



Business & Human Rights
Resource Centre

Transition Minerals Tracker: 2021 Analysis

MAY 2022

NO QUEREMOS CONTAMINACION, NUESTRO
FUTURO ESTARA EN PELIGRO.!!!

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Executive summary

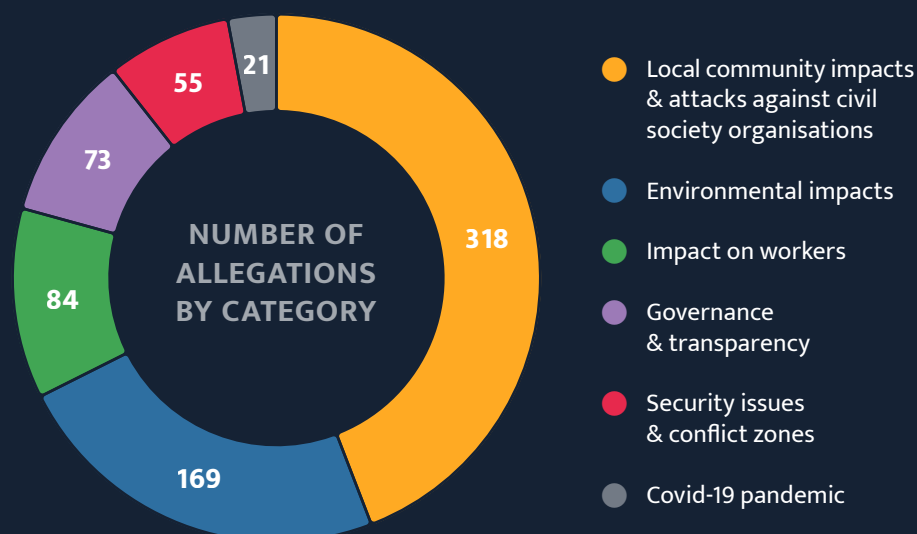
As our world struggles to build the necessary investment in the transition to clean energy, our latest [Transition Minerals Tracker](#) update reveals widespread abuse of land, water and Indigenous rights is undermining the speed and scale of investment in these minerals required by 2030. In response to these abuses, community-led blockades, suspensions and company losses are growing. Investors, companies and governments must act immediately and decisively to ensure the global challenge of reaching net zero is not derailed by irresponsible investment and company practice. The [Tracker](#) is a tool designed primarily to guide ESG investors in their stewardship activities and to further understanding of the primary risks of the transition minerals sector. The data will also be useful for responsible companies and governments to ensure they have the necessary due diligence and regulatory frameworks in place. The Tracker includes recommendations to all three of these stakeholder groups, without whose commitment to a sustainable transition minerals sector a just transition will not be achieved.

The Tracker identifies 495 allegations of human rights abuses between 2010 and 2021. Over two-thirds of recorded [allegations](#) involve just 12 companies, which are among the largest and most well-established of the extractive sector. This includes [Grupo México](#), [Codelco](#), [BHP](#) and [Anglo American](#). Globally, [Glencore](#) has the worst record. It was the company linked to the highest number of allegations in Africa, the second-highest in Asia Pacific, and third-highest in South America. The impact of this level of widespread abuse goes beyond those whose rights are impacted; it is also bad news for business. Companies with poor human rights records expose themselves to reputational risk and hesitation by responsible investors and threaten the progress of the global energy transition as communities increasingly push back against violations of their rights. While human rights abuse can be the result of a lack of due diligence, this latest Tracker update shows companies continue to struggle with the capacity to mitigate and remedy abuse.

This year, for the first time, the Business & Human Rights Resource Centre (Resource Centre) has updated the Tracker to incorporate data from its [Human Rights Defenders \(HRDs\) Database](#). The Tracker now includes 148 attacks against HRDs relating to 103 companies. Communities, particularly Indigenous communities, on the front lines of exploitation of their natural resources [are already feeling the impact of climate change](#) on their lands. In turn, we are witnessing rising dissent and resistance to irresponsible investment that dispossesses communities. The resulting intimidation and attacks are brutal attempts to silence communities who are demanding a greater say in whether and how to develop the land and resources on which they live. The 2021 Tracker update shines a light on this increasingly critical issue – and the fact that a just transition requires stable investment stemming from community consent, more equal negotiations, and protection for community leaders and HRDs.

