ESG and FPIC in the Mining Industry: Shifting from CSR Guidelines to Legally Binding Frameworks for Justice and a Sustainable Green Energy Transition

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ESG and FPIC in the Mining Industry: Shifting from CSR Guidelines to Legally Binding Frameworks for Justice and a Sustainable Green Energy Transition

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Abstract

This paper discusses how the tenets of sustainability can be effectively inculcated into the mining industry for people and planet. The paper observes that despite its key economic, social and environmental benefits, the mining industry can also significantly harm people and the environment. The paper discusses the key threats arising from the mining industry and their impact on humanity and nature. In light of underlying challenges, the paper posits that is imperative to embrace and enforce sustainability in the mining industry towards protecting people and planet. In particular, the paper notes that shifting from voluntary Corporate Social Responsibility (CSR) requirements to legally binding frameworks can promote sustainability in the mining industry for justice and a sustainable green energy transition. The paper discusses how this ideal can be realised by incorporating Environmental, Social and Governance (ESG) tenets and Free, Prior and Informed Consent (FPIC) requirements in the mining industry.

1.0 Introduction

Mining is one of the most important economic activities all over the world. It has been observed that mineral extraction plays a dominant role in the economies of many countries globally[1]. Mining plays a crucial role in the economic development of nations worldwide serving as a foundational industry that contributes to job creation, infrastructure development, and export revenues[2]. With the right policies, investments and revenue from mineral extraction can support socio-economic growth including through local employment opportunities and enhanced infrastructure including schools, healthcare facilities and roads[3]. In addition, it has been observed that taxes and royalties paid by mining companies contribute to government revenue which can be invested for national economic growth[4].

The mining industry is therefore fundamental in the global economy. It has been observed that since the industrial revolution, extractives such as minerals have underpinned our global

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[1] United Nations Environment Programme., 'About Extractives' Available at https://www.unep.org/explore-topics/extractives/about-extractives (Accessed on 03/11/2026)

[2] The Role of Mining in Economic Development., Available at https://miningworld.com/the-role-of-mining-in-economic-development/ (Accessed on 03/11/2026)

[3] Ibid

[4] Ibid

economic system, shaping geopolitics and the course of human development[5]. Minerals are critical to the social, political and economic activity of any country[6]. They are core raw materials for the manufacturing sector, high technology industries, resource industries and the construction industry[7]. It has been observed that minerals and mineral products are the backbone of most industries in the world and some form of mining or quarrying is carried out in nearly every country[8]. The mining industry therefore has important economic and social effects since it ensures availability of minerals that are needed to construct roads and hospitals, to build automobiles and houses, to make computers and satellites, to generate electricity, and to provide the many other goods and services that consumers enjoy[9].

In addition to its economic and social benefits, the mining industry also has key environmental benefits. For instance, the extraction of critical minerals including copper, lithium, nickel, cobalt, manganese and graphite is crucial towards supporting energy transition for people and planet[10]. Energy transition is a global goal that seeks to promote the shift from fossil fuel-based systems of energy production and consumption to renewable energy sources of energy for environmental, social and economic benefits[11]. The United Nations Environment Programme (UNEP) observes that energy transition depends on critical minerals such as copper, lithium, manganese, nickel, cobalt and graphite which are essential components of clean energy technologies including wind turbines, solar panels, electric vehicles and electricity transmission lines[12].

The mining industry therefore provides significant economic, social and environmental benefits. However, despite its benefits, the mining industry can also potentially harm people and the environment. Consequently, embracing sustainability in the mining industry is crucial towards maximizing its economic, social and environmental benefits for people and planet.

