

## **LAMMP Comments: The IRMA Standards Public Consultation**

The Latin American Mining Monitoring Programme (LAMMP) supports the Initiative of Responsible Mining Assurance's (IRMA) critical efforts to transform the mining and extractive sector into one that is more ethical and respectful of human rights. We commend the Board's decision to conduct a public consultation on the IRMA Standards (the Standards). Accordingly, we would like to bring your attention to an area of interest that is integral to our work: Protection of Human Rights Defenders (HRDs), and more specifically of women defenders and their rights.

**LAMMP** is a charity dedicated to supporting rural and indigenous women affected by resource extractive projects in Latin America.

### **I. Carrying out Human Rights due Diligence: the criminalization of Human Rights Defenders**

Due to the nature of LAMMP's work, we follow with great interest the initiatives such as that of IRMA Certification. We welcome the growing recognition that both States and companies have a responsibility to protect and uphold international human rights standards.

Needless to say, the Standards are not the first of its kind to encourage companies to comply with the corporate responsibility to respect human rights: The *Voluntary Principles on Security and Human Rights* (VPs) and the *UN Guiding Principles on Business and Human Rights* (UNGPs), the *International Council of Mining and Metals* (ICMM) and the *Extractive Industries Transparency Initiative* (EITI) provide useful benchmarks for this endeavour.

One of the main tasks companies commit to is the carrying out of Human Rights Due Diligence (Standard 2.4). Companies are therefore required to perform Human Rights Impact Assessment (HRIA) "to prevent or mitigate potential human rights abuses and remediate the effects of existing human rights impacts related to company activities or business relationships". Moreover, the Standards require this process to be ongoing and inclusive of all stakeholders including those who are most vulnerable.

This is crucial in a swelling climate of insecurity and impunity in Latin American regions where resource-extraction activity is planned or already in operation:

-In Peru, reports from the Coordinadora Nacional de Derechos Humanos (CNDDHH) found that, in 2012 alone, 70% of the attacks reported in Peru against Human Rights Defenders were to environmentalists and those working on indigenous issues.<sup>1</sup> These attacks include arbitrary arrests, harassment, torture or death by the National Police.

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<sup>1</sup> [http://www.frontlinedefenders.org/files/flid\\_report\\_peru\\_final.pdf](http://www.frontlinedefenders.org/files/flid_report_peru_final.pdf)

- The recent implementation of the Law 30151 of the Peruvian Criminal Code also gives complete impunity to Armed Forces or National Police who cause injury or death in the performance of their duties.<sup>2</sup>

-In Guatemala, the government declared a state of emergency in several municipalities following violent clashes involving activists, public and private security at a mine in the South of the country. The measure gave the military the power to carry out arrests without a warrant, and suspended freedom of assembly<sup>3</sup>.

-In Ecuador, environmental activists and NGOs defending indigenous rights are often unrightfully accused of promoting violence, and receiving funds from abroad to destabilize the country. This led to Prosecutors applying a “terrorism and sabotage” provision of the criminal code in cases involving protest marches that have resulted in confrontations with the police<sup>4</sup>.

All these send the chilling message that it is not safe to oppose or simply question an extractive concession, not matter how peacefully. Persecuted by both State and non-State actors, it is extremely difficult for HRDs and environmental activists to carry out their work in a secure environment. In view of this, it is our firm belief that the Standards must include a resolution to guarantee the safety of HRDs.

In the following part, we hope to highlight how this is particularly important for women in mining affected communities. They are often absent in discussions about community activism and environmental rights, which makes them most vulnerable to human rights violations.

## **II. Integrating Gender and defending women’s human rights**

Over the last years, there has been a significant shift in the understanding of gender in the context of the extractive industries. This has come after recognition that women were systematically absent from any form of community consultation, letting the mining operations perpetuate deeply entrenched social, cultural and economical discrimination based on gender.

Moreover, it is not an understatement that the impact of resource extractive industries is pervasive, affecting women’s livelihood, land and water, their emotional and physical well-being and their sense of security and protection.

Thus, gender is beginning to be understood as integral to strengthening community engagements prior, during and after mining operations. Even more so, it is firmly believed that these development projects have an important role to play to encourage women’s empowerment<sup>5</sup>. Accordingly, efforts to include women’s voice are increasingly used at different stages of a mining operation: arranging a separate consultation, scheduling it according to the women’s timetable and hiring a woman responsible for community engagement for example<sup>6</sup>.

