
NAVIGATING INTERNATIONAL COAL MINING LAWS: CHALLENGES AND IMPLICATIONS

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ABSTRACT

Coal mining is a major contributor in global energy production, yet it presents significant legal, environmental, and socio-economic challenges. This paper explores the intricate landscape of international coal mining laws, focusing on policies, challenges, and their far-reaching implications. It examines the regulatory frameworks governing coal mining across jurisdictions, highlighting the disparities between the Global North and South in terms of resource exploitation, environmental protection, and socio-economic impacts. The paper delves into key international agreements, such as the Paris Agreement and Sustainable Development Goals, analysing their influence on coal mining policies. It also addresses critical issues such as transboundary environmental impacts, human rights violations, and the role of transnational corporations in perpetuating inequities. Special attention is given to the tension between economic development and environmental sustainability, particularly in resource-dependent economies of the Global South. This research contributes to the broader discourse on sustainable mining and its pivotal role in achieving a just energy transition.

Keywords: coal mining, sustainability, global south, international law, climate change, human rights

Introduction

Coal mining regulation involves a complex interaction of national and international legal frameworks that seek to strike a balance between social equity, environmental sustainability, and economic progress.¹ When resources, opportunities, and rights are distributed fairly and justly within a society, all people and communities regardless of their background have access to what they need to prosper. This is known as social equity. It places a strong emphasis on resolving structural injustices and taking down obstacles that keep some groups from attaining equal results. Since coal mining has direct bearing on local communities where they are at the forefront of suffering maximum environmental damage, it is crucial that the benefits of extraction are shared with the locals in a fair and equitable manner.

As one of the most widely used sources of energy, coal is the game-changer in the global energy mix, especially in developing countries like India, where it serves as a backbone for electricity generation, industrial growth, and employment. However, the environmental and social challenges posed by coal mining such as deforestation, pollution, land degradation, and displacement necessitate robust legal frameworks that can mitigate these impacts while fostering sustainable practices. This chapter delves into the intricate landscape of coal mining laws, exploring both international norms and India's legal framework to understand how different jurisdictions regulate the sector and critically examine to what extent the balance between economic growth along with environmental sustainability and social equity has been achieved. The latter analysis is not merely confined to this chapter, however, that begins from this chapter and continues in the remaining chapters.

At the international level, there are variety of treaties, conventions, and guidelines that incidentally regulate coal mining. Instruments like United Nations Framework Convention on Climate Change (hereinafter 'UNFCCC'), the Paris Agreement and the International Labour Organization (hereinafter 'ILO') conventions set the stage for balancing economic interests with environmental and social responsibilities. These frameworks provide overarching principles that guide national policies and encourage countries to adopt regulations that promote sustainable mining practices, reduce carbon emissions, and ensure fair labour standards. This chapter examines how these international norms influence national legislation,

¹ U.N. Dev. Programme & U.N. Env't, *Managing Mining for Sustainable Development: A Sourcebook* (2018).

particularly in countries heavily dependent on coal mining, and the extent to which they are integrated into domestic legal systems.

International Legal Framework on Coal Mining

While the international community has generally avoided direct intervention in mining operations due to diverse national contexts like geography, financials, population, resource availability, etc and also due to sovereignty of nations with regard to exploitation of their natural resources, the sector's significance is undeniable. International environmental law instruments, including the Stockholm Declaration, the Rio Declaration, and the Johannesburg Plan of Implementation, do not specifically address mining but highlight the essential importance of sustainability in driving future development. While the Paris Agreement and the UNFCCC indirectly influence coal extraction by targeting emissions reduction, they do not explicitly prohibit fossil fuel development.² Internationally, there are numerous human rights instruments that offer crucial protections for communities residing near mining operations. Increasingly, indigenous peoples and local communities are involved in resource extraction processes, with legal frameworks evolving to accommodate their interests. This presents opportunities for sustainable development, but also challenges in reconciling mining rights with indigenous land management.³

The principle of national sovereignty over natural resources including coal, now enshrined in numerous international instruments, is fundamental. This principle recognizes that every nation possesses the inherent right to determine how it utilizes and manages the resources within its borders. Essentially, it underscores the fact that sovereign nations hold the ultimate authority to decide all matters concerning the exploration and exploitation of coal within their territories. However, it's important to note that this principle of national sovereignty is not absolute. When exercising it, one must be mindful of international commitments and duties pertaining to sustainable development, human rights, and environmental preservation. The position was reiterated in the celebrated case of *Trail Smelter*.⁴

Towards the end, international investment law also deserves a notable mention. The global coal industry has established crucial end-use markets for coal combustion products such as fly ash,

² Barry Barton, *Fossil Fuel Mineral Wealth and Climate Change Law: Expectations of Coal Mine Development in a Time of Decarbonisation*, 39 J. Energy & Nat. Resources L. 469 (2021).

