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Contribution from the Minamata Convention on Mercury to address human rights violations affecting Indigenous Peoples in the context of mercury use in gold mining¹

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¹ This paper draws upon information contained in a [document](#) published by the Secretariat of the Minamata Convention on Mercury but the views and opinions expressed here are those of the author and do not necessarily reflect the views or positions of the Convention's Parties or Secretariat.

Key messages

- Mercury is a highly toxic substance that disproportionately affects Indigenous Peoples and other communities embodying traditional lifestyles owing to their close relationship with the environment and high dependence on natural resources. The use of mercury in gold mining accounts for approximately 40% of all human-made release of mercury into the air, water and soil.
- The Minamata Convention on Mercury is the only international treaty that specifically address the use of mercury in artisanal and small-scale gold mining (ASGM). Effective participation of Indigenous Peoples in the implementation of the Minamata Convention is essential for achieving the Convention’s objective and to address the impacts of mercury pollution on their health, livelihoods, culture and knowledge.
- Similar to the exploration of other minerals, ASGM provides an economic lifeline for millions of people, including many Indigenous Peoples. However, ASGM is also frequently associated with human rights violations affecting Indigenous Peoples.
- To effectively harness global efforts, beyond those under the Minamata Convention, to advance legal and regulatory responses to human rights violations affecting Indigenous Peoples in the context of mercury pollution and gold mining, the use of more inclusive language could be considered when referring to critical minerals – for example, “*precious metals and critical minerals*”.

Mercury in gold mining and impacts on Indigenous Peoples

Many Indigenous Peoples and other communities embodying traditional lifestyles face unique vulnerabilities related to mercury contamination. Their poisoning happens mostly through the consumption of fish and other aquatic foods containing high levels mercury. Artisanal and small-scale gold mining (ASGM) is the largest human source of mercury pollution, accounting for approximately 40% of all human-made release of mercury into the air, water and soil. The sector is typically characterized by activities ranging from informal to illegal and can include a wide range of practices – from individual miners using basic tools and manual processes to more organized and mechanized operations involving several miners. The ASGM sector contributes with approximately twenty percent of the gold traded globally. It is estimated that it supports around 200 million people worldwide both directly and indirectly.

While ASGM provides an economic lifeline for millions of people, particularly in developing countries where other employment opportunities are limited, including Indigenous Peoples,

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ASGM is also frequently associated with human rights violations that mostly affect Indigenous Peoples. The ease of use and accessibility to mercury enables the indiscriminate proliferation of unregulated/illegal ASGM activities and catalyses a cascade of health, environmental, social, cultural and economic impacts on many Indigenous Peoples, and particularly on women and children among them. In a report titled *Mercury, small-scale gold mining and human rights*, the UN Special Rapporteur on Toxics and Human Rights noted that indigenous Peoples are particularly affected by mercury use in ASGM through the destruction and pollution of their territories, deforestation, loss of biodiversity and contamination of their food sources. Indigenous children are also disproportionately impacted by the dangerous work in the mines, sexual exploitation, and slavery-like conditions.

The relationship of Indigenous Peoples with ASGM can be complex and varies significantly between communities and geographical regions. For example, while some Indigenous Peoples may draw economic benefits from ASGM, others do not receive any benefit, monetary or otherwise, and instead bear a range of negative impacts, including on their health, environment, social norms, culture and livelihoods, through environmental degradation, conflicts, diseases, as well as infringement of their individual and collective rights. An attempt to describe the different relationships of Indigenous communities with ASGM, depending on *where* mining is done, *by whom*, and level of *consent* is [available in a report](#) developed by the Secretariat and submitted to the Conference of the Parties to the Minamata Convention, at its fifth meeting in 2023. To address the complex issues and respond to the different needs and priorities of Indigenous Peoples, context-specific rights-based approaches are needed to reform the ASGM sector and end mercury pollution.

Indigenous Peoples and the Minamata Convention on Mercury

The effective participation of Indigenous Peoples, at all levels, is crucial to addressing different complex global challenges. This is also true for addressing the complex challenges associated with the ASGM sector, including mercury pollution and human rights violations.