The 2021 Tracker update demonstrates investors and companies face substantial challenges when embedding responsible practice in mineral extraction, which is essential to underpin a rapid transition to clean energy. Abuses against local communities, CSOs and their leaders comprise nearly two-thirds (63%) of the allegations in the Tracker. This is closely followed by allegations of abuse of environmental rights, with three-quarters (74%) of these relating to water, either access or pollution. While our methodology has expanded, these two issues – water rights and rights of communities – have remained the leading abuses since the Tracker's inception in 2019.

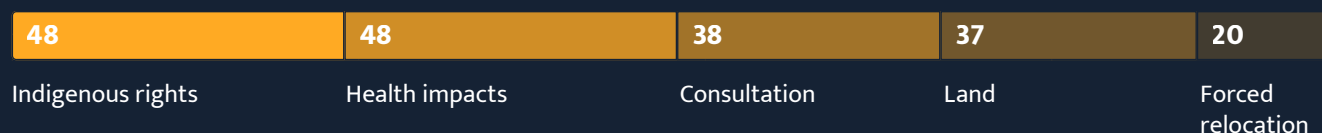
Transitional Minerals Tracker allegations



TOP 5 ENVIRONMENTAL IMPACTS:

- 87 Water pollution
- 67 Access to water
- 45 Violation of environmental standards
- 34 Impact on wildlife and species habitat
- 26 Absence or insufficient environmental impact assessment

63% OF ALLEGATIONS IN THE TRACKER CONCERN HUMAN RIGHTS ABUSES AGAINST LOCAL COMMUNITIES AND CIVIL SOCIETY ORGANISATIONS RELATING TO:



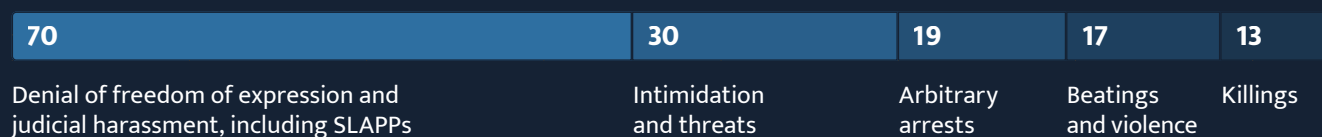
HRDs and transition minerals

1/3 of allegations included an attack on HRDs

41 attacks included direct involvement of companies

32% of attacks related to Indigenous HRDs

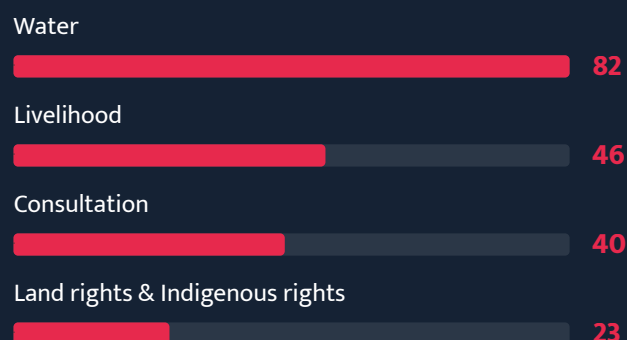
MOST ATTACKS WERE RELATED TO:



TRANSITION MINERALS MOST FREQUENTLY RELATED TO HRD ATTACKS:



TOP IMPACTS RELATED TO HRD ATTACKS:



A future where climate catastrophe is averted due to the development of a clean energy sector built on shared prosperity and co-benefit is possible. But it requires mining companies to have human rights policies in place, and to fully implement them on their sites. It demands rapid and meaningful change from the current extractive model to one which respects human rights and, in turn, generates shared benefit for all stakeholders. Critically, this must include gains for communities and workers who regularly bear the brunt of mining's negative effects. These [stakeholders need to play an active part](#) in the human rights and environmental due diligence increasingly demanded by governmental regulation, and by emergent ESG investor criteria.

