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Ecosystem and Biodiversity Month: September 2017

**The GOXI LEARNING SERIES - SEPTEMBER 2017-APRIL 2018**

**Mainstreaming  
Biodiversity, Ecosystem Services and Human Rights  
into the Mining Sector**



*Knowledge extracted from webinar and Goxi forum Discussions*

## 1. Emerging Critical Issues<sup>1</sup>

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The webinar started with a presentation which addressed emerging critical issues and tools and strategies to understand and act upon the effects of mining on human rights, including the right to a safe and healthy environment in different countries, especially in the Global South mentioned in this section. Thereafter, the webinar included a case study in Colombia focusing on the role of the public administration in promoting good governance and preventing environmental harm by the mining sector which is mentioned under Section 3.

- **Links between ecosystem services and well-being**

Mining can affect biodiversity and ecosystem services thereby changing the constituents of wellbeing/human rights through over time and space. Human modifications of ecosystems can either amplify or reduce the benefits to society. For example, conversion of wetlands and forests to croplands helps to ensure stable food supplies, but it also causes pollution of waterways, disruption of hydrology, reduced fish yields, loss of biodiversity, and loss of scenic places. The modification of ecosystems as a result of mining is often undertaken for short-term economic benefits, while the damage done to ecosystems and biodiversity has far longer-term effect and may exceed any economic benefits from such activities.

- **Impacts on biodiversity and ecosystems typically associated with mining**

*Direct impacts* include clearing of land, change in water table levels, contamination, blasting and sedimentation. *Indirect impacts* include the migration of pollutants from waste sites to agro diverse sites and reduced flow in downstream rivers. *Induced impacts* refer to impacts not directly attributable to the project such as impacts of associated industries and establishment of residential settlements with increased pressure on biodiversity. *Cumulative impacts* refer to impacts that are combined with other projects. For example, a number of mines in the same ecosystem collectively affect water flow, impacting the same local endemic species.

- **Economic valuation of ecosystem services**

Sometimes it is useful to quantify the importance of ecosystems. How do you assess the value of ecosystem services in economic terms? Examples include the treatment of wastewater performed by Nakivubo wetland in Uganda, through its

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<sup>1</sup> Claudia Ituarte-Lima (Swedbio/Stockholm Resilience Center) and Per Stromberg (Swedish Environmental Protection Agency) made the initial presentation in the webinar including the emerging critical issues mentioned in this section.

bioremediation, instead of investing in treatment plant for US\$2 million a year. Another example includes a US copper mine whose company was required to offset or mitigate the loss of wetlands by creating an agreed number and value of habitat units. Since many of the habitats had deteriorated, it required the restoration and creation of water bird habitats. In response, the company created and now manages the Inland Sea Shorebird Reserve (ISSR) and also preserves Great Salt Lake habitats to attract migratory birds. This wetland offset project resulted in the creation of 1,011 hectares of shorebird and waterfowl refuge, where approximately 150,000 migratory birds and waterfowl visit each year.

- **Mining and its effects on biodiversity, ecosystem services and human rights**

The link between mining, biodiversity, ecosystem services and human rights was discussed with a special focus on the Human Right to a healthy environment as a key right that encompasses many other rights. Examples of ecosystem services further show how ecosystem services are linked to human rights.

- **Situation of environmental human rights defenders**

On average three people were killed each week in 2015 defending their land, forests and rivers against destructive industries<sup>2</sup>. Many of those worked in mining or the extractive sector. *Does your country provide effective mechanisms for defenders of biodiversity and ecosystems, such as to indigenous peoples or local communities living in areas under exploitation by others, to exercise their civil and political rights without fear of persecution?* The right to access biodiversity-related information as the basis for the rights of women, men, girls and boys to be able to participate in public consultations concerning the environment needs to be enshrined in law and enforced in practice.

- **Human rights principles guiding the criteria for assessing mining**

In addition to complying with all environmental and human rights recognised in Constitutional provisions and others applicable legislation in a country, it is important to ask questions before granting a mining concession, including: (1) Is the mining venture risky in terms of likely bankruptcy? (2) Are societal benefits of the project larger than societal costs considering people's priorities? (3) Is the project a cost-efficient use of society's resources? and (4) Do revenues from the project reach the nation's people without discrimination?

- **Human Rights Principles guiding Environmental Impact Assessments (EIAs) and Environmental Management Plans (EMPs)**

What is a good practice in carrying out accurate environmental and social impact assessments and environmental management plans before, during and after

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<sup>2</sup> Global Witness Report: On Dangerous Grounds

mining operations? Assessments such as Environmental Impact Assessment of mining and monitoring of performance and compliance of the Environmental Management Plan of a mine can lead to transparency. Key questions in this regard included: *Who does the EIA? Are there any potential conflicts of interests? What are the existing conditions for distinct groups of people to exercise substantive human rights such as right to health? How does mining impact the enabling environment to exercise human rights such as adequate standard of living in the short- and long-term? What are the procedural and substantive obligations of State and non-State actors associated with the impacts of mining?*

- **Public participation, Free Prior and Informed Consent and people in vulnerable situations in mining related activities**

Adverse impacts of mining on ecosystems may have disproportionately severe effects on the enjoyment of human rights of members of minorities, local people and/or indigenous peoples who rely directly on the ecosystems through traditional activities such as fishing. Tools such as the CBD [Akwé: Kon Voluntary Guidelines](#) refer to Prior and Informed Consent and Community Protocols. These guidelines are intended to provide a collaborative framework ensuring the full involvement of indigenous and local communities in the assessment of cultural, environmental and social impacts of projects proposed to take place on, or which are likely to impact, sacred sites and lands and waters traditionally occupied or used by indigenous people and local communities.

