

**Written evidence submitted by Amnesty International UK
(MIN0030)**

** This submission focuses on the human rights dimension of the sourcing of critical minerals and some of the measures required to ensure that sourcing respects and protects the rights of mining-affected communities*

Amnesty International United Kingdom Section
The Human Rights Action Centre, 17-25 New Inn Yard, London EC2A 3EA

www.amnesty.org.uk

Amnesty International UK

Amnesty International UK is a national section of a global movement of over ten million people who campaign for every person to enjoy all rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion.

Q. How can the FCDO support the responsible sourcing of the UK's critical minerals? How can the UK work with global partners to improve environmental, social and governance performance (ESG) across the sector? What are the potential complications/implications of insisting on traceability in supply chains?

Recommendations to FCDO

- 1. The FCDO should support a new law to hold companies to account when they fail to prevent human rights abuses as recommended in 2017 by Parliament's Joint Committee on Human Rights¹ and confirmed as legally feasible in 2020 by the British Institute of International and Comparative Law.² Such a 'corporate duty to prevent' law should be modelled on the civil and criminal duties to prevent tax evasion and bribery found in the Criminal Finances Act 2017 and the Bribery Act 2010. This law should mandate companies, including mining companies and those sourcing critical minerals, to undertake human rights due diligence to identify and prevent harm arising from their operations and products.³**
- 2. FCDO missions abroad should identify and support human rights defenders who are at the forefront of protecting their communities from the adverse impacts of mining for critical minerals in keeping with the FCDO's guidelines on human rights defenders.⁴**
- 3. FCDO missions abroad should respond to reports of human rights and environmental abuses by UK companies in the context of the mining of critical minerals, pressing for these to be investigated and not shielding the companies concerned.**
- 4. FCDO should work closely with, and support, the governments of States where battery materials are extracted, or batteries are manufactured, to ensure that businesses along the entire supply chain respect human rights and environmental standards. Every UK embassy staff member should ensure that their own engagement in economic diplomacy is not at the expense of human rights.**
- 5. FCDO should support a global moratorium on deep sea mineral exploration and extraction and advocate for the global moratorium on deep sea mining to extend**

¹ Recommendation 24, p73, <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf>

² <https://www.biicl.org/publications/a-uk-failure-to-prevent-mechanism-for-corporate-human-rights-harms>

³ https://corporatejusticecoalition.org/wp-content/uploads/2020/04/Duty-to-prevent_principal-elements_FINAL.pdf

⁴ <https://www.gov.uk/government/publications/uk-support-for-human-rights-defenders>

to the granting of mineral exploration and exploitation licences and to the further development and finalisation of regulations for mining the seabed.

Amnesty International's research

6. In 2016 Amnesty published a report⁵ *'This is what we die for'*, documenting the hazardous conditions in which artisanal miners, including thousands of children, mine cobalt in the Democratic Republic of the Congo (DRC). It traced how this cobalt is used to power mobile phones, laptop computers, and other portable electronic devices. Using basic hand tools, miners dig out rocks from tunnels deep underground, and accidents are common. Despite the potentially fatal health effects of prolonged exposure to cobalt, adult and child miners work without even the most basic protective equipment. This report was the first comprehensive account of how cobalt enters the supply chain of many of the world's leading brands.
7. Amnesty followed this up with a report *'Time to Recharge'*⁶ on the cobalt sourcing practices of companies in the electronics and automotive industries, including Apple, Samsung Electronics, Dell, Microsoft, BMW, Renault and Tesla. This found that while some companies were making progress, most were still failing to take even basic steps to investigate supply links in the DRC. The questions to companies reflected the five-step due diligence framework set out by the Organization for Economic Co-operation and Development (OECD) in its *'Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas'*⁷.
8. In 2021 Amnesty published a set of principles⁸ that businesses should adopt to avoid causing, contributing to, or being directed linked to human rights abuses and environmental harm along the battery value chain, from extraction to end-of-life, while supporting the need to promote a more efficient use of resources, including the development of new battery technologies and other human rights-consistent solutions to climate change.
9. Amnesty has extended its research to cover lithium and copper mining in the Salar de Atacama, an area of salt flats that spans across Chile, Argentina and Bolivia. Lithium and copper extraction threaten to undermine Indigenous peoples' rights and pose risks to Indigenous peoples' and frontline communities' water resources and fragile ecosystems, which are of critical importance to their livelihoods and cultures, as well as their right to self-determination. Indigenous communities are not being properly consulted about mining projects on their lands and have been given insufficient information about the potential impacts of mining on their water

⁵ <https://www.amnesty.org/en/documents/afr62/3183/2016/en/>

⁶ <https://www.amnesty.org/en/documents/afr62/7395/2017/en/>

⁷ <https://www.oecd-ilibrary.org/sites/9789264252479-en/index.html?itemId=/content/publication/9789264252479-en>

⁸ <https://www.amnesty.org/en/documents/act30/3544/2021/en/>

sources. Without human rights protections, the harm to indigenous communities could increase as lithium demand soars.