While this year's Tracker findings must be seen as a warning of the continued impact on human rights of a 'business as usual' approach, they are also a guide for companies and investors to address the salient risks in their activities, to create a sustainable sector for all.

Recommendations to investors:

- ➔ Establish and publicly communicate human rights standards for all transition minerals mining investments, consistent with the [UN Guiding Principles for Business and Human Rights](#) (UNGPs) and the [OECD Due Diligence Guidance for Responsible Business Conduct](#).
- ➔ Develop an engagement plan with transition minerals mining investees to insist on urgent and decisive action to remove human rights and environmental risks from operations, and the associated reputation, legal and regulatory risks.
- ➔ Undertake rigorous human rights and environmental due diligence and review potential investees for any past involvement with retaliation. Avoid investing in companies with this track record.
- ➔ Use leverage with investee companies which cause, contribute to, or are directly linked to human rights and environmental harms, including attacks on HRDs, so that companies [mitigate negative impacts and provide access to remedy](#) to those affected.

Recommendations to companies:

- ➔ Set a clear and urgent goal to implement human rights and environmental due diligence in operations and supply chains, alongside access to remedy, with special emphasis on land and Indigenous rights risks.
- ➔ Respect Indigenous peoples' land and forest rights and the right to Free, Prior, and Informed Consent (FPIC), including their right to define the process by which FPIC is achieved and to withhold consent.
- ➔ Work to the international standards of the UNGPs. Ensure the approach is proactive and consults those at risk of abuse and their representatives, in accordance with the UN Working Group's [guidance](#) on ensuring respect for HRDs. Reinforce related goals with a time-bound plan, resourcing commensurate to ambition, executive oversight and board approval.

Recommendations to governments:

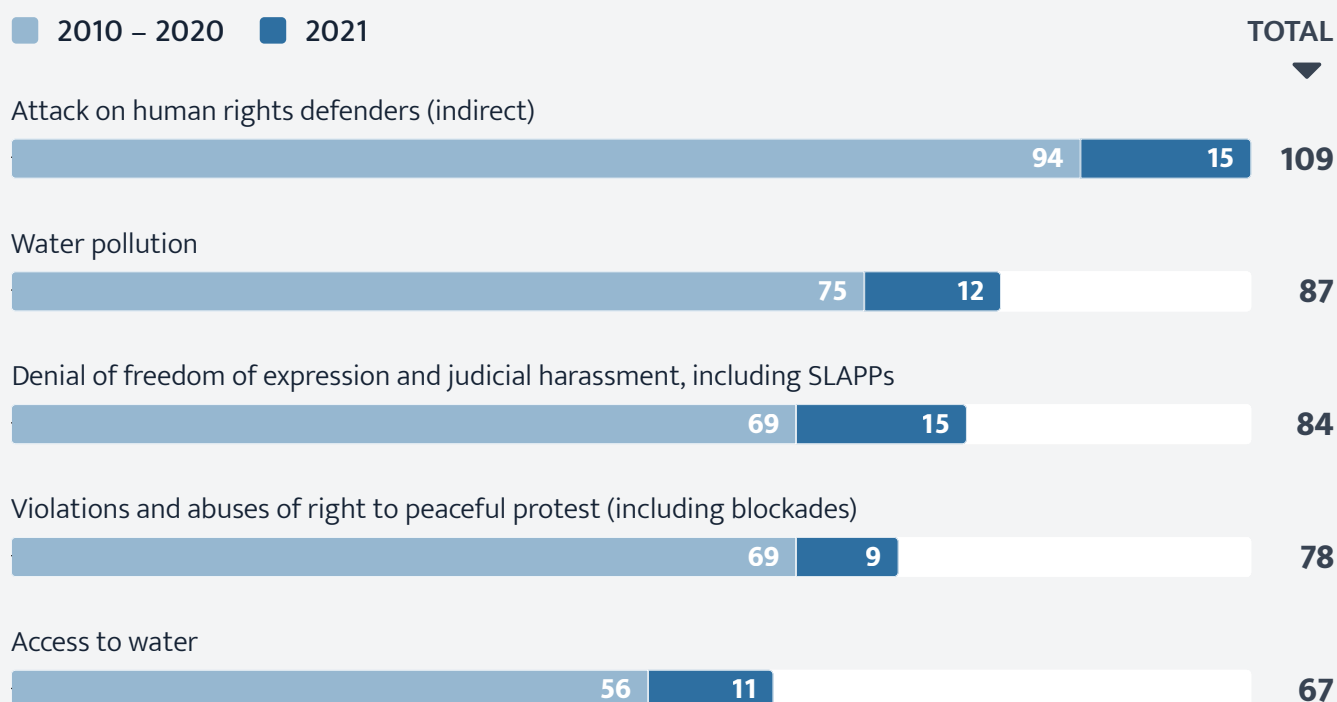
- ➔ Pass national laws to implement the UNGPs, including legislation mandating rigorous human rights and environmental due diligence throughout the transition mineral lifecycle and based on effective community consultation.
- ➔ Commit to enforce these laws and introduce meaningful business and investor incentives for compliance with high standards of responsible business conduct.

