stretch along the mining pipeline, communities which were not recognised as impacted when the 2022 licence was awarded, nor in its past iterations. The quilombola territory in question [covers](#) more than 22,000 hectares, impacting at least 80 quilombola families, in addition to another 25 communities within the direct area of influence of the pipeline.

Furthermore, the action argued that the company had failed to incorporate the ECQ and the PBAQ for the renewal of the project's licence in 2022, despite those being mandatory since 2015. The new licence was approved without them, and although the company [stated](#) that the ECQ has been filed with INCRA in August 2023 and it has sought dialogue with the community, including [through consultations with impacted groups](#), there is no publicly available record of the communities that have been consulted.

The lack of policy establishing clear protocol for meaningful consultation and FPIC in Brazil, as well as a mechanism for auditing consultations, have created an accountability gap. This allows companies to unilaterally choose whom they consult within the communities, for example. On 14 October 2024, following an appeal by the Para Public Defender Office against a decision favouring the company in a separate legal action, the [Civil Court of Para](#) decided the case must be transferred to the Agrarian Court – effectively interrupting works until a decision before the Court is made. The legal action filed by the Public Defenders' office is still pending.

The struggle for FPIC amidst police violence, criminalisation and environmental harm

Indigenous Peoples, quilombolas and local communities' struggles have not been limited to legal challenges over the course of operation of the Paragominas mine. For example, in 2018, a leak from Mineração Paragominas' tailings basin reportedly [caused significant environmental contamination](#), leading to health problems among local residents. Even years later, communities continue to report negative [impacts](#) on their health and livelihoods. The company [states](#) that no overflow occurred and denies accusations of environmental pollution. Since 2022, quilombolas, Indigenous Peoples and other affected stakeholders have protested, demanding FPIC be respected. According to Indigenous Peoples, Riversiders (Ribeirinhos) and quilombola communities of the Vale do Acará, the company [filed legal actions against their leaders](#) in November 2023. Recently, after quilombolas and other Indigenous Peoples blocked a road through which employees from a subcontracted company entered their territories to work on the mine pipeline, they [faced intimidation](#) by state forces.

Was this engagement meaningful?

By failing to recognise the impacts on quilombolas, the project has disregarded their voices and their right to participate in decisions that affect their lands, resources and way of life. Legal loopholes in Brazil's regulatory frameworks have created a clear accountability gap which must close those clear requirements to operationalise FPIC in Brazil as well as for impact assessments to be conducted ahead of the project's licence being approved.

Weaponising engagement at the proposed Sijimali bauxite mine in India



In October 2023, amid heavy police presence and following arrests of over 20 community leaders who had spoken out against the mine, public consultation took place for the environmental clearance for the **Sijimali Bauxite** block in Odisha. In December 2023, multiple village assemblies were reportedly coerced to give their consent for diversion of forest lands for the mining project. The mine remains widely opposed by community members of the surrounding villages who allege it will destroy their environment and way of life. Repression of protestors continues.

Operational context

Globally, India is [one of the largest producers of bauxite and of aluminium](#). Odisha holds over half of India's bauxite reserves, [predominantly in tribal areas](#). The districts are part of India's "Adivasi" tribal areas, home to many groups that make up India's population of Indigenous Peoples.⁶ The **Sijimali** bauxite block is a planned mining project located in the Kalahandi and Rayagada districts of Odisha, India, located on both forest and non-forest land. The mine is expected to [impact 18 villages](#), displacing 100 families and affecting 500 families, although these figures are disputed. The proposed concession area is near the Karlapat Wildlife Sanctuary in Kalahandi district.

The Sijimali bauxite block was awarded to **Vedanta Limited** in February 2023. The Environmental Impact Assessment has been drafted, and the mining plan has been [approved](#) by the Indian Bureau of Mines. Public consultation on mining projects is typically limited to the environmental clearance stage, which occurs after the EIA has been drafted.

Vedanta Limited is owned by [Vedanta Resources Limited](#), a London-based company that also owns [Konkola Copper Mines in Zambia](#). The company's subsidiaries, including **Vedanta Aluminium**, operate through local contractors such as **Mythri Infratech** in Odisha. Vedanta has a long history of involvement in Odisha's bauxite mining industry. In a separate bauxite mining project in the Niyamgiri hills (which neighbour the Sijimali bauxite block), the UK OECD National Contact Point found in 2009 that the company had [breached](#) the [Guidelines](#) for Multinational Enterprises on Responsible Business Conduct (including excluding rightsholders from consultations and potentially colluding with police intimidating them).