10. Amnesty is calling on governments and businesses to move towards an energy transition that is human rights compatible⁹ based on a set of principles that reflect States' obligations under international human rights law and the international standards applicable to business. These principles, which outline the steps that governments and companies must take to avoid human rights and environmental abuses in the lifecycle of battery production, have been endorsed by over 70 international organizations and individuals.¹⁰

Who is involved?

11. Governments and businesses in this global value chain often cut corners by undermining human rights standards, safety regulations and environmental protections. Multinational companies repeatedly ignore environmental and financial crimes or are sometimes actively complicit.
12. Governments have often failed to publicly investigate and remediate corruption, environmental pollution, and labour exploitation by culpable companies, let alone order prosecutions after unearthing criminality. It is extremely rare for businesses to offer effective remediation to mining-impacted communities.
13. Meanwhile, new battery manufacturing factories are set to intensify production enormously over the next ten years. Investors are increasingly withdrawing from fossil fuels and reinvesting in renewable energy, although often without robust due diligence processes in place to ensure their investments don't contribute to human rights abuses. With companies and investors having a single-minded focus on rapid expansion rather than resource efficiency, reuse, and recycling, the pressure to extract more minerals is growing, while waste is piling up.
14. Amnesty International has reviewed the human rights and environmental risks most associated with mining for the energy transition and is engaging with the world's major automotive, electronic, and battery makers to challenge company policies, practices, and implementation of human rights standards, and warn multinationals of the harms uncovered across their supply chains.

What is the solution?

15. The energy transition does not need to be facilitated by human exploitation, dispossession, and environmental harm. There are alternatives. Governments in the battery value chain have an opportunity to shape an energy transition which does not replicate the injustices of a fossil fuel-based economy. The businesses that position themselves as global sustainability leaders must make human rights and the

⁹ <https://www.amnesty.org/en/what-we-do/climate-change/energy-transition/>

¹⁰ <https://www.amnesty.org/en/documents/act30/3544/2021/en/>

environment central to their business model to avoid deepening existing inequalities and injustices.

16. By centring respect for human rights, businesses, investors, and governments can prevent human rights abuses and environmental harm in the battery value chain.

What can businesses do?

17. Companies should take all possible steps to “do no harm”. International standards such as the **UN Guiding Principles on Business and Human Rights**¹¹ outline steps they must take to respect human rights and provide remedies for harms their operations cause or contribute towards.
18. Examples of Amnesty International’s recommendations to companies and by extension to governments to hold businesses accountable include:
 - Businesses must ensure that their operations, as well as those of their subsidiaries and suppliers, adhere to international environmental and human rights standards, including by conducting human rights due diligence, in order to identify, prevent, bring to an end, mitigate and account for adverse human rights and environmental impacts.
 - Companies must ensure that their operations do not silence the voices of mining-impacted communities, particularly Indigenous and environmental human rights defenders. These voices are vital to carrying out robust due diligence.
 - Employers should respect the rights of workers in line with international standards.
 - Companies must conduct assessments of the human rights risks linked to their security arrangements. They must never engage in bribery or corruption and take all available measures to combat such practices.
 - Battery manufacturers should increase recycled content in batteries and design a new generation of battery that is easy to disassemble for the reuse of its components.
 - All car manufacturers should transition away from the internal combustion engine as soon as possible.
 - Battery producers must refuse all minerals from the seafloor.

Traceability is feasible and should not be used as a pretext for inaction

19. The UK government in its critical minerals strategy paper¹² correctly identifies the opaqueness of global supply chains of critical minerals. Such opaqueness is not irremediable but a consequence of regulatory failings on the part of government and of due diligence failings on the part of companies. While the technologies exist to identify and map the provenance of critical minerals, the political will to require companies to do so is lacking.