³ Lee Godden et al., *Accommodating Interests in Resource Extraction: Indigenous Peoples, Local Communities and the Role of Law in Economic and Social Sustainability*, 26 J. Energy & Nat. Resources L. 1 (2008).

⁴ *Trail Smelter Case* (U.S. v. Can.), Apr. 16, 1931, Mar. 11, 1941, 3 U.N. Rep. Int'l Arb. Awards 1905 (1941).

bottom ash, and slag, with legislation playing a pivotal role in fostering legal certainty for ongoing investment.⁵

The legal landscape reflects a tension between economic development and environmental sustainability in coal mining. While international agreements and the principles of sustainable development challenge the notion of unrestricted mineral exploitation, they do not entirely preclude it.⁶ As nations navigate these complexities, there is a growing need for harmonized regulations and independent oversight to ensure that coal mining practices align with international environmental standards.⁷

Human Rights Instruments

The international human rights instruments such as the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social, and Cultural Rights, and the 1948 Universal Declaration of Human Rights (UDHR) provide for protection of life and livelihood of people among other things. Respect for culture and lifestyles of Indigenous and tribal peoples is the foundation of ILO Convention No. 169 on the Rights of Indigenous Peoples. This also applies to the 2011 UN Guiding Principles on Business and Human Rights and the non-binding 2007 UN Declaration on the Rights of Indigenous Peoples. Many mining firms, across the world, have been compelled by the UN Guiding Principles to implement measures that benefit local communities, like developing strategies for community development.

Coal mining activities have significant environmental and human rights implications. Studies highlight the negative impacts on communities, including environmental damage, pollution, and disruption of public facilities.⁸ In Indonesia, coal mining has led to child fatalities due to drowning in abandoned mine pits, violating fundamental rights to life, safety, and a healthy environment.⁹ The industry's practices often conflict with international environmental principles and human rights obligations, particularly regarding climate stability and the right

⁵ Christian Heidrich, Hans Feuerborn & Andrew Weir, *Coal Combustion Products – A Global Perspective* (2013).

⁶ Cecilia G. Dalupan, *Mining and Sustainable Development: Insights from International Law* (2004).

⁷ S.K. Sinha, R. Srikanth & S. Mahalingam, *Regulatory Framework for India's Energy Security and Sustainability*, *Energy Pol'y* (2022).

⁸ N. Listiyani, *Dampak Pertambangan terhadap Lingkungan Hidup di Kalimantan Selatan dan Implikasinya bagi Hak-Hak Warga Negara*, *Al-Adl: J. Hukum* (2017).

⁹ H.R. Susmiyati, *The Legal Liability of Dead Children Drowns in Coal Mine Pit on Human Rights Perspective*, in *Proceedings of the 1st Int'l Conf. on Sci. & Tech. in Admin. & Mgmt. Info.* (2019).

to a healthy environment.¹⁰ African countries face similar challenges, with governments prioritizing economic interests over adequate protection for affected communities and environments.¹¹ These issues underscore the need for stronger legal and institutional frameworks to effectively protect human rights and the environment in the context of coal mining activities, balancing economic development with social and environmental responsibilities.

Environment and Development: The Stockholm and Rio Conferences

The Stockholm Declaration and Stockholm Action Plan were adopted in 1972 as a result of the first international environmental conference, the UN Conference on the Human Environment, held in Stockholm, Sweden. The Stockholm Declaration advocated for sustainable use of Earth's non-renewable resources while acknowledging national sovereignty over their natural resources.¹² Stockholm Declaration, Principle 5 states that

the non-renewable resources of the Earth must be employed in such a way to guard against the danger of their future exhaustion, and to ensure that benefits from such employment are shared by all mankind.