Legal and institutional context

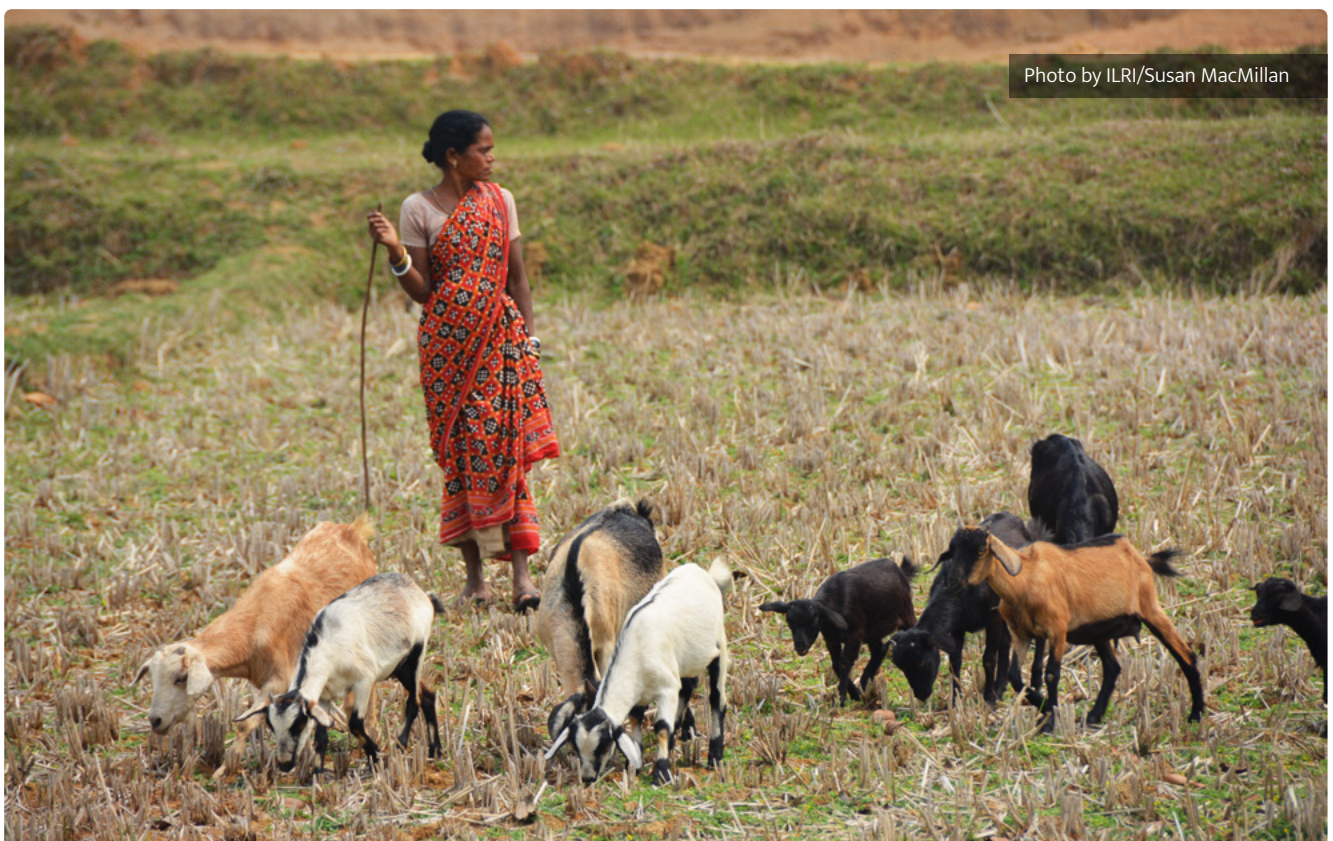
Adivasis, legally recognised as “Scheduled Tribes,”⁷ are guaranteed rights under the Indian Constitution, specifically in the Fifth and Sixth Schedules. Schedule Five protects certain Adivasi lands, granting them specific legal land rights. A 1994 amendment to the Constitution [conferred decision](#) making authority to local elected bodies: Panchayats (village councils) and Gram Sabhas (village assemblies). Further, the 1996 Panchayats (Extension to Scheduled Areas) Act (PESA) reinforced the requirement for consultation with these bodies before Adivasi land can be acquired or communities resettled. In a [landmark decision](#) in 1997, India’s Supreme Court recognised that leasing tribal lands for mining purposes violated the Fifth Schedule of the Indian Constitution.

The landmark 2013 Niyamgiri Supreme Court judgement⁸ recognised that Gram Sabhas had the final say over land use for extending community rights beyond just consultation to include a power of veto. In response, all [12 Gram Sabhas unanimously rejected the mine](#) in mid-2013, effectively halting the project after over a decade of resistance.

Despite this landmark decision and legislation such as PESA and other acts, village decisions have been routinely overruled across India by public authorities approving development projects. The [UN Human Rights Committee](#) expressed concern that the lands of tribal peoples are often threatened by development projects without proper consultation or consent, and that laws enacted to protect land rights and prevent violence and discrimination against Indigenous Peoples are inadequately enforced.

The issues

Concerns over the Sijimali bauxite block are part of a broader resistance to bauxite mining in Odisha. Since the project was first announced, surrounding villagers have faced repression, with arrests of multiple community leaders, police harassment, attempts to intimidate them away from public consultations, and efforts to subvert the decision-making autonomy of Gram Sabhas to give false consent to the mining project.