Global analysis and 2021 update

During 2021, the Tracker identified 61 new allegations against 28 companies. Human rights abuses against local community and civil society organisations were the most common allegations in 2021, comprising 62% of those recorded. This included instances where mining operations threatened land rights, Indigenous rights and livelihoods, as well as the rights of communities to be consulted and to consent to mining, as people at the forefront of the impacts of mining operations.

Between 2010 and 2021, the Tracker recorded a total of 495 [allegations](#) of human rights abuses. Human rights abuses against **local communities, civil society organisations and their leaders** comprise two in three allegations (63%) in the tracker, making it the number one [category](#) and mirroring the results of the 2021 data. This is closely followed by allegations of abuses **impacting the environment**, with three-quarters (74%) of these relating to water, either access or pollution.

TOP 5 GLOBAL IMPACTS FOUND IN ALLEGATIONS (2010 – 2021)



Abuse of local communities, civil society organisations (CSOs) and their leaders

Overall, 315 allegations in the tracker relate to human rights abuses against local community and civil society organisations (CSOs). The Tracker also highlights the significant impact mining operations have on Indigenous peoples, with 43 allegations of abuse of Indigenous rights. In three in five (60%) allegations where Indigenous rights are threatened, land rights, informed consent and consultation with community members also featured. Communities have reacted to and resisted these abuses with protests and blockades, 78 out of the 315 allegations feature a protest, of which 30% were alleged to have been repressed by state forces. In localities around the mines owned by Glencore, [Compañía Minera Antamina](#), and [Compañía Guatemalteca de Níquel](#) (CGN) – the top three companies with the highest number of allegations against them in 2021 – a similar trend has been observed during the last decade. Here, communities allege being insufficiently consulted by mining companies, or their right to FPIC not being respected in mining activities which result in pollution of their environment and damage to their livelihood and rights as Indigenous Peoples. When these communities protest, they report repression by security forces who further abuse their rights through arbitrary arrests of defenders, beatings and violence, intimidation, and denial of their right to freedom of expression. Specifically, a fifth (21%) of the allegations recorded relate to efforts to deny local communities the right to freedom of expression. This pattern of silencing defenders and local communities was evidenced again in 2021 with [China Minmetals \(MMG – Las Bambas\)](#), [First Quantum](#), [Anglo American](#) and [Minera Los Pelambres](#), each facing three allegations.

Damage to the environment

Environmental damage caused by transition mineral operations featured in 166 allegations in the Tracker. Three-quarters (75%) of these allegations are linked to water rights (access or pollution). Over half of water allegations (54%) highlight the struggle of communities around mining sites to access water due to high demand for limited water resources by companies and poor consideration of community needs. In 41% of situations where access to water is an issue, water pollution has also been reported, exacerbating water scarcity in these communities. Of 87 water pollution impacts recorded, 28% also alleged violation of environmental safety standards, indicating some cases of pollution result from company negligence to mitigate or address their environmental impacts. In 98 allegations, impacts on local communities were worsened by harm to the environment on which residents rely for their survival and subsistence. In 2021, 19 allegations of abuse of water rights were reported. This constitutes 31% of all allegations reported in 2021.



