Climate Rights International
449 Boynton Avenue
Berkeley, California 94707

Climate Rights International Submission to the Office of the High Commissioner for Human Rights on Just Transition, re. Resolution 56/8 – Human Rights and Climate Change

December 17, 2024

A fast, fair, and just transition is critical to securing the climate system, protecting the human rights of present and future generations, and moving from an extractive to a regenerative economy, which prioritizes planetary and human health over financial gains. It requires that the transition from fossil fuels to renewables is done in a rights-respecting way, and the extraction of transition minerals does not harm the rights of frontline communities. It also requires that those responsible for violations are held accountable, and victims of wrongs have access to justice, compensation, and reparations.

The following submission will focus on the impacts of the drive to source transition minerals – e.g. lithium, cobalt, copper, and nickel – on human rights, as well as steps that can be taken to protect the human rights of people at the frontlines, including especially Indigenous Peoples, of mining and mineral processing. The transition to renewable energy is essential, but strong government regulation and oversight is necessary to ensure that the growing transition mineral industry and related supply chains do not replicate the appalling labor and environmental practices that have long characterized extractive industries around the globe.

1. *Please share concrete examples and stories describing opportunities, best practices, actionable solutions, challenges, and barriers relevant to just transition and the full realization of human rights for all people, including but not limited to the rights to health, a clean, healthy and sustainable environment, equality and non-discrimination, decent work, and access to justice and remedies.*

Transition Minerals: Indonesia Nickel Case Study

Climate Rights International (CRI) has documented how a massive, multi-billion-dollar nickel industrial complex in North Maluku, Indonesia and nearby nickel mining is violating the rights of local communities, including Indigenous Peoples, causing significant deforestation, air and water pollution, and emitting massive amounts of greenhouse gases from captive coal plants.[1] For the 124-page report, "Nickel Unearthed: The Human and Climate Costs of Indonesia's Nickel Industry," CRI interviewed 45 people living near smelting operations at the Indonesia Weda Bay Industrial Park (IWIP) and nearby nickel mines on the island of Halmahera.

Local residents explained how companies, in coordination with Indonesian police and military personnel, have engaged in land grabbing, coercion, and intimidation of Indigenous Peoples and other communities, who are experiencing serious and potentially existential threats to their traditional ways of life. Nickel mining and smelting operations are causing pollution that threatens local residents' right to safe, clean drinking water. Deforestation has also been linked to the degradation of freshwater resources, as forests filter water, reduce erosion, regulate rainfall, recharge groundwater tables, and buffer against the impacts of droughts and floods.

[1] Climate Rights International, "Nickel Unearthed: The Human and Climate Costs of Indonesia's Nickel Industry," January 2024, https://cri.org/reports/nickel-unearthed/.

According to Max Sigoro, a 51-year-old Sawai fisherman from the village of Gemaf just outside of IWIP,

> Before the mining, the fish stock was abundant, the sea was clear. Now, I can't catch fish near [IWIP]. The water is dirty, and the security chases us away. The water pollution is from mining. There is oil in the water from the machines. Also, hot water from the power plants is polluting the ocean. Sometimes the water is reddish. We used to row our boats close to the shore to fish, now we have to go further out.[2]

Residents in villages near IWIP are concerned that newly developed health problems, including respiratory and skin problems, are related to pollution from the construction and operation of IWIP and its captive coal-fired power plants. Although public health studies needed to attribute these health problems to industrial nickel activities at IWIP and surrounding nickel mines have yet to be conducted, the types of health impacts reported are consistent with what other studies suggest may be expected from exposure to pollution from nickel mines, smelters, and coal-fired power plants. For example, Marlene Burhan, a 47-year-old housewife in Lelilef, began suffering from respiratory ailments after operations at IWIP began. She told Climate Rights International that she thinks the nickel industry operations have negatively affected her health and the health of her family. Marlene's three and six-year-old granddaughters, who live with her, also have breathing problems:

> I felt like I was dying. I couldn't breathe. The nickel mining impacts my health. Now, I have phlegm and coughing. I also get flu symptoms. The coughing happens two or three times per month. I think it's from the dust from the mining.[3]

Indonesian Nickel and the Global Energy Transition

Much of the nickel processed at IWIP and elsewhere in Indonesia is exported to meet the growing demand for nickel for use in renewable energy technologies, including batteries for electric vehicles. For instance, CRI was able to document clear supply chain links between several U.S. and European automakers, including Tesla, Ford, and Volkswagen, and nickel processing companies in Indonesia.