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[5] United Nations., 'Transforming Extractive Industries for Sustainable Development' Available at https://digitallibrary.un.org/record/4014707/files/1377619-EN.pdf (Accessed on 03/11/2026)

[6] Muigua. K., Wamukoya. D., & Kariuki. F., 'Natural Resources and Environmental Justice in Kenya.' Glenwood Publishers Limited, 2015

[7] Ibid

[8] International Labour Organization.,' Mining (Coal; other Mining) Sector.' Available at https://www.ilo.org/global/industries-and-sectors/mining/lang--en/index.htm (Accessed on 03/11/2026)

[9] National Academies Press., 'Evolutionary and Revolutionary Technologies for Mining.' Available at https://nap.nationalacademies.org/read/10318/chapter/4 (Accessed on 03/11/2026)

[10] International Energy Agency., 'A new frontier for global energy security' Available at https://www.iea.org/topics/critical-minerals (Accessed on 03/11/2026)

[11] S & P Global., 'What is Energy Transition?' Available at https://www.spglobal.com/en/research-insights/articles/what-is-energy-transition (Accessed on 03/11/2026)

[12] United Nations Environment Programme., 'Critical Energy Transition Minerals' Available at https://www.unep.org/en/what-we-do/energy/renewable-energy/critical-energy-transition-minerals (Accessed on 03/11/2026)

This paper discusses how the tenets of sustainability can be effectively inculcated into the mining industry for people and planet. The paper observes that despite its key economic, social and environmental benefits, the mining industry can also significantly harm people and the environment. The paper discusses the key threats arising from the mining industry and their impact on humanity and nature. In light of underlying challenges, the paper posits that is imperative to embrace and enforce sustainability in the mining industry towards protecting people and planet. In particular, the paper notes that shifting from voluntary Corporate Social Responsibility (CSR) requirements to legally binding frameworks can promote sustainability in the mining industry for justice and a sustainable green energy transition. The paper discusses how this ideal can be realised by incorporating Environmental, Social and Governance (ESG) tenets and Free, Prior and Informed Consent (FPIC) requirements in the mining industry.

2.0 Sustainability Concerns in the Mining Industry

Despite its social, economic and environmental benefits, the mining industry raises pertinent sustainability concerns. In particular, the mining industry can violate human and environmental rights with grave impacts on people, society and the environment. For example, the International Labour Organization (ILO) observes that the rates of death, injury and disease among the world's mineworkers remain high, and mining remains the most hazardous occupation when the number of people exposed to risk is taken into account[13]. Ensuring Occupation Safety and Health (OHS) remains a challenge in the mining industry all over the world with workers often exposed to multiple safety and health hazards, including ground collapses, explosions due to flammable gases or improper use of explosives, and exposure to harmful dust and chemicals[14]. The United Nations Environment Programme (UNEP) notes that in highly informal mining sectors such as cobalt and nickel as well as small-scale mining of lithium in Africa, severe injuries and deaths of miners are common[15].

Violation of fundamental labour rights is another key concern in the mining industry. For example, unsustainable practices such as forced labour, child labour and poor working conditions undermine core labour principles and standards[16]. Workers in the mining industry are often subjected to poor working conditions, low wages and inadequate safety measures violating their fundamental rights[17]. In particular, it has been observed that the growing demand for critical

[13] International Labour Organization.,' Mining (Coal; other Mining) Sector.' Available at https://www.ilo.org/global/industries-and-sectors/mining/lang--en/index.htm (Accessed on 04/11/2026)

[14] United Nations Environment Programme., 'Minerals and metals extraction' Available at https://www.unepfi.org/humanrightstoolkit/minerals-and-metals-extraction/ (Accessed on 04/11/2026)

[15] Ibid

[16] National Action Plan on Business and Human Rights., 'Extractives Sector' Available at https://globalnaps.org/issue/extractives/ (Accessed on 04/11/2026)

[17] International Labour Organization.,' Mining (Coal; other Mining) Sector.' Op Cit

minerals needed to support the green energy transition amplifies decent work risks[18]. Among the decent work risks in the extraction of critical minerals include unsafe and unhealthy working environments, poor working conditions as a result of weak regulatory enforcement and informality, and persistent barriers to gender equality and social inclusion[19].

The mining industry can also negatively impact society by fuelling injustices and inequalities. For example, it has been observed that indigenous peoples and local communities are usually evicted from their lands and territories to support mining often without adequate consultation and compensation[20]. Mining activities, including the extraction of critical minerals, have often been undertaken without due regard to indigenous peoples and local communities who are often displaced from their lands and territories undermining their livelihoods and culture[21]. The mining industry has also been a source of conflicts and violence due to poor governance and inequitable benefit-sharing arrangements with communities. It has been observed that control over minerals and metals extraction can be a root-cause of conflict[22]. The mining and extractive industry at large has been linked to conflicts globally due to inadequate engagement of communities and stakeholders in development processes, unfair distribution of the benefits, costs, risks and responsibilities associated with the extractive industry, impacts on the environment, communities, and the local and national economies, and corruption and diversion of funds to satisfy individual gains at the expense of national and community interests[23].