Possible subversion of legally mandated public participation in environmental decision-making

As part of the environmental clearance process for the Sijimali bauxite project, public consultations on the draft EIA were scheduled by the Odisha State Pollution Control Board on 16 and 18 October 2023 in the Rayagada and Kalahandi districts. Before the first consultation, armed police were allegedly deployed along roads leading to villages opposed to the mine. The roads were also [reportedly monitored by company affiliated individuals](#), who selectively allowed only certain people – such as media and political agents – into the meetings. Despite this and other accessibility issues – one woman [recounted](#) trekking 60 km through the night to attend the meeting – [villagers managed to access the consultation](#) and voice their strong opposition to the project. They [highlighted](#) harassment allegedly by company-linked individuals, theft, forced home entries, and [beatings of women](#) who were protesting. The company [denies](#) any wrongdoing.

Villagers also raised concerns about [numerous shortcomings](#) in the EIA itself, pointing out inaccuracies in the number of villages impacted by the project, failure to recognise the Sijimali hills as the sacred home of the deity Tiji Raja, and lack of reference to the streams that flow from the hills and hilltop forests. The second consultation, on 18 October, saw another [widespread police presence](#). On 29 October 2023, a joint meeting of several villages [passed a resolution](#) demanding the withdrawal of Vedanta's lease for the project, citing widespread opposition at the hearings.

Manipulation of public assemblies for appearance of consent

Despite this rejection of the mine, in December 2023, district authorities – purportedly in the presence of Mythri Infratech employees – reportedly [attempted to hold assemblies](#) in affected villages to create the illusion of support for the project (the company [denies](#) participation in the organisation of the proceedings). Armed police were again deployed, and villagers were allegedly threatened or bribed to participate. In some cases, women were reportedly coerced into posing for photos with outsiders to falsely demonstrate that the Gram Sabhas had taken place. [Despite overwhelming rejection of the project](#) at the consultations in October, records of these meetings indicate support for the project. Several months later, 10 villages [held their own Gram Sabhas](#) reaffirming their opposition to the mine.

Systematic repression and allegations of police violence

In August 2023, [Krushna Sikaka](#) and [Bari Sikaka](#) from Niyamgiri Surakhya Samiti (NSS), a community-led organisation resisting bauxite mining in Odisha, were abducted by the police. Nine other members of the organisation were accused of unlawful assembly for protesting the abduction of their colleagues and charged under the Unlawful Activities Prevention Act (UAPA), a counter-terrorism law documented for its use targeting critics of the government. These defenders are [Ladda Sikaka](#), [Drenju Krushka](#), [Manu Sikaka](#), [Samba Huikia](#), [Lingaraj Azad](#), [Gobinda Bag](#), [Upendra Bag](#), [British Naik](#) and [Lenin Kumar](#). On 16 August 2023 three other members of NSS, [Dhanful Majhi](#), [Sitaram Majhi](#) and [Anil Nayak](#), were also arrested.⁹ The timing of these arrests appears to have been aimed at disrupting the [growing support](#) from the Niyamgiri movement to the Sijimali movement.

Many activists were detained during the public consultation period, and numerous raids were [carried out](#) in the lead up to hearings; [multiple reports](#) have been filed by the police against village and community leaders. Odisha-based activist Prafulla Samantara, president of [Lok Shakti Abhiyan](#), was abducted on 29 August 2023, allegedly by the police, as he was due to meet tribal leaders in prison in relation to their resistance against mining in the region. On 15 October 2023, the People's Union for Civil Liberties wrote to the Odisha State Pollution Control Board [requesting cancellation of the public hearings](#), citing fear and intimidation by the police and company.

These tactics of repression were gendered, with [reports of women being beaten during protests](#) and harassed by police in their efforts to access public consultation. Drones were also reportedly deployed to monitor villages, creating discomfort for women in their daily activities such as washing and changing.

Alleged collusion between state and company officials

Reports consistently indicate Mythri Infratech personnel or individuals connected to the company were seen working alongside police – blocking access to public consultation together or collectively attempting to subvert the Gram Sabhas. According to one report, when villagers attempted to lodge a complaint against Mythri Infratech personnel, they were beaten by police. Allegations of [financial ties](#) between Vedanta and the ruling Bharatiya Janata Party, including significant donations, have also raised concerns about the company's influence on environmental regulation in India.

Was this engagement meaningful?

The public consultation on the Sijimali project took place only after the draft EIA report was submitted, by which time many critical decisions had already been made, including the award of the mining licence itself. This late-stage consultation undermines genuine public participation and decision-making.

The Sijimali project is also being developed in a context of ongoing regulatory changes that weaken environmental and social safeguards, particularly in the context of mining projects. Amendments to the 1980 Forest Conservation Act in [August 2023](#), for example, opened up more land for mining, further enabling corporations to bypass community consent. The [speed with which the Sijimali project is being approved](#) – moving from the award of the project to the drafting of the EIA and a “no objection certificate” in less than a year – limits opportunities for meaningful consultation, participation and public review.

There can be no meaningful engagement with rightsholders amid state-backed repression, where legal processes have been undermined and decision-making processes subverted. The central and state government continues to prioritise mining despite the clear and ongoing rejection of this from communities in Odisha. Despite the widespread rejection of the project, Vedanta is doubling down, and in October 2024 announced an investment to set up an aluminium plant and refinery in Odisha.