To meet the growing demand for EV batteries and other renewable energy technologies and in a scenario aligned with the Paris Agreement goals, global nickel demand is expected to increase roughly 61 percent by 2040.[4] Indonesia is the world's largest producer of nickel, supplying 48 percent of global demand in 2022.[5]

Although the purpose of the EV transition is to reduce the carbon footprint of the transportation industry, smelting at nickel industrial parks, including IWIP, has a massive carbon footprint. IWIP has built at least five captive coal-fired plants since 2018, with plans for a total of twelve new captive coal plants. They will provide an estimated 3.78 gigawatts per year of energy by burning low quality coal

---

[2] Climate Rights International interview with Max Sigoro, February 8, 2023, Gemaf, North Maluku, Indonesia.
[3] Climate Rights International interview with Marlene Burhan, February 9, 2023, Lelilef, North Maluku, Indonesia.
[4] International Energy Agency, "The Role of Critical Minerals in Clean Energy Transitions," May 2021, https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary.
[5] IRENA, "Geopolitics of the Energy Transition: Critical Minerals," July 2023, https://www.irena.org/Publications/2023/Jul/Geopolitics-of-the-Energy-Transition-Critical-Materials.

from Kalimantan, which is more coal than Spain or Brazil use in a single year.[6] A just transition does not, and cannot, include the build out of new fossil fuel infrastructure, particularly given the impacts of climate change on the rights of present and future generations, as well as the effects of local air and water pollution from burning fossil fuels on frontline communities.

Adlun Fikri, a 29-year old Sawai activist from Sagea, North Maluku, summed up to CRI how many local residents feel about IWIP and related mining:

> In the upstream area where they mine, it's destructive, degrading forest, destroying forest, and causing human rights violations. The local residents here bear the cost for global ambition [of net zero]. Western people enjoy the electric vehicle, and meanwhile we get the negative impact.[7]

3. Please describe how just transition measures affect and can ensure the rights and/or inclusion of relevant groups, actors, communities and Peoples, including Indigenous Peoples, women and girls, children, youth, older persons, persons with disabilities, workers including informal workers, migrants, future generations, environmental human rights defenders, and persons living in situations of vulnerability and poverty, considering also intersectionality.

Mining, including open-pit mining, can permanently damage ecosystems, pollute drinking water sources, increase the risk of respiratory illnesses for workers and local residents, and result in the forced displacement of local communities. For instance, cobalt mining in the Democratic Republic of the Congo – the world's largest producer of cobalt, used in batteries – has been linked with child labor.[8] Lithium mining companies in Chile's Atacama Desert have been accused of threatening Indigenous land rights and drinking water resources.[9] These communities, as well as the communities in Indonesia referenced earlier, are some of the least likely to have access to or receive benefits from renewable energy technologies, including electric vehicles, while facing the greatest burdens in the development of these technologies.

Transition mineral projects have a disproportionate impact on Indigenous Peoples, with an estimated 54 percent of critical mineral mining projects located on Indigenous Peoples' lands, endangering customary land rights and traditional livelihoods.[10]

Land and environmental defenders who speak out against transition mineral projects may be subject to criminalization, threats, and killings. There were 630 allegations of human rights abuses related to the extraction of transition minerals between 2010 and 2022; these abuses include threats to land

---

[6] Global Energy Monitor, "Weda Bay power station," October 8, 2023, https://www.gem.wiki/Weda_Bay_; Global Energy Monitor, "Coal-fired Power Capacity by Country (MW)," July 2022, https://docs.google.com/spreadsheets/d/1W-gobEQugqTR_PP0iczJCrdaR-vYkJ0DzztSsCJXuKw/edit#gid=822738567.

[7] Climate Rights International interview with Adlun Fikri, December 1, 2023, Sagea, North Maluku, Indonesia.

[8] Amnesty International, "This is What We Die For," 2016, https://www.amnesty.org/en/wp-content/uploads/2021/05/AFR6231832016ENGLISH.pdf.

[9] NRDC, "Exhausted: How We Can Stop Lithium Mining from Depleting Water Resources, Draining Wetlands, and Harming Communities in South America," 2022, https://www.nrdc.org/resources/exhausted-how-we-can-stop-lithium-mining-depleting-water-resources-draining-wetlands-and.

[10] JR Owen et al., "Energy transition minerals and their intersection with land-connected peoples," *Nature* 6, pages 203–211 (2023), https://doi.org/10.1038/s41893-022-00994-6.

rights, workers' rights, the right to clean drinking water, and the rights of Indigenous Peoples.[11] In August 2024, the Indonesian government brought criminal defamation charges against two peaceful student protestors, Christina Rumahlatu and Thomas Madilis, for protesting outside of the headquarters of the Indonesia Weda Bay Industrial Park and allegedly insulting Suaidi Marasabessy, a retired Indonesian National Armed Forces (TNI) General and a local of North Maluku, by stating that he is failing to use his position to address the harms posed by IWIP to local communities and the environment and that he has no intention to help impacted communities.[12] The exercise of the rights to freedom of speech and peaceful protest are among the most important tools local communities have for advocating for more effective environmental protection, and the safety of land and environmental defenders must be safeguarded in order to achieve a just transition. Governments should promote and protect peaceful protest and review, repeal, or amend legislation restricting the right to protest to enable people to speak out for climate action and environmental protection.[13]

6. Please provide recommendations on relevant actions to be taken at local, country, regional, and global levels, including relating to international cooperation. Please identify any specific legal, policy and economic transformations that may enable a just transition.