While the draft text of this principle was getting finalised, Sweden proposed the word minerals as example of the non-renewable resources. Third world countries like Brazil, Egypt and Yugoslavia wanted to limit the scope of this principle by suggesting that the utilisation of the non-renewable resources should be programmed in such a way that the requirements of mankind is met for the foreseeable future. The African countries, on the other hand, suggested that another line should be added to Principle 5 stating :

An increase in the base prices for such resources may enable the developing countries to avoid over exploitation and to identify means of conservation, and even regeneration of deposits.

However, this suggestion was never accepted by the working group while formulating this

¹⁰ A.K. Putra, B. Sipahutar & H.S. Ardiana, *Problematika Hukum Aktivitas Pertambangan Batubara: Paris Agreement Solusinya?*, *Mimbar Hukum* (2023).

¹¹ O.B. Igbayiloye & D. Bradlow, *An Assessment of the Regulatory Legal and Institutional Framework of the Mining Industry in South Africa and Kenya for Effective Human Rights Protection: Lessons for Other Countries*, *Afr. Hum. Rts. L.J.* (2021).

¹² Principles 5, 8, 10 & 21 of the Stockholm Declaration 1972.

principal.¹³

Recommendation 56 of the Stockholm Action Plan urged the United Nations Secretary-General to establish a dedicated platform to facilitate the exchange of information on mining and mineral processing activities. This platform would serve as a hub for sharing data and insights, particularly focusing on the environmental conditions of mining sites. The goal was to enhance global understanding, promote best practices, and address the environmental impacts associated with mining operations.¹⁴ The necessary platform was developed much later in 2014 when Global Energy Monitor released the Global Coal Plant Tracker, an interactive database listing thousands of coal-fired plants in various stages of development. The Global Fossil Infrastructure Tracker and the Global Coal Finance Tracker quickly followed the Global Coal Plant Tracker.¹⁵ Following the 1972 Stockholm Conference, the 1982 World Charter for Nature reinforced the call for prudence in the exploitation of non-renewable resources. It emphasized the importance of ensuring that such activities align with the sustainable functioning of natural systems, advocating for a balanced approach that respects ecological integrity.¹⁶

Chapters 11 (Forests), 13 (Mountains), and 17 (Oceans) of the Agenda 21 action plan, adopted at the 1992 Earth Summit in Rio de Janeiro, called for more ecologically responsible mining practices. However, Principle 2 of the Rio Declaration affirmed each nation's sovereign right to utilize its own resources, which limited the scope for specific discussions on mining and sustainable development within the United Nations framework. As a result, the Commission on Sustainable Development (hereinafter 'CSD'), established to oversee Agenda 21's implementation, did not initially address mining in detail. However, at its eighth session in 2000, the CSD identified "minerals, metals, and rehabilitation in the context of sustainable development" as a priority area for future action. Governments, the international community, and other stakeholders were urged to examine the social, economic, and environmental impacts of mineral extraction and metal production. Additionally, they were encouraged to develop and implement strategies for rehabilitating land degraded by mining activities, aligning such efforts

¹³ L.B. Sohn, *The Stockholm Declaration on the Human Environment*, 14 Harv. Int'l L.J. 460 (1973).

¹⁴ Ved P. Nanda, *Proceedings of the Annual Meeting (Am. Soc'y Int'l L.)*, 77 Proc. Am. Soc'y Int'l L. 411 (1983).

¹⁵ Global Energy Monitor, <https://globalenergymonitor.org/about/our-story/>

¹⁶ Shawkat Alam et al., *International Environmental Law and the Global South* 382 (Cambridge Univ. Press 2015).

with broader sustainability goals.¹⁷

In 2002, the World Summit on Sustainable Development (hereinafter ‘WSSD’) highlighted the critical role of mining, minerals, and metals in economic and social development, as outlined in paragraph 46 of the Johannesburg Plan of Implementation (hereinafter ‘JPOI’). Paragraph 46 called on governments to:

1. Support programs addressing both the positive and negative impacts of mining on the economy, society, human health, and the environment, including ensuring worker safety and health.
2. Enhance stakeholder participation by enabling active involvement at all stages of mining operations, from planning to post-closure rehabilitation.
3. Promote sustainable mining practices to align with broader sustainability goals.