Sidelineing community voices in Covas do Barroso, Portugal



In December 2023, prosecutors in Portugal asked the Administrative Court to annul the environmental permit for the proposed **Covas do Barroso** lithium mine, alleging the permit violates Portuguese domestic law and international commitments, given risks to heritage and the environment. This case follows widespread resistance to the mine from the surrounding community in the face of limited engagement from both the government and the company and a failure to respect public participation rights. The scale of the concerns raised about the potential impacts of the project, the inadequate public consultation, the challenges in accessing information and silencing tactics were noted in the [report](#) of the Special Rapporteur on the rights to a clean, healthy and sustainable environment following his visit to Portugal in 2022.

Operational context

Portugal holds significant lithium resources, which were previously mined as feldspar for the ceramics industry. In recent years, the country has promoted itself as a key supplier of critical minerals in Europe's energy transition.

The proposed Covas do Barroso lithium project is in the Barroso region in northern Portugal, where eight concessions are currently signed. Estimates indicate 39% of the region's land area is [targeted for lithium mining and exploration](#). Primarily agricultural, the region was designated as a "Globally Important Agricultural Heritage System" by the UN's Food and Agriculture Organisation in 2018.

The project site is located in the Boticas municipality, where four open pit mines are planned. Much of the land in Boticas is "Baldios" – common land managed collectively by the community. [Seventy-one percent of the land](#) needed for the mine is common land. Likely to be designated a strategic project under the EU CRMA, the Barroso lithium project is wholly owned by UK-based [Savannah Resources Plc](#). Production is planned to [commence](#) in 2027, with an estimated 14-year mine life.

Currently, the Barroso project is Savannah's only asset. Before Savannah took full control, the project underwent several ownership changes. Initially licensed in 2006 as a feldspar and quartz mine, the project's [mine plan](#) was updated at least twice, expanding the concession area each time and adding lithium as a concession mineral in 2016, without public consultation. When Savannah acquired the full stake in 2019, it added an [adjacent lease to the project area](#).

Legal and institutional context

In Portugal, the mining authority Direção Geral de Energia e Geologia ([DGEG](#), General Directorate for Energy and Geology) issues mining licences, whilst the environmental agency Agência Portuguesa do Ambiente (APA, Portuguese Environment Agency) leads the EIA process. Portugal's legal framework for mining was amended in 2021.¹⁰

Baldios have [special constitutional status](#), requiring the mine operator to lease the land from the local Baldios council, elected by the community to manage the common land. The state [retains the right](#) to expropriate common land for public utility. However, such expropriations were last carried out during the [Estado Novo](#) regime in the 20th century, and case law questions whether such action would violate the constitutional principle of community autonomy with regard to common lands. In terms of international law, Portugal ratified the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters in 2003, and as an EU member state, must transpose EU directives and give effect to EU regulations in its national legal frameworks, including the CRMA, the CSDDD and the Battery Regulation, among others.

The issues

Communities in the Barroso region have reported significant concerns about environmental and livelihood impacts of the Barroso lithium project. These concerns are compounded by limited engagement from the state, which has been [accused of sidelining local interests](#). In response, community members formed the Unidos em Defesa de Covas do Barroso (UDCB, United in Defence of Covas do Barroso) in 2018 to assert their public participation rights.

From the start, communication failures and highly centralised decision-making have dogged the project. While the Portuguese government has promoted the Barroso region as an investment destination for the lithium sector at international conferences, the central government's communication about the project in Boticas has been opaque. The local community learned of the mine plans after noticing the prospecting in the area, and by reading reports on investment in lithium through English language sources, rather than proactive government outreach.¹¹ They then sought information from their municipality, but found local authorities had also not been consulted – a concern the Mayor of the Boticas municipality [expressed](#) during a parliamentary visit in the area in March 2019. Central government authorities insisted locals come to Lisbon – over 400 km away – to find out more. The 2016 revised contract – adding lithium as a concession mineral – was only published in 2019.

Savannah, the project operator, has held few community meetings. One early meeting was conducted solely in [English](#), and Savannah reportedly told the community that the [mine would proceed regardless of opposition](#). This stance limited engagement to a one-sided information session.

Nevertheless, opponents of the project have been [unfairly framed](#) as uninformed or as engaging in “Not In My Backyard” (NIMBY) thinking. This overlooks the fact that community members, balancing work and family, have actively sought information about mining, the energy transition, and their public participation rights, connecting with watchdogs both in Portugal and abroad.