Regional update

While the Tracker highlights key global risks across the sector, specific regional and local contexts influence the prevalence of abuse and the severity of harm caused by transition mineral mining.

Africa

The Democratic Republic of Congo (DRC) is [responsible for over 70% of the global production of cobalt](#) and is also a primary producer of copper. Within Africa, nearly two-thirds of all allegations (52 of 82) recorded in the Tracker occurred in DRC. Operations in Zambia – the [second largest producer of copper on the continent](#) after DRC – followed with 22 allegations. With so much of global production derived from these two countries, it is unsurprising 73 out of the 82 allegations recorded in Africa are linked to the mining of copper and/or cobalt. In 2021, 75% of the overall impact on workers recorded in the Tracker occurred in DRC. This features cases of child labour, unpaid labour, unfair hiring and firing practices, occupational health and safety, worker-related deaths, denial of freedom of association, protests/strikes/blockades and discrimination. The impacts recorded in the category of local community and attacks on civil society organisations on the continent comprises 37%, with forced relocation recording the highest number of occurrences in this category. This highlights the displacement and general instability to which communities at the forefront of mining are exposed, with copper touted by some as ‘[the new oil](#)’ as production expands to meet demand.



Americas

In the Americas, South America is the significant frontrunner in number and scope of allegations, with over half of all global allegations in the Tracker. The highest number of human rights abuses reported in South America occurred in Peru (59%) with Chile following at 24%. Furthermore, South America is home to the three mines linked to the highest number of human rights allegations in the Tracker. These are all copper operations located in Peru. [Las Bambas](#), located in Peru and



owned by China Minmetals through its majority shareholder of MMG, is the world's ninth-largest copper mine, and – when operating – [produces 2% of the global copper supply](#). However, operations are frequently shut down due to community and [workers' strikes, blockades and protests](#). There are 55 separate allegations against Las Bambas recorded in the Tracker – the highest of any single operation, with impacts recorded in five of the six impact categories. These impacts range from an absence of or insufficient environmental impact assessment, water access, and insufficient/inadequate consultation. Thirty-three reports of attacks on HRDs are associated with the mine, of which 23 are also connected to denial of freedom of expression and judicial harassment, including strategic litigation against public participation (SLAPP) suits, and 14 impacts connected to a repressive state. Despite these issues and the impact on its people, in 2022 the Peruvian Government [approved an expansion of the mine](#).



Bolivia

For the past 10 years, the Bolivian Government has been aware of future global demand for lithium and, with [21 million tonnes of the world's 86 million identified lithium resources](#) in its salt flats, has initiated a process of lithium industrialisation. Lithium is considered a strategic resource for the state and one which could lift the country out of underdevelopment. But there are serious livelihood and environmental concerns related to its extraction. In December 2021, the Resource Centre held workshops with affected communities. Participants' testimony revealed a major issue with a lack of community consultation, leading to a breakdown of trust: *"The consultation process that has been carried out for these plants has used a form of consultation that has excluded the native and Indigenous communities,"* said CEDIB researcher Jorge Campanini. Jorge also criticised the inadequate FPIC process among affected communities and said they were not provided with real data on water use or the contamination that could be generated. Mayor Fausto García, who represented the municipality of Llica, outlined how these processes can lead to communities feeling invisible and threatened: *"There is no attention from the central Government...The only time Llica appears on the national radar is when it comes to lithium. We are besieged by interests from both national and transnational companies."* He added: *"...They talk about royalties, [but] they don't talk about Pachamama, about respect for nature, [about] our ecosystem [which] could be destroyed at an accelerated rate in the future."*



While allegations globally and in South America are predominantly related to copper, South America is also the number one region for allegations related to lithium as the home of the ‘lithium triangle’, a mineral-rich area spanning parts of Argentina, Bolivia and Chile. Because exploitation of copper and lithium is highly water-intensive, unsurprisingly, water impacts feature as a significant issue in South America. Water rights are among the top five human rights impacts recorded in the Tracker for South America, with access to water recorded as an impact 50 times in South American allegations and water pollution recorded 44 times. In two in 10 instances where access to water was impacted, companies are seen to have also violated environmental standards. Nearly a third (31%) of water pollution cases have also resulted in a violation of the right to health of members of the affected community.

