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# Policy Briefing

# Bringing Democracy to Governance of Mining for a Just Energy Transition

Societies are committed to moving from fossil to clean energies. Yet, this transition will not be possible if we do not change the way we extract minerals. Clean energy systems require massive amounts of them, but they create multiple environmental and social problems. In mineral-rich countries, civil society is increasingly contesting mineral extraction. These protests are being effective in challenging investment and can contribute to shifting transformation into more sustainable directions. But for this to happen, we need to democratise the governance of mineral resources. This is indispensable for justice, legitimacy, and the viability of the energy transition.

## Key messages

- Clean energy is driving hugely increased demand for critical minerals.
- Extraction of minerals brings significant pressures to local environments and societies.
- Civil society is responding to this by resisting and blocking projects, which is resulting in significant disruption for business and governments.
- There have been initiatives to engage citizens in the management of mining projects to reduce conflicts, but they have been disappointing.
- The entire governance frameworks of natural resources need to be redesigned, bringing democracy to an economic area up to now untouched by ambitions of democratisation.
- Without this transformation, the energy transition will certainly be unjust, environmentally unsustainable, and likely also unachievable.

**“Clean energy systems require massive amounts of minerals, but their extraction generates multiple social and environmental problems.**



Anabel Marín

## An opportunity for ambitious change?

The energy transition requires massive amounts of mineral. Wind plants consume nine times more minerals than gas-fired power plants and electric cars use six times more minerals than conventional cars. The global demand for critical minerals will increase up to 500 per cent during the next ten years according to the World Bank.

This increase in demand for minerals will create enormous economic opportunities for mineral-rich countries. This is why governments of resource-rich countries have been very keen to promote the activity, particularly low- and middle-income countries. Mining activities, however, generate multiple environmental and social problems, including pollution of soil, air, and water; disposal of toxic waste; intensive use of water and energy; and dangerous working conditions.

As demand for minerals escalates, these problems are set to grow, along with local resistance and socio-environmental conflicts.

In many mineral-rich contexts, local resistance to mining, very often organised at a community level, has played an important role in limiting the negative effects of mineral extraction.

But this resistance has significant costs **for communities**, who risk their wellbeing to protect their lands, environments and rights, and **for governments and companies**, whose decisions and incomes are permanently challenged. In addition, resistance leads to reactive rather than proactive policies with local governments or judiciary courts, which respond to complaints around single projects in specific locations without a strategic long-term view that has been broadly negotiated.

If energy transitions are to be just, we need to find ways to build on these separate, *ad hoc* struggles and create more democratic models of governance that can steer companies and governments to adopt energy mining initiatives which have been negotiated with the local populations affected by their activities.

## Deepening democracy for a just energy transition

There is growing awareness that for energy transitions to be fair, and not just a redistribution of goods and ills between rich and poor economic actors, civil society groups need to be involved in shaping the direction of changes. Researchers focusing on climate justice have pointed out the importance of incorporating the voices of marginalised groups into national and global debates and frameworks related to the transition.

**Just energy transitions *must*** involve giving a meaningful voice in policy negotiations about the transition to the most vulnerable, those who have been and will be most impacted by the changes. These include the workers displaced by the closure of problematic ('brown') industries as well as local populations affected by the new projects required to develop clean energies.

But this is not enough. In this *IDS Policy Briefing* we argue that the experience and impacts of the resistance from civil society groups to activities central for the transition in a number of resource-rich countries suggest that more ambitious goals could and should be aimed at in **both imaginations and demands for justice in the energy transition**.

We should go beyond simply trying to give voices to marginalised groups, and instead focus more on taking advantage of their voices already raised, to promote deeper and more sustainable processes of change.

This does not mean abandoning efforts to understand and support the creation of collective agency from below.

But we do need to better understand the underlying mechanisms that limit meaningful civil society engagement in political spaces around these activities. At the same time, we need to experiment with new, more democratic and inclusive governance frameworks for mining.