The WSSD also facilitated the creation of the Intergovernmental Forum on Mining, Minerals, Metals, and Sustainable Development (hereinafter ‘IGF’). The IGF was established to enhance governance, decision-making, and the use of mining as a tool for sustainable development. Today, the IGF supports 79 member states by building capacity in sustainable mining practices, addressing challenges like profit shifting and tax erosion, and fostering effective resource governance and socioeconomic development.¹⁸

Lastly, Paragraph 228 of the outcome document from the 2012 UN Conference on Sustainable Development (Rio+20), *The Future We Want*, underscored the importance of establishing strong and effective legal and regulatory frameworks, policies, and practices for the mining sector. These frameworks should aim to deliver tangible economic and social benefits while incorporating safeguards to minimize social and environmental impacts. Additionally, they should prioritize the conservation of biodiversity and ecosystems, including measures to address the challenges associated with post-mining site closure. This recognition highlights the need for a balanced approach that integrates sustainability principles into all stages of mining operations.

It is noteworthy that, despite the numerous conferences held to discuss the environmental, social, and economic implications of mining, which have consistently acknowledged the

¹⁷ Ibid. at p. 383

¹⁸ Suzi Malan, *How to Advance Sustainable Mining*, Int’l Inst. for Sustainable Dev. (Oct. 18, 2021), <https://www.iisd.org/articles/deep-dive/how-advance-sustainable-mining>.

harmful impacts of mining activities and emphasized the need for sustainable mining practices, there has been no call for the establishment of a dedicated international convention specifically focused on mining. While these conferences have addressed various aspects of sustainability, including resource management, environmental protection, and community welfare, they have stopped short of advocating for a comprehensive, binding international framework to regulate mining practices globally. This omission is significant, as a dedicated international convention could provide a unified platform to address the diverse challenges associated with mining and enforce standards that ensure environmental conservation, social equity, and economic accountability across the sector.

Environmental Treaties

Mining has a direct bearing on environmental treaties that protect landscapes and natural resources. Under one of these agreements, a 'listing' designates some areas as being off-limits to mining activity. Examples comprise the Ramsar Convention on Wetlands of International Importance 1971, the Bonn Convention on the Conservation of Migratory Species of Wild Animals 1979, and the Convention Concerning the Protection of the World Cultural and Natural Heritage 1972. The Protocol on Environmental Protection to the Antarctic Treaty 1991 forbids the use of mineral resources and defines Antarctica as a natural reserve dedicated to peace and scientific research.

The 1982 UN Convention on the Law of the Sea (UNCLOS) governs seabed and sub-seabed mining activities. The International Seabed Authority regulates these operations. International treaties also govern the disposal of tailings and the transboundary transfer of hazardous materials. These comprise the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal (1989), the Waigani Convention (1995), and the Bamako Convention (1991). The 2013 Minamata Convention on Mercury (hereafter 'ASGM') pertains to mercury utilisation in artisanal and small-scale gold mining. Miners, especially from underdeveloped nations, employ mercury for gold extraction from ore due to its cost-effectiveness and ease of use. Almost all mercury utilised in ASGM is ultimately discharged into the atmosphere, soil, and waterways, jeopardising the health of miners and the surrounding populations.¹⁹

¹⁹ Ibid.

Setting worldwide targets to cut greenhouse gas (hereinafter ‘GHG’) emissions, with a primary focus on reducing emissions from fossil fuels, has been made possible by the UNFCCC, its ground-breaking Kyoto Protocol, and the Paris Agreement.²⁰ In order to lessen the worst effects of climate change, the Paris Agreement specifically seeks to keep the rise in global average temperatures well below 2°C over pre-industrial levels, with the lofty goal of limiting the rise to 1.5°C.²¹

In line with these objectives the Powering Past Coal Alliance, launched during COP23, emphasized in its declaration that achieving the Paris Agreement’s targets necessitates a phased elimination of coal use. It called for the phase-out of unabated coal-fired power generation by 2030 in OECD countries and by 2050 in the rest of the world. Local communities should be collaborators and decision makers in all mining operations, according to the Stockholm 50+, which was held in 2022.²² In order to expedite effective climate action, ecosystem restoration, pollution prevention, and disaster risk reduction, the multi-partner Abidjan Legacy Programme was announced by the Conference of the Parties to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.²³ All of these meant shifting from mining to the management of important natural resources, such soil and land, using inclusive systems that helped the most disadvantaged members of society. The Glasgow Climate Pact 2021 calls for the elimination of inefficient fossil fuel subsidies and the reduction of unabated coal power.²⁴