Harm and loss of water-related ecosystem services, obligations owed to people in vulnerable situations may include women and girls who often fetch water. EIA needs to disaggregate these impacts and the public administration account for them in decision-making including in Environmental Management Plans. *How are the impacts being identified, predicted and evaluated for people in vulnerable situations?*

- **Synergistic use of environmental and human rights tools**

There is an added value in using environmental law and human rights tools for mainstreaming biodiversity ecosystems and human rights in the mining sector.

A synergistic use of environmental tools such as the ecosystems and wellbeing framework and human rights tools can help in the assessment and decision-making concerning the mining sector:

- *To identify who is affected (in a positive or negative way) by ecosystem alteration caused by mining.*
- *To identify how mining affects human rights of different groups including those in vulnerable situations*

- *Clarifies trade-offs between different economic activities (e.g. between mining and agriculture) which depend on ecosystem services*
- *Over time and across different locations.*

Examples demonstrate that substantive rights (e.g. the right to health) are interdependent with procedural rights (the right to public participation in EIA and access to justice). These need to be enshrined in law and in practice to ensure a prosperous future for both current and future generations

## 2. Questions from Webinars and GOXI Audience

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- Women and children are particularly vulnerable to hazards encountered in mining sites. What do environmental governance programs do to address the vulnerable situation of women in mining?
- How do workers' unions participate in environmental governance programs? Workers are at the bottom of the ladder after the company and the State. What does the Colombian State and companies do to promote a fair participation of the mining workers' union?
- An important issue shown in ANLA's presentation is the application of the rule of law principles in environmental governance of the mining sector. Are there any visible results of the application of these principles? Are there any practical results?
- Is there a mechanism in place for Colombia to share revenues with the municipalities of Codechoco? Is there a particular fund that works to remedy environmental impacts from the heavy presence of metals mined?
- When collaborating with government entities such as ministries of environment, health, industry, agriculture, etc., how can you include human rights issues when dealing with technical issues?
- On many occasions the government, particularly politicians have an upper hand in mining activities so as to boost economic growth. Paradoxically, the government cares less about biodiversity and mining-related consequences. How can we strike a balance between protecting biodiversity and mining activities?
- How can the community participate in the decision-making process in mining?
- The 'positive' effects in the department of Chocó all relate to the economic (potential) impacts. Has there been an analysis of the environmental impacts (ecological) impact vs. (mostly economic) gains?

### 3. Public authorities and other actors sharing experiences

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#### Colombia: Mining in the department of Chocó and the role of the regional environmental authority

The introductory presentation of the case study was provided by the Colombian Chocó department, which is part of the Chocó-region biodiversity hotspot covered environmental and socio-economic aspects, mining operations in place and their effects in the local environment. In addition, the role of the environmental agency in Codechocó, in providing environmental licenses to small and medium scale mining projects in the department was addressed.

The presentation of the National Authority for Environmental Licensing in Colombia focused on the legal framework of the environmental licensing process issued by the National Authority for Environmental Licensing (ANLA) in Colombia. A case study of an EIA process supervised by ANLA in a big scale mine was also presented.

The main duty-bearer to human rights is the State, including regulating and enforcing regulation towards State and non-state actors such as the business actors. Below we include issues discussed by participants in the Goxi Platform.

- Some businesses have made some steps towards an improved environmental management, increasingly recognizing the risks that biodiversity loss can pose to them. One example is that of declining ecosystem services where the ‘social’ license to operate might be declining. Some businesses adopted innovative internal biodiversity policies and engage in a range of activities that conserve biodiversity and improve ecosystem functioning. These actions range from investing in projects which secure access to ecosystem services such as fresh water to restoration of forests destroyed by mining. Unfortunately, sometimes these projects remain stuck in merely green washing and window dressing.
- In Western Australia, [the mining company Alcoa](#) runs the largest bauxite mining operation in the world. It has undertaken several efforts in terms of reforestation, to a standard well above what is required by law. The motive was an anticipated backlash of public opinion against mining. Alcoa’s efforts in Western Australia have increased knowledge about plant species and techniques for forest regeneration. Also, they provided new gains in the restoration of biodiversity that was threatened by impacts entirely unrelated to mining, invasive and non-native species, or new variants of viruses. This sort of initiative shows just how important the actions of business can be.