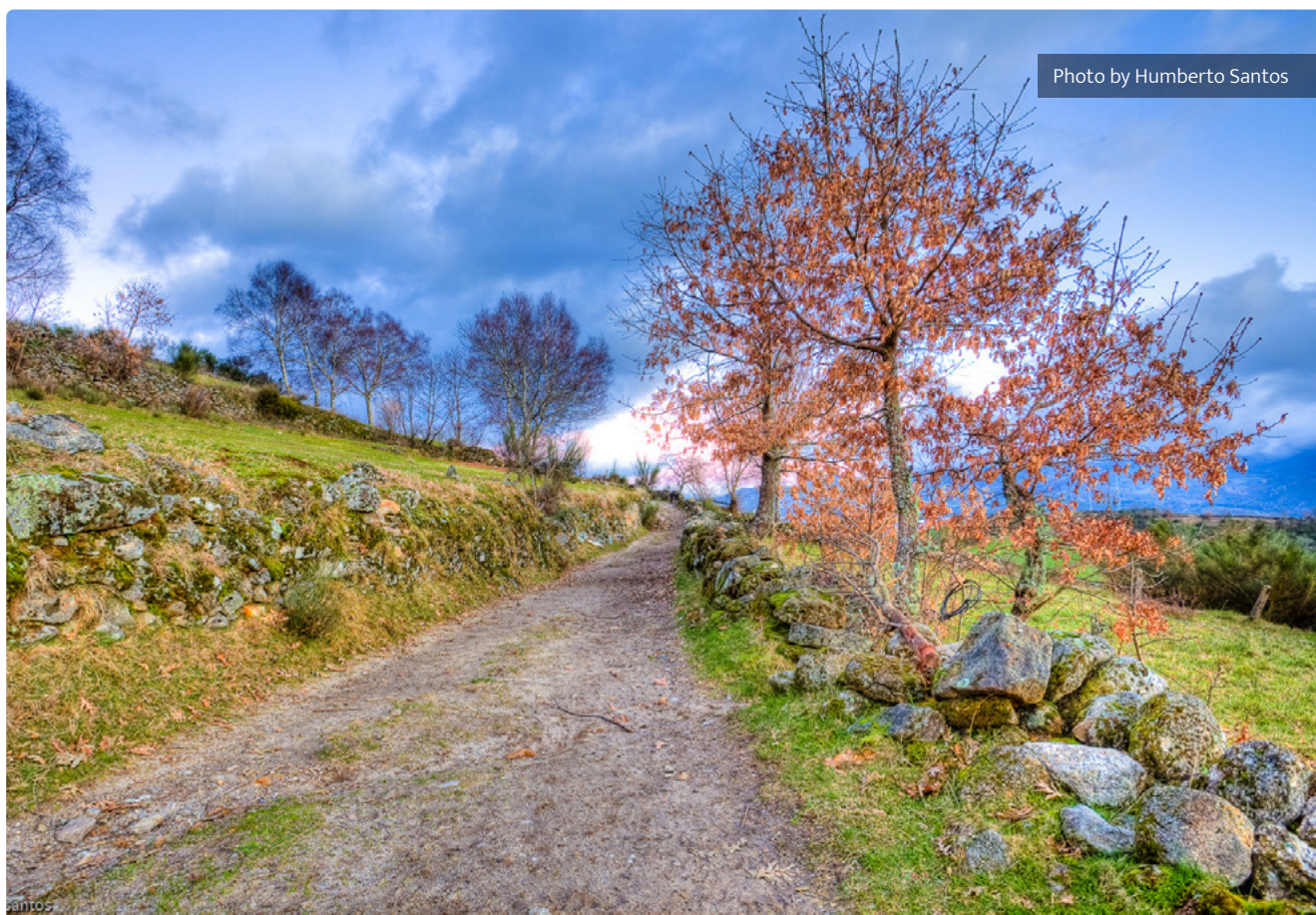
Limited public participation and access information issues in the Environmental Impact Assessment

Formal community input into the project has been highly limited, with the public consultation component of the EIA serving as one avenue. Savannah submitted three versions of the EIA, with the first two deemed non-compliant by the APA. Only after a third submission in 2023 was the EIA [approved](#).

Throughout this EIA process, community members were often kept in the dark. Requests for information to the APA and DGEG were either ignored or denied. When the community appealed to Portugal's Commission for Access to Administrative Documents ([CADA](#)), CADA issued opinions in their favour, but these were not acted upon by the APA and DGEG authorities.

Even when the public consultation commenced, the community faced further obstacles. [Some of the requested information](#) was not made available, and much of it was released late in the consultation period. The review timeframe was short, given the volume of information (exceeding 6,000 pages), and the community had to push for an extension. During the second consultation, APA reduced the timeframe still further, citing the revision of an earlier submission, even though there was no clear indication of what had changed. It was only at this point the community learned the first EIA had been rejected.

In 2021, community members, represented by Spanish NGO Fundação Montescola, submitted a (still pending) [communication](#) to the Committee of the Aarhus Convention, alleging violations of their rights to information and public participation. In December 2023, prosecutors requested [annulment](#) of the project's environmental permit, alleging legal infringements and upholding a lawsuit that had been filed by the Boticas municipality to halt the mine.



Savannah Resources' allegedly intimidatory tactics

Reports have highlighted Savannah's use of aggressive tactics to acquire land for the project development, including private land and common land. Private landowners have been [pressured to sell their land](#), purportedly with [threats of expropriation](#) if they refuse. There are also allegations that Savannah inflated land sizes during the registration process, encroaching on Baldios,¹² leading to the community [filing a lawsuit](#) in 2022. While the Baldios board is currently opposed to mining on this land, some individuals with connections to Savannah have allegedly attempted to influence the use of the board's decisions, although these efforts have not been successful.¹³ Under the approved EIA, Savannah is required to reach agreement with the community. However, there are concerns this process will be manipulated. While the community in Covas do Barroso is opposed to the mine, Savannah has reportedly persuaded the neighbouring parish, where the proposed tailings dam would be located, that the project will benefit them.¹⁴ These tactics are causing rifts in the community.

