



ALIGN

Advancing Land-based Investment Governance



Governance Flash

Timing your safeguards in mining

Many governments hope to use mining to boost economic growth and engage in the mineral-intensive 'green energy' transition. But if they don't ensure environmental and social safeguards are included from the start, when they first grant mineral exploration licences to prospecting companies, they risk repeating the same mistakes at the root of many mining conflicts.

What is the problem?

Mineral exploration licences cover huge swathes of land to increase the chances of identifying a resource of sufficient wealth. Once a viable resource is identified, exploration licenses are often 'upgraded' to exploitation licences to mine.

Exploration itself can have environmental and social impacts: lack of respect for cultural and ancestral land, fear of dispossession, damage to property (houses cracking and cattle dying) and crops, etc.

Many environmental and social safeguards only come into play in the transition from exploration to mineral exploitation. However, at this stage key decisions and assumptions may already have been made. It can then be too late to take such issues into account because governments and mining company interests are committed to a path determined during the exploration phase. An investor's "legitimate expectations" may limit a government's options to consider alternative investments or implement strategic land use planning that reflects social and environmental priorities.

Why is this important to governments?

Insufficient decision-making processes for approving investments in the mining sector may hinder the implementation of effective and inclusive processes such as community engagement and/or free prior and informed consent (FPIC). This can lead to ongoing conflict and costs to the community, company and government.

It is important that legal and regulatory oversight for the approval of mineral exploration be clear and consistent to avoid any ambiguities. Authorities should grant exploration licenses only after conducting community consultations, obtaining consent, and engaging in inclusive land-based planning. With this approach governments can address the social and environmental dimensions of these investments in meaningful ways.

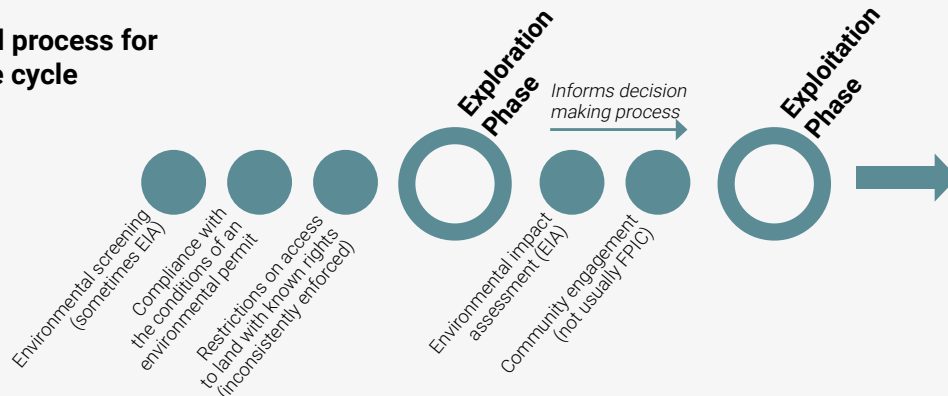
What should be done?

To avert possible conflict and injustice, governments, civil society and companies need to introduce safeguards in advance of mineral exploration to

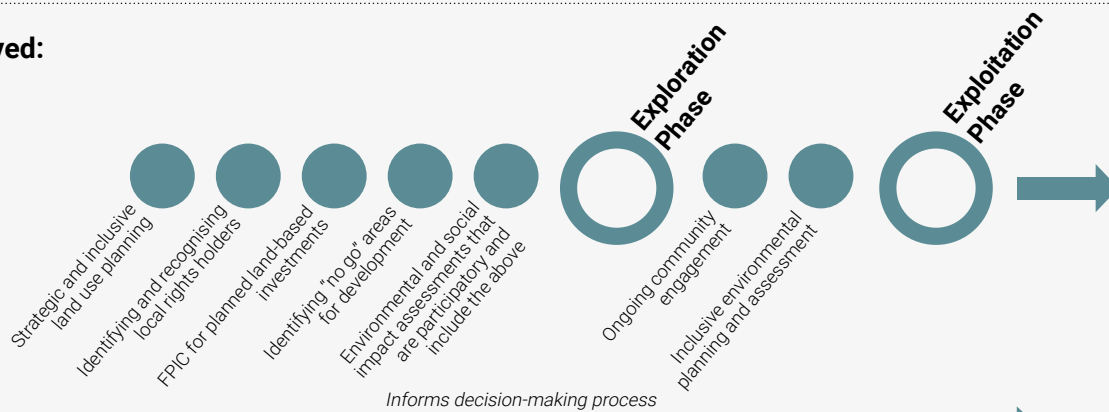
ALIGN Governance Flash: a series of short guidance notes designed to alert government officials of critical land-based investment governance considerations and possible responses to issues that might be falling through the cracks, leading to conflicts and poor outcomes.

Figure 1. Investment approval process for early stages of the mining life cycle

Typical:



Preferred/improved:



provide better opportunities and protections for long term, sustainable land-based development. These safeguards should include identifying and meaningfully engaging communities before exploration begins; and identifying, protecting and recognising local rights and the environment even at early stages of investment approval (Figure 1).

- **Authorities should embrace best practice** in strategic land use planning in advance of exploration; environmental and social impact assessments when awarding exploration licences; and meaningful engagement with communities following informed consent prior to mineral exploration.
- In investor communications, **governments must not create legally enforceable 'legitimate expectations'** that may undermine their future enviro-social decision-making on mine development.
- **Government authorities must uphold protections** given to unique and threatened ecosystems and other areas of natural resource importance, denying mineral exploration there in the first place.

Want to know more?

Buxton, A. (2022). People and nature first: safeguards needed in mining exploration, IIED, London, <https://www.iied.org/20736iied>

Get in touch!

Risks associated with land dispossession, environmental degradation, and conflict can undermine the potentially positive impacts that private investments in low and middle income countries are expected to bring. ALIGN aims to translate guidance on land tenure security and responsible investment into real change in order to respond to these concerns.

Get in touch to find out more about ALIGN's responsive technical support to governments, civil society, local communities, and other actors in a wide range of countries, and our knowledge generation and sharing on innovative approaches for improving practices among key actors, globally and in specific targeted contexts.

ALIGN: Advancing Land-based Investment Governance | International Institute for Environment and Development (<https://www.iied.org/align-advancing-land-based-investment-governance>)

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ALIGN supports governments, civil society, communities and peoples, and other relevant actors in strengthening the governance of land-based investments. The project is implemented by a consortium led by the International Institute for Environment and Development (IIED), the Columbia Center on Sustainable Investment (CCSI) and Namati, and is funded with UK aid from the UK government.

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