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<sup>2</sup> [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/004.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/004.asp)

<sup>3</sup> <http://www.hrw.org/world-report/2014/country-chapters/guatemala?page=2>

<sup>4</sup> <http://www.hrw.org/world-report-2011/ecuador>

<sup>5</sup> [http://www.riotinto.com/documents/reportpublications/rio\\_tinto\\_gender\\_guide.pdf](http://www.riotinto.com/documents/reportpublications/rio_tinto_gender_guide.pdf)

<sup>6</sup> [http://siteresources.worldbank.org/EXTOGMC/Resources/eifd8\\_gender\\_equity.pdf](http://siteresources.worldbank.org/EXTOGMC/Resources/eifd8_gender_equity.pdf)

The Standards continue on this line of work as they make both explicit and implicit reference to gender inclusion at all levels of operations. With regard to strengthening community relationship (Standards 2.8 and 2.9), the Standards require that the company should “determine barriers to meaningful participation and make reasonable efforts to ensure that barriers are removed” (2.9.4.2).

Although the comprehensive approach is commendable, we are concerned it is not sufficient. Throughout LAMMP’s fieldwork, we observed severe shortcomings to the prospect of breaking barriers and engage with women in communities.

The barriers are multiple, particularly for rural and indigenous women. These include the lack of physical access to public services (health, justice, education) and complex power relations that propagate gender, social and cultural inequalities.

In the context of the expansion of the mining industry in Latin America, we have noted with great alarm the increased incidence of violence targeting women. Violence appears at different levels, whether domestic, community or State level and typically occurs when a woman opposes a mining project or simply refuses to give her land away to concessions.

They often lack land titles and property rights although they are often sole responsible for farming and cultivation activities. As a result women are frequently stigmatized by members of their own communities, by mine employees and by State authorities.<sup>7</sup> This frequently leads to harassments, threats and attacks intended to dissuade women from taking a stand. Therefore, whereas it is crucial to encourage women’s participation, it is not possible without a guarantee of their safety.

Accordingly, both State and non-state actors are failing to ensure the protection of women’s human rights and fundamental freedoms. This is at the core of LAMMP’s work, by engaging directly with rural and indigenous women in mining-affected communities; we have become deeply aware of the risks they face for actively exercising their rights and freedoms.

For this reason, talks on gender and mining must make explicit reference of protection and women’s human rights. We urge you to fully integrate a women’s protection in the Standards. The definition of protection needs to be inclusive of the social and cultural challenges encountered by women in mining-affected communities, of their physical safety and psychological and emotional well-being<sup>8</sup>.

### **III. Conclusion: from policy to practice**

More and more so, initiatives are emerging to redefine the extractive sector as one that is “responsible” and “sustainable”. LAMMP, alongside many actors in Civil Society, actively support to emerging recognition that both State and non-State actors have their responsibility to ensure the respect of human rights.

These efforts are applauded in a context in which many activists and HRDs are the target of repressive measures and criminalization. This is especially true for environmental and indigenous groups opposing large-scale mining projects. Police impunity, illegalisation of protest and assembly, arbitrary arrests and groundless accusations are but some of the means aimed at deterring defenders.

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<sup>7</sup> <https://www.northumbria.ac.uk/static/5007/sasspdf/lammreport.pdf>

<sup>8</sup> <http://www.awid.org/Library/Our-Right-to-Safety>

Protection is an issue of grave importance. All community members, including women, should feel safe and protected to actively engage in issues that are important to them. This involves creating a detailed understanding of protection, both from physical and psychological harm.

Women are increasingly at risk in this domain; often from rural and indigenous backgrounds, they are frequently targets for further abuse and hostilities because of their gender, ethnicity or origins. Sexual violence, verbal harassment and growing stigmatization are all at play aiming to deter women's activism and participation.

Without pragmatic implementation of the Standards such efforts are rendered futile. The elaboration of the VPs and the UNGP successfully initiated discussion on ways to improve the mining industry.

Yet, we fail to see the results. In the Latin American region alone, we witness the repeated human rights violations provoked or contributed to by companies that are members of organisms that promote the corporate responsibility to ensure the full respect of human rights.

In other words, whereas there are positive efforts to increase transparency and accountability at policy level, their effectiveness is questionable. There is a fundamental gap between policy and practice.

So much that, we would like to invite you to read the attached document regarding Máxima Acuña Chaupe, a rural woman from Peru. Since 2011, Maxima is the target of harassments, threats and several attacks by police, members of the community and personnel of Yanacocha S.A., a subsidiary of Newmont Mining Corporations. Newmont is both founding member of the ICMM and is a participant of the VPs.

We believe that her experiences are telling of the challenges facing those peacefully opposing a mining project. We also seek to highlight the particular barriers for a rural woman, or *campesina*. Also, it explicitly reveals the breach between policy and practice.