Broader context of corruption and lobbying

In November 2023, a corruption probe into lithium mining in Portugal led to the detention of several individuals, including the Prime Minister's chief of staff. Following this announcement, the Prime Minister at the time, Antonio Costa, [resigned](#). The probe is looking into possible corruption, influence peddling, and malfeasance related to lithium projects, [including the Barroso concession](#). The President of the Executive Board of the APA was indicted as part of the probe. This raises serious concerns about the motivations behind and prioritisation of interests in decision-making in the development of lithium mining in Portugal. Portugal notably has no lobbying regulations, and concerns have been raised about the pro-mining lobby's influence on politicians. Some politicians appear to have adopted arguments from mining companies themselves, while media reports have been criticised for effectively acting as mining propaganda. Further exacerbating the concerns, a media owner has become a [significant shareholder](#) in the Barroso project.

Was this engagement meaningful?

Portugal was one of the first countries in the world to recognise the right to a healthy environment in its constitution, in 1976. Nevertheless, the Portuguese government has sought to push the Barroso project ahead regardless of the opposition and without proper engagement with those concerns, including withholding project documents – deemed relevant by the information commission. The impacted community argues that the [intrinsic value of the region is being ignored](#) in favour of the potential gains of a 14-year mine. The company provided a [response](#) to allegations and stated that it “remains committed to listening to all voices, including those expressing concerns or opposition, to continuously improve the project and ensure it delivers value to the region in the most responsible and inclusive manner possible.”

Conclusion and recommendations

The three cases in this briefing, although egregious, are not outliers. They share concerning characteristics that demonstrate the risk that the rush to extract transition minerals poses to rightsholders. Each of these communities, on paper, had special protections under their domestic legal frameworks and other applicable regional or international instruments. In Brazil and India, affected rightsholders supposedly had specific consultation and FPIC rights, whilst in Portugal, their common land had a special and protected legal status. This has not stopped state authorities and companies trying to circumvent them. Similarly, in each of these countries, the state has tried to streamline or accelerate aspects of their mining permitting process or environmental protection framework.

Due process in community engagement is essential for safeguarding individual and collective rights, and better practice exists. But the voice of rightsholders must also have bearing on the outcome and decision to mine. Where public participation is met with reprisal, including attacks on HRDs; where the decision to mine has already been made; and where laws and procedures are being amended to facilitate the rapid development of transition mineral projects and companies' policies are inadequate, there can be little meaning from the engagement processes that follow. Whilst companies have a responsibility to engage with rightsholders, states have a central role to play in setting an effective and accountable framework for this to take place within, predicated on respect for civic freedoms.

Public participation rights matter, not because every mining project will immediately run roughshod over the interests of rightsholders, but because many have – and the erosion of safeguards only makes this more likely.



Pathways toward meaningful engagement

1. Ensure consistency in the domestic legal framework and robust human rights protection

Where expediting approvals and “streamlining” licensing for mining operations hinder public participation rights, these amendments are likely to be inconsistent with international law and standards. Domestic legal frameworks for mining related approvals and consultations need to be consistent with international law and standards, including the [Aarhus Convention](#), the [Escazú Agreement](#), [UN Declaration on the Rights of Indigenous Peoples](#) (UNDRIP), and the [UN Declaration on HRDs](#), and be supported by a robust human rights protection framework that ensures protection of Indigenous Peoples’ Free, Prior and Informed Consent, of the right to peaceful assembly, freedom of expression and access to information, among others.

Roles and responsibilities between mining, environmental and access to information agencies need to be clear in domestic law and policy and they need to be publicly communicated. Legal frameworks should include social and human rights impact assessments alongside independent EIAs and these should integrate gender and intersectional analysis.

Access to justice must also be guaranteed: rightsholders must be provided with legal avenues to challenge the legality of decisions and acts taken or adopted following public consultations and engagement.

2. Undertake public dialogue around the decision to mine, led by states, in a safe and inclusive manner

States need to facilitate an informed and inclusive public discussion and consensus at a national or state level around resource use, before the decision to mine is taken. Gendered differences in views and priorities or other differences from groups more marginalised from decision-making should be actively explored. While it is not always possible to reach a decision that satisfies everyone, widespread concerns or resistance to mining should be treated as serious issues, not as uninformed complaints, and the HRDs who often raise them should be seen as “[critical friends](#)”, rather than as troublemakers. The logical outcome of meaningful engagement may be, at minimum, to review the parameters of planned projects – and sometimes to forgo mining altogether. When engagement is left only to companies or pushed until later in the process, it also leaves companies in the position of needing to either walk away from a project they have invested in, which they are not likely incentivised to do; or push ahead, risking implicating themselves in further human rights violations and exposing themselves to delays and potential litigation.

3. Expand, not reduce informational scope around mining

Access to information requirements should be clearly communicated to rightsholders and to companies and states, including access to contracts, their annexes and EIAs-related information – which are still too often not published at all, [despite recent progress](#). Information on projects needs to be objective and accessible, and rightsholders must have sufficient time to review. Without efforts to simplify or clarify, taking into account language and literacy barriers, technical information can alienate rightsholders, creating a false sense of transparency. So-called “zombie transparency” reflects provision of overwhelming quantities of data but a failure to support genuine community understanding.