¹¹ https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹² <https://www.gov.uk/government/publications/uk-critical-mineral-strategy/resilience-for-the-future-the-uks-critical-minerals-strategy>

20. Companies have very sophisticated methodologies for ensuring quality control of their rechargeable batteries and of the products that use them. However, the human rights of communities and workers in their supply chains are not treated as a significant quality control issue and are not subject to the same level of scrutiny and due diligence.
21. Upstream and downstream mappings are quite feasible¹³ and should be conducted as an essential part of a company's human rights and environmental due diligence. These mappings should become a regulatory requirement and be published in view of the enormous public interest in the responsible and transparent sourcing of critical minerals and to ensure a level playing field amongst companies. Those which source ethically and conduct proper due diligence on their supply chains should not be disadvantaged by those that don't. No company should be able to gain a competitive advantage out of human rights violations in its supply chain.
22. Amnesty International is currently gathering information about the transactions of several leading companies in the cobalt market. We want to disclose where the cobalt produced by certain companies ends up, to identify potential levers and pressure points, in the hope that this helps improve corporate behaviour on the ground.
23. Amnesty is also conducting research into the due diligence procedures of companies to examine how they address the salient human rights risks posed by battery manufacturing and what they are doing to address and mitigate risks and to remedy harms. It focuses on the supply chains of four key minerals required for battery storage units: Cobalt, Copper, Lithium and Nickel. The research asks 17 major Electric Vehicle and battery manufacturing companies to identify the steps taken to carry out human rights and environmental due diligence, mitigate risks and where mitigation measures fail, provide remedy for harm throughout their supply chain. The results of this investigation will be reflected in scorecards to be published in 2023.
24. We welcome FCDO's recognition in its 2021 Human Rights and Democracy report of the challenges arising because "*supply chains are linked to a range of deplorable practices from human rights abuses to the illicit financing of conflict, as well as severe damage to the environment.*"¹⁴ We also welcome FCDO's role in bringing together stakeholders to understand supply chain risks and promote due diligence.¹⁵ It is helpful that FCDO is raising concerns about human rights and labour conditions in DRC's mining sector with the DRC government. These are important steps in the right direction.

¹³ <https://supplychains.resourcematters.org/explore>

25. While it makes sense for UK to look to countries such as the Kingdom of Saudi Arabia to ensure it isn't reliant only on supplies from China¹⁶, it is still essential for UK to undertake human rights assessments to address the human rights context in other countries. For example, in Saudi any extraction of minerals would raise concerns about migrant workers' rights, the treatment of human rights defenders and curbs on freedom of expression.

Case Study: Mining in the DRC

The world's energy transition has catalysed the expansion of industrial mining for transition minerals such as cobalt and copper.

The Democratic Republic of Congo (DRC) produces around 70% of all cobalt consumed in the world. Demand for cobalt is set to increase substantially in the coming years as it is used to make electric batteries more stable and increase their energy density.

Entire towns and neighbourhoods in southern DRC are being swallowed up by open-pit copper and cobalt mines. Families are being evicted from their homes and farmland without adequate access to information, prior notice, meaningful consultation, fair compensation, or access to effective remedies.

Thousands of people have been affected by the expansion of these mines, who face a future of uncertainty, food insecurity, and financial stress.

Amnesty International and the Initiative for Good Governance and Human Rights (Initiative pour la Bonne Gouvernance et les Droits Humains, IBGDH) have undertaken research into forced evictions at six industrial cobalt and copper industrial mines in the DRC. The findings of this study are due to be published shortly.

Most of the ore is destined for smelters, refiners, and processors located in China where the raw material is transformed into chemicals used to manufacture lithium-ion batteries. These batteries are used to power not only luxury and personal goods like electronics and electric cars, but also for larger energy storage units required for the energy transition, such as wind turbines, solar panels, and electrified transportation. These batteries are part of international efforts to decarbonize economies and end fossil fuel dependency. But they have a cost. Amnesty's report will present new information connecting the increasing global demand for copper and cobalt to the use of forced evictions to clear neighbourhoods and farmlands for industrial cobalt and copper mining in and around the southern Congolese city of Kolwezi.

¹⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1130821/human-rights-and-democracy-2021-foreign-commonwealth-development-office-report.pdf; p28

¹⁵ Ibid, p49

¹⁶ <https://www.gov.uk/government/news/uk-and-saudi-arabia-pledge-to-deliver-closer-co-operation-on-critical-minerals>

The report analyses the failures of the DRC government to uphold and protect the rights of residents in the context of six major copper and cobalt projects in and around Kolwezi. The report calls on the DRC government to adopt a moratorium on forced evictions until adequate procedural and legal safeguards are in place to ensure all evictions comply with international human rights standards. It also documents the role of the multinational companies responsible for operations at the six mine sites for their part in forced evictions as they expanded these operations.

The report calls on companies to only evict communities impacted by their operations as a last resort after other alternatives have been exhausted and, where evictions are necessary, to adopt transparent processes of information sharing, prior notification, compensation, and other forms of remediation in collaboration with rights-holders and DRC provincial authorities.

February 2023