In addition, the mining industry can also undermine environmental sustainability. Extraction of minerals has grave environmental impacts by altering landscapes, water quality, local ecosystems, and land uses[24]. UNEP notes that the extractive sector, including the mining industry, is responsible for almost half of world's carbon emissions thus contributing to the climate crisis[25]. Further, the extractive industry is also linked to global biodiversity loss since a significant number

[18] International Labour Organization., 'Critical Minerals' Available at https://www.ilo.org/topics-and-sectors/industries-and-sectors/mining/critical-minerals (Accessed on 04/11/2026)
[19] Ibid
[20] National Action Plan on Business and Human Rights., 'Extractives Sector' Op Cit
[21] Rise in legal action against renewables companies over minerals., Available at https://www.theguardian.com/environment/2025/jul/01/how-indigenous-people-find-themselves-on-the-frontline-of-the-green-transition (Accessed on 04/11/2026)
[22] United Nations Environment Programme., 'Minerals and metals extraction' Op Cit
[23] The United Nations Interagency Framework Team for Preventive Action., 'Extractive Industries and Conflict' Available at https://globalprotectioncluster.org/sites/default/files/2023-04/Extractive_Industries_and_Conflict_Guidance_Note_Practitioners_2010_EN.pdf (Accessed on 04/11/2026)
[24] Mining and the Environment., Available at https://www.sgu.se/en/itp308/knowledge-platform/3-mining-environment/ (Accessed on 04/11/2026)
[25] United Nations Environment Programme., 'Why does extractives matter?' Available at https://www.unep.org/explore-topics/extractives/why-does-extractives-matter#:~:text=Pollution%3A%20the%20extractives%20sector%20contributes,has%20caused%20significant%20water%3B%20pollution (Accessed on 04/11/2026)

of mining sites overlap with biodiversity protected areas[26]. Clearing of land and vegetation to support mining activities often leads to biodiversity loss by destroying vital habitats and causing the migration of species[27]. In general, mining activities can devastate the environment through deforestation, pollution, water scarcity and biodiversity loss thus undermining the right to a clean, healthy and sustainable environment[28]. The extraction of critical minerals is also associated with significant greenhouse gas emissions arising from energy-intensive mining and processing activities which can worsen the climate crisis[29]. Consequently, mining has been identified as an intensive and invasive process with mining activities usually leaving large environmental impacts on the local surroundings and ecosystems with grave impacts on environmental and human health[30].

The mining industry can therefore have negative impacts on people, society and the environment. Consequently, it is imperative to embrace sustainability in the mining industry in order to maximize its economic, social and environmental benefits.

3.0 Inculcating Sustainability in the Mining Industry for Justice and a Sustainable Green Energy Transition

The mining industry provides numerous economic and social benefits. It supports livelihoods through employment creation, provides the raw materials for many industries, enhances infrastructure development, and is a key source of government revenue. In addition, the extraction of critical minerals supports the green energy transition towards bolstering environmental sustainability. However, in light of its potential negative impacts on people, society and the environment, it is necessary to embrace sustainability in order to maximize benefits from the mining industry.

In particular, it is necessary to shift from CSR Guidelines to legally binding frameworks in order to enhance sustainability in the mining industry. CSR in the mining industry entails a set of voluntary actions to mitigate the negative environmental and social impact of mining or to improve the social and economic well-being of populations living close to where mining companies operate[31]. CSR has the potential to ensure inclusion of social interests, environmental protection and effective relationships with local communities in the company strategies adopted by mining companies[32]. By complying with CSR obligations, mining companies can mitigate the negative impacts associated with extraction of minerals. For instance, CSR practices can enhance

[26] Ibid
[27] Ibid
[28] Ibid
[29] United Nations Environment Programme., 'Critical Energy Transition Minerals' Op Cit
[30] Witchalls. S., 'The Environmental Problems Caused by Mining' Available at https://earth.org/environmental-problems-caused-by-mining/ (04/11/2026)
[31] Bezzola. S et al., 'CSR and Local Conflicts in African Mining Communities.' *World Development*, Volume 158, 2022
[32] Ibid

sustainable mining including through conservation of the environment and local ecosystems during mining, investments in public services and infrastructure including education, water, and healthcare, contributions to local agriculture and other economic activities, as well as payments to support the cultural or political activities of communities in mining areas[33].