However, despite these international commitments and initiatives, the global consumption of coal has continued to expand significantly, particularly in the years following the Kyoto Protocol. This persistent reliance on coal highlights a fundamental tension between the imperatives of ensuring energy security and achieving climate stability. Balancing these competing priorities remains one of the most pressing challenges in the global transition toward a sustainable and low-carbon future.²⁵

Mining Policy Framework

The foundational Mining Policy (hereinafter ‘MPF’) of IGF outlines the procedures necessary

²⁰ J. Goodman et al., *Kyoto and the Coal Boom*, 39 J. Energy & Nat. Resources L. 469 (2020).

²¹ *Paris Agreement 2015*, art. 2.

²² *Stockholm +50, 2022* <https://documents.un.org/doc/undoc/gen/k22/117/97/pdf/k2211797.pdf>

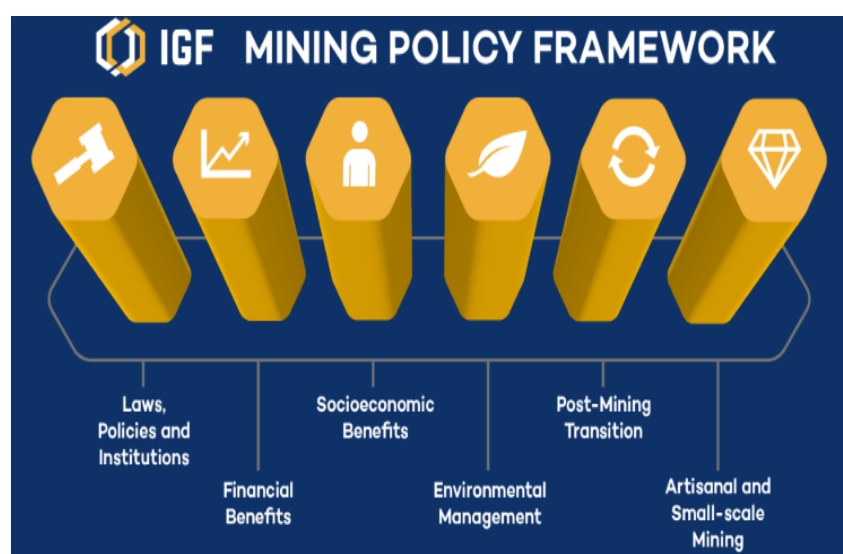
²³ *Ibid.*

²⁴ *Glasgow Climate Pact 2021* https://unfccc.int/sites/default/files/resource/cma2021_10_add1_adv.pdf

²⁵ J. Goodman et al., *Kyoto and the Coal Boom*, 39 J. Energy & Nat. Resources L. 469 (2020).

for the mining industry to be responsibly governed on all levels economically, socially, and environmentally as well as for the creation and fair distribution of benefits that support sustainable development. The instructions Notes document, which offers comprehensive implementation instructions for every MPF suggestion, is a supplement to the MPF.²⁶

The MPF was created to assist governments in making sure that the mining industry supports sustainable development. The following six major pillars, which serve as the organising principles for a large portion of the IGF's later work with its members, are how the MPF describes good governance throughout the whole mining life cycle as a tool for policy guidance:



Source: *International Institute on Sustainable Development's website.*

While the framework is commendable for its holistic approach, addressing the diverse dimensions of mining sustainability, its implementation faces significant challenges. The legal and policy environment pillar emphasizes strong governance, yet many resource-rich nations lack the institutional capacity to enforce these policies effectively. Similarly, the financial benefit optimization pillar aims to ensure equitable revenue distribution, but corruption and weak fiscal systems often hinder this goal. The focus on socioeconomic benefits and environmental management is vital; however, balancing economic growth with environmental conservation frequently leads to trade-offs that undermine long-term sustainability. The post-mining transition pillar, while critical for mitigating the environmental and social impacts of mine closures, is often underfunded and poorly planned, leaving communities vulnerable.