The Minamata Convention aims to protect human health and the environment from mercury pollution, and it is the only international treaty that specifically address the use of mercury in ASGM. By taking action to better protect the most vulnerable populations from the adverse effects of mercury, the implementation of the Minamata Convention contributes to a more

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equitable, effective, and inclusive approach to tackling challenges associated with the ASGM sector and offers a pathway for advancing legal and regulatory responses to safeguard the rights, health and well-being of Indigenous Peoples worldwide.

At its last meeting, held in 2023, the Conference of the Parties to the Minamata Convention, in [decision MC-5/1](#), noted with concern that Indigenous Peoples, as well as local communities, are particularly vulnerable to mercury exposure and are among the first to face the serious health and environmental effects resulting from mercury pollution owing to their close relationship with the environment and its resources, and welcomed the role of Indigenous Peoples, as well as local communities, and particularly the engagement of women and girls, who have faced the effects of mercury with resilience, in achieving the objective of the Convention and the targets and goals of the 2030 Agenda for Sustainable Development. In the same decision, COP noted the importance of broadening the participation of Indigenous Peoples and of local communities in the implementation of projects and programmes undertaken under the Minamata Convention, and encouraged Parties to support, as appropriate, participation of Indigenous Peoples' organizations, as well as local communities and other relevant stakeholders, in meetings of the COP and related processes. Furthermore, the decision also requested the Secretariat to compile views and report to the next meeting of the COP, in 2025, on the needs and priorities of Indigenous Peoples, as well as local communities, with regard to the effects of mercury on their health, livelihoods, culture and knowledge, with a view on future work to identify possible solutions.

Furthermore, several Parties present at the meeting expressed the need for having a standing agenda item, at future COP meetings, to address the impacts of mercury pollution on Indigenous Peoples, as well as local communities. Accordingly, the Secretariat is implementing a series of activities to improve the effective participation of Indigenous Peoples in the work carried out under the Minamata Convention, including through participation in meetings of the COP and other processes. Increased engagement of Indigenous Peoples in the work under the Minamata Convention across the seven sociocultural regions will support the implementation of the Convention as a whole, including of Article 7 on ASGM and other measures to end mercury pollution.

Furthermore, collaborative efforts among governments, international organizations, Indigenous organizations, local community organizations and other stakeholders to implement the Minamata

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Convention is essential for achieving a healthier and more equitable future that is free of mercury pollution. Ultimately, the full and effective participation of Indigenous Peoples will contribute to achieving the Convention's objective.

The implementation of the Minamata Convention can also be supported by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which provides an internationally agreed framework on the rights of Indigenous Peoples. UNDRIP requires States to consult and cooperate with Indigenous Peoples in order to obtain their free, prior and informed consent before adopting and implementing measures that may affect them. For example, States must obtain consent before undertaking of projects that affect Indigenous Peoples' rights to land, territory and resources, including mining, as well as for the storage or disposal of hazardous materials on Indigenous Peoples' lands or territories.

At national level, the implementation of the Minamata Convention can support governments to implement tailored and context-dependent solutions to improve public health services, monitoring and risk awareness, as well as to promote responsible ASGM practices, develop sustainable economic alternatives to ASGM, combat the illegal trade of mercury, dismantle ASGM operations conducted on Indigenous Peoples' lands and territories without their consent, and ensure traceability and transparency along the gold supply chain. In this regard, further to targeting the use of mercury in ASGM, collaborative and coherent action focused on a human rights-based approach across governments and multiple actors will be instrumental for addressing challenges upstream of mining – for example, to combat the illegal trade and unauthorized uses of mercury – and downstream along gold supply chain – for example, through traceability and corporate due diligence to prevent gold extracted in violation of human rights from entering the global market.

Finally, in the context of the global agenda for sustainable development, it is important to note that gold is not commonly regarded as a “*critical mineral*” – a term that was coined in the context of climate change action to refer to minerals used for transitioning energy production away from fossil fuels. To effectively harness global efforts for sustainable development and advance legal and regulatory responses to human rights violations affecting Indigenous Peoples in the context of mercury pollution and gold mining, the use of more inclusive language could be

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considered when referring the extraction of minerals – for example, by referring to “*precious metals and critical minerals*”.