Despite its role in enhancing sustainability in the mining industry, it has been observed that CSR is an ethical and voluntary strategy that does not bind mining corporations[34]. This is evidenced by environmental and social challenges in the mining industry which demonstrate that mining companies do not comply with their CSR obligations. Consequently, it is imperative to shift from voluntary CSR Guidelines to legally binding frameworks in order to effectively inculcate sustainability in the mining industry.

Embracing ESG is an effective and binding strategy towards ensuring sustainability in the mining industry. ESG provides a framework that can enable companies to promote sustainable investments that generate long-term financial returns while also taking into account the social and environmental impacts of economic activities and promoting transparency and corporate responsibility[35]. ESG establishes standards and metrics used to assess the impact of corporations on the environment, economy, society and governance[36]. ESG has increasingly become a fundamental approach in corporate governance with investors, regulators, the public and other stakeholders concerned with the environmental stewardship of companies, their social responsibility, and their governance systems and structures[37]. In particular, ESG focuses on integrating *Environmental* tenets including sound climate action, effective biodiversity conservation, sustainable resource use and circularity, pollution control, sustainable waste management and energy efficiency[38]; *Social* factors such as diversity, equity and inclusion at work places, fair labor standards including fair wages, human rights, health and safety at workplaces, and community well-being[39]; and *Governance* tenets such as transparency, accountability,

[33] Ibid
[34] Oliveira. F.M., & da Silva. E.A., 'Corporate Social Responsibility (CSR) in Mining: An Integrated Institutional and Agency Theory Perspective' Available at https://onlinelibrary.wiley.com/doi/full/10.1002/csr.70399 (Accessed on 04/11/2026)
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[37] Corporate Finance Institute., 'The Importance of ESG in Corporate Governance' Available at https://corporatefinanceinstitute.com/resources/esg/importance-of-esg-in-corporate-governance/ (Accessed on 04/11/2026)
[38] United Nations Development Programme., 'ESG: From Challenges to Opportunities' Available at https://www.undp.org/belarus/stories/esg-challenges-opportunities (Accessed on 04/11/2026)
[39] Ibid

responsibility, shareholder rights, and board diversity[40] in corporate policies and models towards sustainability.

Since ESG has developed from a voluntary framework to a mandatory approach, adopting this concept can enhance sustainability in the mining industry towards justice and a sustainable green energy transition. ESG tenets have become an important framework for the mining industry since they provide an effective approach to deal with the environmental, social, and governance problems that arise from resource extraction and use[41]. In particular, it has been observed that ESG tenets can help stakeholders in the mining industry to effectively navigate issues such as energy use, waste, impact of mining activities on ecosystems, greenhouse gas emissions and human right concerns[42]. In the mining industry, ESG demonstrates companies' commitment to environmental conservation, social responsibility and good governance[43]. ESG in mining entails reducing the environmental impact of mining activities, prioritizing the well-being of people and society, and ensuring transparent, accountable and sustainable operations[44]. It has been observed that embracing ESG factors helps mining companies manage risks, comply with regulations, and make a positive contribution to both society and the environment[45].

It is therefore necessary for the mining industry to embrace ESG towards justice and a sustainable green energy transition. This involves complying with environmental factors by minimizing waste, conserving resources, recycling materials, embracing technology, and protecting the environment and ecosystems during extraction of minerals[46]. Upholding social tenets including through sound labour practices, respect for human rights, employing local populations and investments in local amenities including infrastructure, healthcare and education can also enhance sustainability in mining[47]. It is also necessary to ensure good governance including through transparent, equitable and accountable mining practices that enhance benefits for all stakeholders including local communities[48].