A closer look at two countries, Argentina and Chile, can better illustrate the scale of the

challenge and also the size of the opportunity for these significant transformations.

## Two contrasting but similar cases

Argentina holds important reserves of minerals critical for the clean energy transition, such as copper, lithium, and cobalt. It is part of the lithium triangle – alongside Bolivia and Chile – which holds 60 per cent of the world's lithium reserves. The Argentinean government has made efforts to promote mineral activities since the early 1990s. However, local populations, activists, and civil society have resisted mineral extraction for over 20 years, managing to seriously limit the activity. Mining in Argentina represents less than 0.5 per cent of gross domestic product (GDP), much lower than the Latin American average of 5 per cent.

The history of resistance to mineral and other forms of extraction in Argentina is long. However, a turning point took place in 2003 when the community of Esquel, in the province of Chubut, exhorted the local government to hold a plebiscite (a vote of the whole community), originally non-binding, in which 81 per cent of the population voted against the installation of the Meridian Gold mining project. Following this, in 2003, local communities from all over the province succeeded in getting the government to enact a law prohibiting open-pit mining in the whole province.

After Chubut, following what has been called the 'Esquel effect', eight other provinces (out of 23 in the country) also decided to ban the activity: Rio Negro (2005), La Rioja (2007), Tucumán (2007), Mendoza (2007), La Pampa (2007), Cordoba (2008), San Luis (2008), and Tierra del Fuego (2012). In addition to these provincial bans, between 2003 and 2015, 12 municipal laws limited open-pit mining activity and the use of substances such as cyanide.

Local resistance, however, continues. In October 2022, the Government of Salta, a province where regulations allow mining, reported the discovery of a gold and copper deposit in a mountainous area of the Alto Valle Calchaquí, near the town of Cachi. However, in November the local community declared the town a 'Non-Toxic and Environmentally Sustainable Municipality'. Following this, a law was passed that 'prohibits open-pit metalliferous mining, lithium mining, and the use of water for these activities'. The town's five-member Deliberative Council put aside party differences to vote in favour of the legislation.

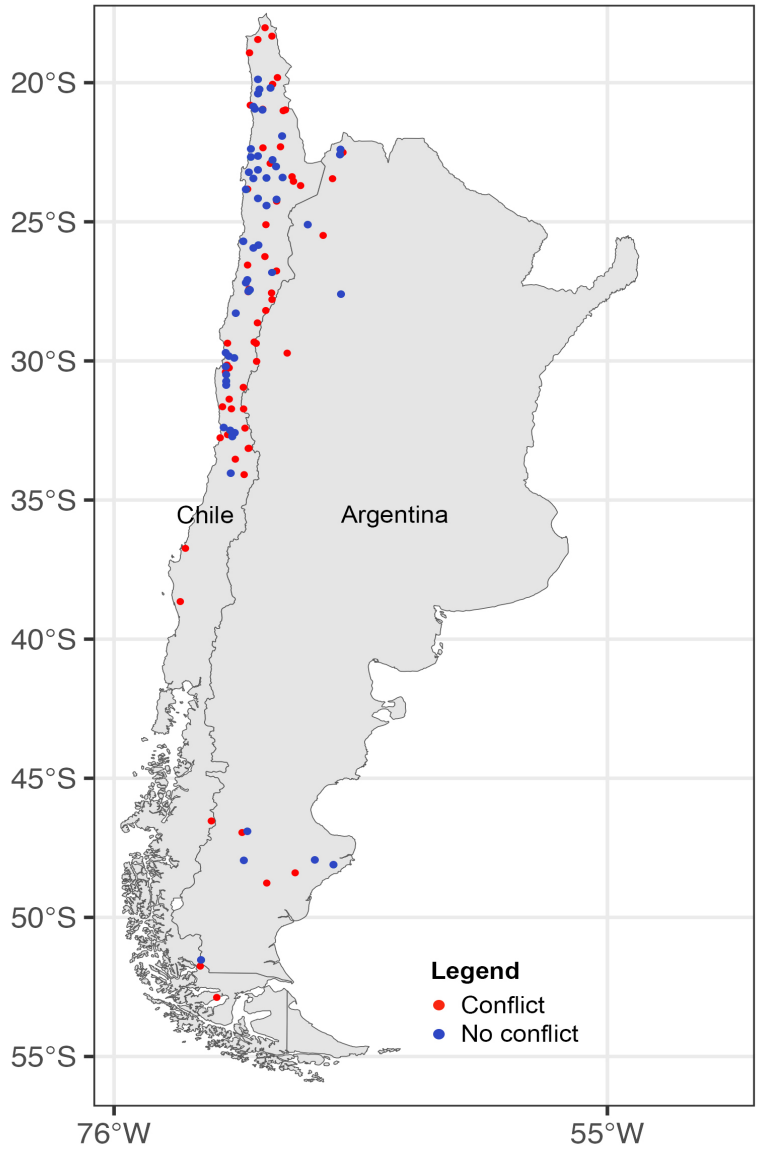
Existing estimates suggest that since 2003, in Argentina, 50 per cent of all new projects have been stopped or significantly delayed by socio-environmental conflicts, challenging investments of at least US$13bn.