²⁶ Mining Policy Framework, <https://www.igfmining.org/resource/igf-mining-policy-framework/>

Finally, the inclusion of ASM is notable, yet the framework does not fully address the systemic issues, such as informality and lack of access to resources, that plague this sector. Overall, while the MPF provides a valuable guideline for sustainable mining, its practical effectiveness depends heavily on local contexts, political will, and the availability of resources for implementation.

International Labour Organisation (ILO) Instruments

The United Nations specialised body, that deals with the workplace, the ILO, was founded in 1919. The ILO's primary duties include creating and monitoring international labour standards and supporting member nations in ratifying and putting them into effect. These standards cover the fundamental rights and values of the workplace, such as the freedom from discrimination, forced labour, and child labour, as well as the freedom of association and collective bargaining.²⁷

The ILO plays a crucial role in establishing safety standards for coal mining globally. These standards are particularly significant in coal mining, where workers face risks from mine collapses, explosions, and prolonged exposure to harmful dust and gases.

The ILO's Convention 176 aims to improve workplace safety in mines, emphasizing the importance of employee awareness, social dialogue, and organized workforce.²⁸ The ILO's code of practice on safety in underground coalmines reflects industry changes and new occupational safety policies, providing a framework for hazard identification and risk minimization.²⁹ Regulatory models for coal mining safety should consider various types of standards, worker participation, and organizational incentives, drawing on international experiences and ILO conventions.³⁰ In Russia, occupational and industrial safety in coal mining are closely interrelated, with the ILO's 1995 Occupational Safety and Health in Mines Convention significantly influencing legal regulations. The integration of organizational,

²⁷ Peter Jones, *International Labour Organization (ILO)*, in *The SAGE Encyclopedia of Business Ethics and Society* (Vol. 7, 2018).

²⁸ S. Uğur & Ö. Topkaya, *Kömür Madenciliği Sektörü ve Uluslararası Çalışma Örgütü'nün 176 Sayılı Sözleşmesi ile Bu Sektöre Yönelik Yürürlüğe Konan İş Sağlığı ve Güvenliği Düzenlemeleri* (2015).

²⁹ Michael Hahn, *Safety and Health in Underground Coalmines: ILO Code of Practice* (2009).

³⁰ Neil Gunnigham, Richard Johnstone & Patricia Burritt, *Development of a New Regulatory Model for Occupational Health and Safety in the New South Wales Coal Industry: An Issues Paper for the New South Wales Department of Mineral Resources* (1999).

technical, and safety requirements is essential for preserving workers' health and safety in the coal industry.³¹

However, the impact of these conventions is uneven due to varying levels of ratification and enforcement across countries. While some nations in the Global North have adopted and implemented these conventions effectively, others, particularly in the Global South, face challenges due to weak regulatory frameworks, insufficient resources, and resistance from mining companies prioritizing cost-cutting over safety. Additionally, the conventions often lack mechanisms to address informal mining operations, which employ a significant portion of the workforce in developing countries under precarious and unsafe conditions. Although the ILO conventions provide a robust foundation for improving labour standards in the coal mining industry, their effectiveness is contingent on national governments' commitment, industry compliance, and the inclusion of informal miners within the regulatory ambit.

International Investment Treaties

International investment treaties (hereinafter 'IITs'), including bilateral investment treaties (hereinafter 'BITs') and investment chapters in trade agreements, significantly influence the coal mining sector by shaping the legal and economic environment for foreign investments. These treaties typically offer protections such as fair and equitable treatment, protection from expropriation, and access to international arbitration for disputes, which can attract foreign direct investment in coal mining projects. However, their impact is double-edged. On the one hand, IITs can encourage investment in resource-rich but capital-scarce regions, fostering economic growth and development. On the other hand, they can complicate efforts to transition away from coal in response to climate goals.

Investor-state dispute settlement (hereinafter 'ISDS') mechanisms embedded in IITs allow mining companies to sue governments for policy changes that affect their investments, such as coal phase-out policies or stricter environmental regulations.³² This creates a 'regulatory chill', where governments may hesitate to implement necessary reforms for fear of costly litigation. Furthermore, IITs often prioritize investor interests over environmental and social considerations, limiting host countries' ability to enforce sustainable practices in the coal

³¹ A.F. Gontarenko, E.V. Klovach & I. Tsirin, *Occupational Safety and Industrial Safety Requirements in the Coal Industry, Occupational Safety in Industry* (2023).

