

Indigenous Peoples

Resettlement, whether physical or economic, can be a major and critical impact of mining projects, and is considered especially contentious with regards to Indigenous Peoples. Due to the distinct attachment and relationship to lands, territories and resources that many indigenous groups have, and a widespread history of dispossession and forced removals, resettling Indigenous Peoples is considered to lead to particularly adverse impacts on their cultural survival.

International Labour Organisation (ILO) Convention 169 states that Indigenous Peoples should only be relocated from their lands in exceptional circumstances and only with their free and informed consent. However, Article 16 does recognise that free and informed consent may not be possible in all circumstances and that “Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned” (ILO 1989). To date, 22 countries have ratified the convention, 14 of these in Latin America.

Article 10 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return” (United Nations 2008).

The IFC’s standard for companies to apply where projects affect Indigenous Peoples (Performance Standard 7) recommends that companies should make every effort to avoid any physical relocation of Indigenous Peoples from their customary lands (IFC 2012c).

In May 2013 the International Council on Mining and Metals (ICMM) updated its Position Statement on Indigenous Peoples and Mining, which outlines six commitments that ICMM members must adhere to (ICMM 2013). In 2015 ICMM released a supporting Good Practice Guide that includes more detailed recommendations (ICMM 2015).

Challenges

- Failure to adequately consider specific considerations of indigenous groups.
- Failure to recognise and address negative legacies and perceptions about companies operating in indigenous areas.
- Failure to effectively manage free, prior informed consent issues.
- Lack of national-level legislation to interpret international frameworks (eg ILO Convention 169, UNDRIP) in specific countries.

Lessons and recommendations

- As noted in other modules, follow Steps 1-5 in Tool 2.1 (Impact avoidance and mitigation) of ICMM’s “Good Practice Guide: Indigenous Peoples and Mining” (ICMM 2015), including:
 - appointing staff who have adequate knowledge and experience in the resettlement and displacement field. Companies should engage and seek advice from resettlement experts, indigenous advisers and indigenous community leaders throughout this process
 - compensating people (through appropriately governed monetary payments or replacing livelihoods) who lose assets, or face restrictions on access to assets or a means of livelihood, at full replacement cost.