Government Accountability

Governments are obligated to uphold human rights that are often threatened by mineral extraction projects, and they have an international human rights obligation to protect populations from foreseeable environmental harms to their human rights, including those linked to climate change. Broadly, governments should strengthen and implement laws and regulations to minimize the impacts of mining and mineral processing on communities, including on Indigenous communities. Due to the disproportionate impact on Indigenous Peoples' rights, governments should also ratify ILO Convention 169, fully implement the UN Declaration on the Rights of Indigenous Peoples, and take any additional steps needed within domestic law to recognize Indigenous Peoples and their customary land rights.

Lawmakers should enact corporate supply chain due diligence laws that hold companies accountable for human rights and environmental harms in both their direct operations and in their supply chains. Where binding regulations already are in place, states should ensure their rigorous implementation. States should positively engage in the open-ended intergovernmental working group (OEIGWG) process to negotiate an international legally binding instrument (LBI) on business and human rights that would include specific human rights, labor, environment and climate change provisions and instruments and complement and strengthen the current U.N. and Organization for Economic Co-operation and Development (OECD) frameworks.

National governments should also take steps to implement the actionable recommendations set forth by the UN Secretary-General's Panel on Critical Energy Transition Minerals. In particular, governments should work together to develop, "a global traceability, transparency and accountability framework along the entire mineral value supply chain…"[14]

---

[11] Business and Human Rights Resource Centre, "Transition Mineral Tracker," https://www.business-humanrights.org/en/from-us/transition-minerals-tracker/.

[12] Climate Rights International, "Indonesia: Drop Criminal Charges Against Students Protesting Nickel Impacts," August 2024, https://cri.org/indonesia-drop-criminal-charges-against-students-protesting-nickel-impacts/.

[13] For more information about the crack-down and criminalization of climate protest by several democratic countries, see: Climate Rights International, "On Thin Ice," September 2024, https://cri.org/reports/on-thin-ice/.

[14] UN Secretary-General's Panel on Critical Energy Transition Minerals, September 2024, https://www.un.org/sites/un2.un.org/files/report_sg_panel_on_critical_energy_transition_minerals_11_sept_2024.pdf.

Critically, governments must act quickly to mitigate the climate crisis, which will require renewable energy technology that uses minerals. But this transition will only be just if it respects human rights throughout the supply chain for materials and does not perpetuate the same abusive, climate-intensive practices followed for decades by extractive industries. States should promote technologies that use less minerals, for example smaller electric vehicles as opposed to SUV-sized EVs, and invest in a regenerative, circular economy by advancing the reuse and recycling of materials. Governments should also increase access to public transit and alternative methods of transport to decrease emissions from private vehicles, and mandate minimum levels of recycled content in electric vehicle batteries to decrease the demand for virgin critical minerals. With effective government policy and technological advances, no new mining will be needed by 2050 to power the energy transition.[15] This reduction in new mining will be key for upholding the rights of future generations and communities impacted by mining, including their right to a clean, healthy, and sustainable environment

Corporate Accountability

Under the UN Guiding Principles on Business and Human Rights, businesses must "seek to prevent or mitigate" impacts that are "directly linked to their operations, products or services by their business relationships," including entities in their value chain, even if they have not contributed to those impacts.[16] Companies along the transition mineral value chain – from mining and mineral processing companies, to battery and solar panel manufactures, to electric vehicle companies – must take steps to identify and mitigate human rights, environmental, and climate harms in their supply chains, including: 1) leverage buying power to demand higher standards; 2) conduct regular, transparent, and independent audits; 3) design more efficient technologies that require less virgin raw materials; and 4) require suppliers to receive Free, Prior, and Informed Consent from Indigenous Peoples. Companies should require both their direct and indirect suppliers to uphold and respect human rights and the environment, and companies should regularly ensure that suppliers' practices are in line with human rights and environmental policies. In addition, companies should establish grievance mechanisms for impacted communities to directly file complaints regarding any environmental or human rights harm caused by the company's activities and ensure that those mechanisms are fully available and accessible to local communities.

In cases when a business determines that it has caused or contributed to adverse impacts, it should provide for remediation. When it identifies adverse impacts in its value chain, it should use whatever leverage it has to change the harmful practice. If it lacks sufficient leverage to prevent or mitigate the adverse impacts, it should consider ending the relationship.

A lack of transparency regarding mineral supply chains enables abuses at local levels, while preventing local communities and civil society groups from holding perpetrators accountable. Companies could advance human rights in the energy transition by making their supply chains fully transparent and accessible to the public.

---

[15] RMI, "The Battery Mineral Loop," 2024, https://rmi.org/insight/the-battery-mineral-loop/.

[16] UN Human Rights Council, Resolution 17/4: Human Rights and transnational corporation and other business enterprises, A/HRC/RES/17/4, July 6, 2011, https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G11/144/71/PDF/G1114471.pdf?OpenElement.