For Chile, mineral activity has been a central part of the economy since colonial times. Currently the country is the largest producer and exporter of copper in the world and the second largest lithium producer, after Australia. The mining industry accounts for 12 per cent of GDP, 60 per cent of exports, and 20 per cent of tax revenues.

The industrial configuration of the mining sector in Chile was shaped in the 1990s, in a context of little social protest. However, civil society has been increasingly disputing the activity. According to the Observatorio de la Productividad, in the 2020s, US$25bn of investment in the sector was delayed or stopped by conflicts and disputes with civil society. Our own estimations suggest that currently 60 per cent of all medium- and large-scale mining in this country is involved in some kind of socio-environmental conflict. We also found that around US$12bn of projected investments in mining – 80 per cent of total investments submitted for government

**If energy transitions are to be just, we need to create more democratic models of governance.**

## Figure 1: Locations of active mining projects in Argentina and Chile




Note: Of 18 active mining projects in Argentina, 9 are in conflict (50 per cent). Of the 102 active mining projects in Chile, 52 are currently in conflict (51 per cent). This map does not include conflicts relating to mining projects in feasibility or post-activity phase.

Source: Author's own, based on project data.

approval by the Environmental Assessment Service (SEA) – were contested by civil society between 1998 and 2022 (21 per cent are currently in the justice system).

This is striking in a country often thought of as being highly successful, not only in terms of its capacity to extract benefits from mining but also, more importantly, in challenging the natural resource curse, alongside Canada and Australia.

Two ongoing conflicts around lithium are illustrative. The first is taking place in Copiapó. In January 2022, the Chilean government granted two large contracts in the region, to extract 160,000 tonnes of lithium worth US$121m. However, the tender was suspended by the Supreme Court two days after it was announced that it would be awarded to China's BYD and Chile's Servicios y Operaciones Mineras del Norte. The court responded to the appeal filed by the Atacameño community of Coyo and Camar against the Ministry of Mining, which argued that the lithium tender did not respect International Labour Organization (ILO) Convention 169, which establishes mandatory consultation with indigenous peoples. The argument was that the governmental tender was 'illegal, arbitrary and affected' rights enshrined in the country's constitution, such as the right to live in a pollution-free environment. The tender was suspended to make way for a process that allows 'the real participation

of the Atacameño community with a view to the protection of equality before the law, the environment, tourism development, and economic freedom' in the area.

The second conflict involves the only two projects in operation in Chile, in the Salar de Atacama, Chile's largest salt flat, owned by Corporación de Fomento de la Producción (CORFO), which holds a third of the world's reserves of the mineral. This salt flat started to be exploited in the 1980s by two companies: SQM, from Chile and Albemarle, from the United States. Conflicts with the 21 communities that live in the area became frequent in the 1990s, due to issues such as the overexploitation of local resources. In response, in 2018, CORFO developed a new rental agreement with the companies, including a clause that requires distribution of benefits with the communities.