Information provided over planned projects also needs to go beyond project-level information. First, claims that certain projects are “green” or imperative for the transition needs substantiation. The scope of information made available to project-affected rightsholders should be expanded to encompass the project’s role in the transition. Meaningful engagement from the state should include information on domestic energy transition policy, including demand reduction, as well as intended end-users for minerals. Companies which invoke the energy transition in their engagement must also substantiate it.

Full transparency over “public interest” clauses or exemptions should also be guaranteed. Without greater clarity and transparency over land rights and what constitutes public need exemptions, states can make arbitrary designations with minimal scrutiny. When the threat of expropriation for public interest reasons is invoked, rightsholders are immediately disempowered in negotiations and made vulnerable to coercive tactics.

4. Invest in different models of power-sharing and oversight with communities

Where projects are approved, local, national authorities and companies should work with rightsholders and independent experts, to design engagement and decision-making models that meet their needs and respect their own decision-making processes. More detailed recommendations on benefit-sharing models in the mining sector are available [here](#).

Rightsholders should be involved in the design of grievance mechanisms, with access to independent expert advice. Funds should be set aside by the company, managed separately, for rightsholders to undertake their own assessments if needed.

5. Adopt strong corporate human rights policies, going beyond legal requirements

Listening to concerns raised by HRDs and other rightsholders is an essential part of company human rights due diligence. Mining companies must commit to engage in good-faith dialogue with affected rightsholders and stakeholders in a rights-based, safe, equitable and inclusive manner. This must mean that companies need to commit to a zero-tolerance approach for [attacks against HRDs](#) and adopt unequivocal language on respect for FPIC, meaning that projects affecting Indigenous Peoples and their territories should not proceed without FPIC.

Critically, companies have a responsibility to respect human rights regardless of the state’s own fulfilment of human rights protection obligations. This means that where mining projects are undertaken in contexts with limited human rights protections under domestic law, or where implementation of human rights safeguards have been weak, companies must enhance their engagement processes, as statements of national authorities in these circumstances may fail to represent the views of the population, Indigenous Peoples and other communities. Particular attention should be paid to understanding which groups are more marginalised from decision-making, whether based on ethnicity, Indigeneity, gender or other factors. Companies should remain aware that even with the apparent backing of the state, they may still remain complicit in and potentially liable for human rights abuses.

Companies that are end-users of minerals must acknowledge they are likely linked to abuses, and must urgently look into their upstream value chains and engage with the mining sector to mitigate and prevent human rights abuses.

Recommendations

To all states

Where possible, ratify the Aarhus convention and the Escazú agreement and critically review the existing protections of essential human rights in national laws and regulations including freedom of speech, freedom of peaceful assembly and access to information.

- ➔ Accede to or, if already ratified, fully implement all [key international and regional standards](#) that protect the human rights of defenders, including those raising concerns about harmful business practice, including through adopting anti-SLAPP legislation.
- ➔ Legally recognize, respect, guarantee and protect Indigenous Peoples' rights including FPIC, and other internationally recognised rights, as enshrined in UNDRIP and jurisprudence, as well as recognition of the specific rights of Afro-descendant people.
- ➔ Pass national laws to implement the UNGPs, including mandatory gender-responsive human rights due diligence legislation, and consult with HRDs at all stages of this process. This legislation should mandate that business actors engage in ongoing, meaningful, safe and effective consultation with HRDs and other rightsholders potentially or directly affected.
- ➔ Pass and implement legislation recognising the right to defend rights and the vital role of HRDs in promoting human rights, sustainable development and a healthy environment, and committing to zero-tolerance for attacks (more detailed recommendations available [here](#)). This must include placing a positive obligation on companies to prevent retaliation against HRDs across their operations and value chains.

To governments of mineral-producing countries

In addition to the recommendations detailed above, governments of mineral-producing countries should:

- ➔ Convene national or state-level dialogues over land and natural resource use in developing mining sector strategies and priorities prior to developing projects, ensuring that assessment of potential human rights impacts remains part of these dialogues and that this includes detailed analysis of intended end use of minerals.
- ➔ Where necessary, amend legal frameworks to include robust social, environmental and human rights impact assessments requirements for new mining projects or extensions.
- ➔ Ensure progressive legislation on access to information. This must ensure project documents, including contracts and their annexes, and impact assessments are easily accessible to rightsholders, in a clear and culturally appropriate manner.
- ➔ Ensure all project assessments are subject to review by technically competent and independent entities, that there is no conflict of interest, and that there is a clear and central contact point for reporting of mining-related human rights and environmental concerns, potentially involving national human rights institutions.
- ➔ Ensure demonstration of strong internal company capacity on human rights and social impact is part of application assessment process, including details of companies' decision-making powers, staffing and budget.

- ➔ Consider the creation of independently managed engagement funds for communities to use in information gathering and exercising their public participation rights.
- ➔ Adopt effective legal frameworks for benefit-sharing that include clear requirements for the private sector beyond voluntary corporate social responsibility initiatives. More recommendations available [here](#).