³² Carlos López, *Mining in Investment Arbitration: An Analysis of Mining Companies' Legitimate Expectations*, *J. Int'l Econ. L.* (2024).

mining sector. Thus, while IITs can drive economic activity in coal mining, they also pose significant challenges to achieving global climate and sustainability objectives.³³

A word on Global North vs. Global South on Sustainable Mining

Communities in both the Global South and the Global North rely on mining as a primary source of livelihood. However, the Global South, shaped by a legacy of colonialism, predominantly serves as a supplier of non-renewable resources such as minerals to the highly industrialized and consumer-driven Global North. This dynamic perpetuates historical patterns of exploitation and raises critical questions about the very definition of sustainable development. For many in the Global South, the concept of sustainable development appears to legitimize the continued expansion of industrialization, often to the detriment of local communities and ecosystems.

Critics argue that placing environmental concerns on the global agenda has, in practice, reduced environmentalism to a form of managerial realism. This approach has facilitated the Global North's continued access to the natural resources of former colonies with relative ease. Consequently, the Global South frequently accuses the Global North of failing to address the deeper socio-economic issues tied to mining, including widespread poverty, labor strikes, and the exploitation of mining-dependent communities. These issues are compounded by human rights violations and the denial of environmental justice, which disproportionately affect vulnerable populations in mining regions.

Transnational corporations (TNCs) from the Global North engaged in mining operations often face resistance from local communities. Such resistance has, in many cases, escalated into violence, including physical and sexual assaults, killings, and other forms of repression. When governments respond to public outcry by revoking permits or approvals previously granted to mining companies, these corporations frequently invoke protections under bilateral investment treaties (BITs) or international investment agreements. These treaties allow investors to sue host governments for regulatory expropriation or similar doctrines through binding international arbitration proceedings.

However, these arbitration mechanisms are often criticized for their lack of legitimacy, transparency, and fairness. The threat of costly arbitration deters many host states from

³³ Thomas Faunce, *NuCoal Resources Ltd v New South Wales: The Mining Industry and Potential Health Impacts of Investor-State Dispute Settlement in Australia*, 23 J.L. & Med. 801 (2016).

implementing stringent regulations to protect public interest, particularly in nations heavily reliant on mining revenues. This regulatory laxity exacerbates the socio-economic and environmental challenges faced by mining-dependent communities, further entrenching inequalities and undermining sustainable development goals.³⁴

Conclusion

In conclusion, while international treaties have not established a comprehensive legal framework specifically governing mining, they have significantly influenced the sector by shaping the principles and responsibilities surrounding resource extraction. These agreements have raised global awareness that sovereignty over natural resources must be exercised responsibly, aligning with human rights, sustainable development goals, the right to self-determination, and the rights of indigenous peoples. They have also highlighted the need for transparency, information-sharing, and addressing emissions from mining activities to combat climate change.

International law indirectly impacts mining practices through environmental agreements, emphasizing the prevention of transboundary harm and promoting sustainability within national boundaries.³⁵ Although no formal international mining law exists due to the diversity of mineral endowments and extraction methods, the industry has increasingly embraced sustainability efforts, including environmental restoration and community engagement.³⁶ Moreover, climate change agreements have made coal development less appealing, further encouraging a shift toward cleaner energy sources.³⁷

However, challenges persist, particularly in regulating post-mining closures and ensuring transparency.³⁸ Balancing economic interests with social justice and environmental protection remains a complex task, but the evolving role of international law provides a critical foundation for advancing sustainable practices in the mining sector.³⁹

³⁴ Shawkat Alam et al., *International Environmental Law and the Global South* 387-394 (Cambridge Univ. Press 2015).

³⁵ Cecilia G. Dalupan, *Mining and Sustainable Development: Insights from International Law* (2004).

³⁶ *Ibid.*

³⁷ Barry Barton, *Fossil Fuel Mineral Wealth and Climate Change Law: Expectations of Coal Mine Development in a Time of Decarbonisation*, 39 *J. Energy & Nat. Resources L.* 469 (2021).

³⁸ *Ibid.*

³⁹ Leonardus Gerber & Francesco Sindico, *Mining and Sustainable Development* (2014).