Alongside water and land rights, violations of Indigenous rights often appear in connection with the rights of communities. In Mexico and Central America, two-thirds of the impacts (65%) resulting from recorded 60 allegations are linked to attacks on local community and civil society organisations. Indigenous rights were also impacted in more than 40% of instances where the right to peaceful protest was also abused, and nearly half of cases where communities were insufficiently or inadequately consulted. Allegations for this region are primarily linked to zinc (40%), copper (28%) and nickel (23%). Mexico and Central America is also the highest-scoring region for abuses linked to the Covid-19 pandemic.

Against the background of an intensifying conversation on [workers’ rights in the US](#), North America is the only region where workers’ rights (occupational health and safety, work related deaths, and protests/strikes) was the leading category of abuse.

Asia and the Pacific

Reflecting global trends, violation of Indigenous rights occurred in over 10% of the 65 allegations recorded in Asia Pacific. These were predominantly recorded in Australia, Indonesia, New Caledonia and Papua New Guinea. These countries also record a majority of all the allegations in the region, with Indonesia having the highest allegations at 22, followed by Australia (14). Over half (52%) of the allegations recorded in Asia Pacific were linked to copper. In six out of nine violations of Indigenous rights, water pollution was also an issue, further evidencing the [significant intersection of abuse](#) between Indigenous rights and peoples and water rights.



Europe

While Europe has fewer allegations than other regions recorded in the Tracker, of the six documented, five took place in 2020 – 2021, which could indicate abusive business practices are on the rise. [Our research](#) revealed particular instances in the licensing and exploration stages of transition mining in Europe and North America. These should serve as a warning sign to governments as they seek to expand and secure their domestic supply of critical minerals.



Transition minerals and human rights defenders

Research from the Resource Centre has shown industries related to natural resources are a driving force behind attacks on HRDs. In 2021, the top five most dangerous sectors for HRDs (individuals and collectives) all related to natural resources, [with mining the most dangerous sector for HRDs raising concerns about business-related harms for the last seven years](#). The HRD database recorded 988 attacks in the mining sector from 2015-2021. To better understand the link between the extraction of transition minerals and attacks on HRDs, the Resource Centre cross-checked attacks from its HRD Database against allegations in the Tracker and found a significant overlap between the transition mineral sector and attacks faced by environmental and land defenders. It is important to note that HRD attacks can occur individually, but they also affect communities and collectives, and often happen in group events, such as crackdowns on protests or judicial harassment of HRDs.

Of the 495 allegations in the Tracker, nearly 30% (148) involved a HRD attack, indicating a significant issue for the energy transition. Of these, 107 allegations referred to indirect attacks, where a company did not directly take part in the attack. In these cases other actors, such as the police or private security companies, allegedly acted to protect the interests of the company. The remaining 41 allegations referred to direct attacks where a company took part. The most common type of attack recorded was the denial of freedom of expression, judicial harassment and SLAPPs, with 69 allegations recorded in the Tracker. This was the number one impact experienced by both men and women HRDs. Male HRDs were affected by arbitrary detention/arrest as the second most common impact, while for women HRDs intimidation or threats were the second most experienced impact. Indigenous women were overwhelmingly represented in attacks. Of the 24 attacks on women HRDs, 62% were against Indigenous women.

As evidenced throughout the Tracker, we see Indigenous peoples and communities at the forefront of both resistance and harm. Of 148 attacks on HRDs, 32% of the attacks (47) were against Indigenous HRDs who were mostly protecting their land rights, water rights, and livelihoods. Forty-two percent of the attacks on Indigenous peoples involved the denial of freedom of expression, judicial harassment and SLAPPs; 23% involve violations of the right to protest; 23% involved intimidation and threats, and—most disturbingly—14% were killings of Indigenous people defending their rights.