To governments of importing countries

- ➔ Undertake a review of human rights obligation records, including in relation to FPIC and public participation, when considering mineral partnerships with other countries and publish the findings
- ➔ Ensure actionable human rights, public participation and access to information and anti-SLAPP requirements are included within transition mineral partnerships and agreements

To companies

- ➔ Implement gender-sensitive human rights and environmental due diligence across operations, supply chains and business relationships, going beyond regulatory requirements where absent or insufficient, in accordance with the UNGPs and the UN Working Group on Business and Human Rights' guidance on ensuring respect for HRDs – alongside access to remedy, through effective grievance mechanisms, built on safe and inclusive community engagement.
- ➔ Respect and publicly report on good-faith consultation, engagement and negotiations with rightsholders, paying particular attention to those at heightened risk of vulnerability or marginalisation, prior to investment decisions and during operations, and commit to avoid considering public opposition as uninformed complaints; ensure this encompasses the role of business partners.
- ➔ Work with rightsholders to design engagement and decision-making models that meet their needs and respect their traditional decision-making processes.
- ➔ Adopt non-equivocal policies for respect of Indigenous Peoples' right to FPIC, including their right to say no, and their right define the process through FPIC protocols – regardless of any opposing claims by governments.
- ➔ In engagement policies and practices, commit to avoid tokenistic approaches: adopt corporate policy endorsed by senior management, provide sufficient internal resources, train personnel, and schedule engagement activities in advance. Provide adequate review time when sharing project documentation, working to remove language and digital and literacy accessibility barriers.
- ➔ Adopt a company-wide policy commitment to not tolerate or contribute to attacks on human rights and environmental defenders and to work with HRDs to create safe and enabling environments for engagement. This should include an expectation for suppliers and business partners to do the same.
- ➔ Create independently managed engagement funds for communities to use in information gathering and exercising their public participation rights.
- ➔ Where FPIC has been received, or consent from non-IP communities achieved, implement and document mutually agreed, fair and equitable benefit-sharing agreements.
- ➔ End-user companies: insist on the responsibility of upstream minerals suppliers to ensure full respect for human rights and the environment through the adoption of responsible mineral sourcing policies.

Endnotes

- 1 Articles 6, 7, 37, [Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations \(EU\) 168/2013, \(EU\) 2018/858, 2018/1724 and \(EU\) 2019/1020](#).
- 2 Articles 5, 13 of the [Corporate Sustainability Due Diligence Directive](#).
- 3 Case studies were selected through the Resource Centre's ongoing monitoring of transition mineral projects. Seven key informants have been interviewed for this briefing.
- 4 [Convention on Access to Information, Public Participation in decision-making and access to justice in environmental matters](#) ("Aarhus convention"), Article 6.4.
- 5 [Portaria Interministerial 60/2015](#) and [Decree 10.252, 2020](#).
- 6 The situation of Indigenous Peoples' rights in India is paradoxical. India voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) however India considers all Indians to be indigenous. See [analysis](#).
- 7 The Special Rapporteur on the Rights of Indigenous Peoples has noted that "Indigenous peoples in Asia include those referred to in national legislation and policies as tribal peoples, hill tribes, ethnic minorities, natives, customary communities, scheduled tribes and Adivasis." (see A/HRC/45/34/Add.3, para. 4)
- 8 Orissa Mining Corporation v. Ministry of Environment & Forest & Other, Supreme Court, 2013 (note that the state of Odisha was previously known as Orissa until 2011).
- 9 In May 2024, Vedanta Resources sent a response regarding attacks against human rights defenders raising concerns about bauxite mining in Odisha; it is available [here](#).
- 10 Via [Decree-Law No. 30/2021](#) amending [Law No. 54/2015](#).
- 11 Findings from interview.
- 12 Findings from interview.
- 13 Findings from interview; see also [Dunlap & Riquito, 2023](#).
- 14 Findings from interview.

Several references are also made to the following sources:

- ➔ Chitkara, R. [Under the Surface: Human Rights and Environmental Implications of the Proposed Sijimali Bauxite Mine in Odisha](#), National Law School of India University, 2024
- ➔ EEB, [Sacrifice zones for sustainability? Green extractivism and the struggle for a just transition](#), European Environmental Bureau, 2023
- ➔ Dunlap, A., Riquito, M. [Social warfare for lithium extraction? Open-pit lithium mining, counterinsurgency tactics and enforcing green extractivism in northern Portugal](#), Energy Research & Social Science, 95, 2023
- ➔ Wilson, E., Best, S., Blackmore, E., Ospanova, E. [Meaningful community engagement in the extractive industries: Stakeholder perspectives and research priorities](#), IIED, 2016



Business & Human Rights Resource Centre

DECEMBER 2024

Business & Human Rights Resource Centre is an international NGO which tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

AUTHORS: Sophie Rickard, Caroline Avan and Natalia Daza Niño

RESEARCH SUPPORT: Marina Novaes and Anithra Varia

The Business & Human Rights Resource Centre would like to thank the individuals who gave their time, knowledge and insights to participate in interviews for this briefing. The Resource Centre would also like to thank journalists, researchers and activists documenting violations of public participation rights first hand, sometimes at great risk, without whose work this report would not have been possible.