Promoting FPIC is also key towards achieving sustainability in the mining industry. FPIC has been described as a legal principle that seeks to protect indigenous peoples' collective rights

[40] Ibid
[41] Mining and ESG: Striking a Balance between Resource Extraction and Sustainability., Available at https://www.pamapersada.com/DetailMedia/mining-and-esg-striking-a-balance-between-resource-extraction-and-sustainability (Accessed on 04/11/2026)
[42] Ibid
[43] Environmental, Social, and Governance: it's role in mining., Available at https://www.miningdoc.tech/question/environmental-social-and-governance-its-role-in-mining/ (Accessed on 04/11/2026)
[44] Ibid
[45] Ibid
[46] Mining and ESG: Striking a Balance between Resource Extraction and Sustainability., Op Cit
[47] Ibid
[48] Environmental, Social, and Governance: it's role in mining., Op Cit

including their right to self-determination, their right to be consulted, their right to participate in decisions that may affect them, and their rights to their lands and resources[49]. Upholding FPIC ensures that indigenous peoples and local communities who may be affected by a project are meaningfully engaged in project design, implementation and decision-making, are fully informed and are able to grant or deny consent at any stage[50]. The United Nations notes that FPIC allows indigenous peoples and local communities to give or withhold consent to a project that may affect them or their territories[51]. Further, it has been observed that once indigenous peoples and local communities have given their consent, FPIC allows them to withdraw it at any stage[52].

FPIC is a crucial strategy towards ensuring sustainability in the mining industry. The global call for application of FPIC in mining is generally meant to address the abuse of the rights of indigenous peoples and local communities worldwide including: indigenous land rights, recognition of and respect for culture, the right to economic participation, to a livelihood and to a clean environment, among others[53]. Since most mining operations are undertaken on lands and territories occupied by indigenous peoples and local communities, FPIC enables them to give or withhold consent for such activities while also ensuring that benefits from mining activities are shared equitably with communities[54]. FPIC ensures that mining activities do not harm the environment and vulnerable populations while also ensuring adequate compensation for indigenous peoples and local communities in cases where their lands and territories are obtained to support mining[55]. It is therefore necessary to embrace FPIC towards inculcating sustainability in the mining industry.

[49] United Nations Development Programme., 'SES Supplemental Guidance: Frequently Asked Questions (FAQs) on Applying Free Prior Informed Consent (FPIC)' Available at https://ses-toolkit.info.undp.org/sites/g/files/zskgke446/files/SES%20Document%20Library/Uploaded%20October%202016/FINAL%20FPIC%20FAQ%20Guidance%20-%20June%2015%202022.pdf (Accessed on 04/11/2026)

[50] Ibid

[51] United Nations., 'Free Prior and Informed Consent – An Indigenous Peoples' right and a good practice for local communities – FAO' Available at https://www.un.org/development/desa/indigenouspeoples/publications/2016/10/free-prior-and-informed-consent-an-indigenous-peoples-right-and-a-good-practice-for-local-communities-fao/ (Accessed on 04/11/2026)

[52] Ibid

[53] Muigua. K., 'Maximising the Right to Free, Prior, and Informed Consent for Enhanced Environmental Justice in Kenya.' Available at http://kmco.co.ke/wp-content/uploads/2019/03/Maximising-the-Right-to-FPIC-in-Kenya-Kariuki-Muigua-29th-March-2019.pdf (Accessed on 04/11/2026)

[54] United Nations., 'Securing Indigenous Rights in the Energy Transition: Preventing Harm, Ensuring Consent, and Promoting Equity in Transition Minerals Extraction' Available at https://social.desa.un.org/sites/default/files/inline-files/Galina_Angarova_EGM_2024_0.pdf (Accessed on 04/11/2026)

[55] Ibid

4.0 Conclusion

The mining industry plays a key role in promoting Sustainable Development including through enhancing socio-economic growth and environmental sustainability through the extraction of critical minerals. However, in light of its impact on people, society and environment, it is necessary to shift from voluntary CSR Guidelines to legally binding frameworks in order to ensure sustainability in the mining industry for justice and a sustainable green energy transition. In particular, incorporating ESG and FPIC in mining through legally binding frameworks can ensure a safe, ethical and sustainable mining industry which enhances benefits for people and planet.

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