Local communities defending their rights experienced the highest number of attacks (36%) of all the groups of human rights defenders. The highest number of attacks on HRDs is linked to the impact of mining operations on the livelihoods of local communities (46 attacks). This emphasises the importance of consultation before

mining operations commence, yet the Tracker shows HRDs who challenge the insufficiency of consultation are particular targets of attack (40 attacks). The defence of land rights and Indigenous rights by HRDs have also led to their attacks (19 and 14 attacks, respectively).

Water rights, one of the leading impacts tracked, has also led to attacks on HRDs, with 82 such attacks on HRDs recorded. More than half these attacks related to denouncing water pollution, while 45% related to denouncing lack of access to water caused by water-intensive mining operations.

Peru

We saw the highest number of attacks on HRDs related to transition mineral mining in Peru, which is also the number one country for HRD attacks in the mining sector according to our HRD database. In December 2021, we held a workshop with communities in Peru affected by copper mining. The workshop identified a lack of access to information, especially in relation to Technical Sustainability Reports (TSRs) and Environmental Impact Studies, as a main driver of conflict. The opaque nature and deficiency of these processes led to protests by local HRDs concerned by the lack of attention paid to the impacts on surrounding communities. Two other big drivers of conflict were related to what they felt was a lack of knowledge from officials about ancestral Indigenous ownership of lands, and the gaps in the law regarding FPIC – which was felt to have become an administrative procedure promoted by states and companies, rather than a fundamental right of the Indigenous community.

In recent years, protesters were treated particularly brutally in the province of Espinar, where Glencore operates the Antapaccay mine, a deposit rich in copper. One testimony illustrates the police brutality community leaders can face when opposing transition mineral mining operations: *“We felt some gunshots coming from the side of the road. When the truck stopped, about 20 policemen, who were attacking [local protesters] told us: ‘Get out, you [expletive] dogs’ and fired... As they went down and saw that they had huaracas, they would say to them ‘Ah, with your huaraquita, right [expletive]? You’re going to die, you [expletive] dog,’ while another said, ‘Give them lead [shoot them].’”* The Tracker records 21 separate allegations related to the Antapaccay mine, including six instances of attacks on HRDs and five impacts related to insufficient or inadequate consultation, and three related to violations of Indigenous rights.



Conclusion

According to the [International Energy Agency](#), a mid-century zero-carbon world will require a sixfold increase in the production of energy transition minerals by 2030. Demand is already increasing, and prices are surging. To achieve the production needed to support the transition, massive and rapid investment is necessary. But this transition will only be successful with responsible stewardship of capital which builds sustainable projects, based on legitimate consent and safeguards against environmental harms to ensure the abuse that has characterised too much of the extractive sector is avoided. The 2021 Tracker highlights the key human rights risks which must now be at the core of investors and companies' due diligence and remedy, if community consent is to be built and project suspensions and ballooning costs for investors are to be avoided. A just transition to clean energy – urgently needed to save our planet and the people living on it – depends on it.

Notes on terms used in this briefing

When we use the term '**Tracker**' this refers to our entire dataset that covers all 103 companies and their transition mineral operations. The dataset comprises six categories: environmental impacts, impacts on communities and civil society organisations (CSOs), impacts on workers, governance and transparency, security and conflict zones, and the Covid-19 pandemic. When we use the term '**categories**' we are referring to these six groups. Under the six categories are 50 sub-indicators, or impacts. For example, an indicator such as 'water pollution' sits under the 'environmental impact' category. '**Impacts**' refers to the sub-indicators. The term '**allegation**' is used for the incidence which we are recording in the Tracker. One allegation can have multiple impacts across different categories i.e., an incidence of water pollution may have other impacts, such as health impacts, or impact on livelihoods. A full Tracker methodology is available on the Transition Minerals Tracker website.



Business & Human Rights Resource Centre

MAY 2022

Business & Human Rights Resource Centre is an international NGO which tracks the human rights impacts of over 10,000 companies in over 180 countries, making information available on our 10-language website.

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