Under this new clause, the companies had to share US$15m between the communities using a distribution formula proposed by CORFO. This requirement, based on ideas about shared value, was seen as a possible way to address the conflict. However, it did not work and the communities resorted to litigation. In 2022, the Supreme Court ordered CORFO to consult with indigenous communities in Atacama, so that they can decide the distribution formula. The process of consultation is ongoing.

This particular conflict shows that, in many cases, requests by local communities cannot be responded to by distributed justice alone, raising the issue of whether more focus on procedural justice is required.

## Beyond these two cases: an opportunity for long-lasting change?

The situation in these two countries is not unique. Environmental and social conflicts characterise most large-scale natural resource projects in Latin America. According to the Environmental Justice Atlas, 30 per cent of all large-scale mineral projects in Peru are stopped by conflicts, with 14 per cent in Ecuador, and 9 per cent in Mexico. In addition, resistance to mineral extraction is growing all over the world, with increased cases in Brazil, South Africa, and India.

## Existing ambitions and practices of democratisation

Research and practice have shown that increasing civil society engagement in the political space can lead to better decision-making and more efficient and legitimised policies for society, as well as offering citizens the chance to fulfil the 'democratic wish' by exerting real influence in the governing process. In addition, it can be a vehicle for decision-making processes which are more inclusive and just.

All these potential benefits, however, do not emerge automatically. For civil society engagement to be effective, a number of questions need to be considered. Who takes the initiative? Who is invited to participate? How are power asymmetries managed? Are there binding consequences attached to the political processes that civil society is part of?

Where civil society engagement has been designed from above, it has been heavily shaped by corporate interests and has approached participation mostly as a bureaucratic procedure. These models have shown very disappointing results, particularly in areas where strong economic interests are at stake, such as large energy and mining projects. Designed to 'manage dissent and manufacture consent', as argued by Verweijen and Dunlap, they have rarely managed to address central causes of concern among civil society groups and have ended up being politically ineffective and exclusionary.

> **More ambitious goals could and should be aimed at in both *imaginations* and *demands* for justice in the energy transition.**

## Policy recommendations

To promote transformative forms of civil society engagement in the policy space that can address these challenges, new policy institutions must be created with the explicit objective to increase citizen involvement in decision-making around large investment projects. These should consider the following challenges:

- **Early involvement:** in existing practices, citizen engagement typically happens only at the end when all decisions about technologies and practices have been taken. This limits the extent to which citizens' concerns can actually be responded to.
- **Broad involvement:** the institutions should engage with a full diversity of stakeholders in the territories.
- **Policies have to be co-produced:** citizens should be involved as decision makers, co-producing the investment policies and not merely acting in a watchdog role.
- **The approach has to be transformative:** existing efforts to involve citizens have been generally limited to provide accountability, transparency and reach consensus, and at best to agree on some form of redistribution of costs and benefits. In a sector with massive environmental problems, however, the goal should be to promote transformations in technological and productive practices and company behaviours.
- **Decisions have to be binding and outputs flexible:** decisions must have impacts, and the possibility should exist of a project not going ahead at all.

The challenge is massive. But similar challenges have been addressed in the past to adapt to new urgencies. In the 1950s and 1960s, Latin American countries put in place the most sophisticated state apparatus to implement import substitution policies. The capabilities to do so were very complex and did not exist before, but nevertheless impressive results were generated.

The scale of the challenge is now even larger. It is important for local governments and communities, national governments, and the global agenda of transition. We have little experience, however, of implementing forms of citizen participation that are inclusive, can create transformation, and involve participants with such differing perspectives.

We need, therefore, to begin experimenting now to establish the right path forward. ■

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**Further reading**

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