



KEY HUMAN RIGHTS CONSIDERATIONS ON THE IMPACT OF SEABED MINING

It is critical to consider the oceans and their role in mitigating climate change in the context of the current debate related to deep seabed mining. The ocean moderates the climate and influences our weather, inspires human imagination, and supports rich and diverse cultural practices. Ultimately, all life on earth is dependent upon healthy ocean ecosystems. There is growing scientific evidence that deep sea mining will irreversibly damage them. Mining endeavours on the seafloor could affect multiple layers of the oceans, generating varied forms of pollution, and causing systemic damage.

Large parts of the seabed and ocean floor and subsoil thereof are beyond the limits of national jurisdiction and regarded as a common heritage of humankind. While the idea that seabed mining would promote measurable improvement in economic, social and cultural rights, like ending hunger and poverty, is attractive, the reality is that economic activity does not ipso facto promote the effective enjoyment of human rights. In fact, by ignoring human rights guardrails, States often allow businesses to foist costs on individuals not party to the transaction. Pollution and climate change are prime examples. Considering States have committed to prevent and cooperate on reducing and eradicating activities that would contribute to the climate emergency we are experiencing today ([United Nations Framework Convention on Climate Change](#)) it is critical to consider the oceans and their role in mitigating climate change in the context of the current debate related to deep seabed mining.

Where scientific evidence is not yet conclusive, the application of the precautionary principle, which is a core principle of both environmental and international law, requires States to act cautiously and diligently to avoid steps that may cause harm to human health or the environment. This principle is particularly important in view of the high levels of scientific uncertainty and potentially devastating environmental and human rights impacts of deep-sea mining. During the second part of the 28th session of the International Seabed Authority Assembly and Council taking place in Kingston, Jamaica from 10 – 28 July, States will decide whether to adopt regulations that would allow commercial mining of the deep sea or whether to call for a moratorium or precautionary pause on such resource exploitation. These negotiations should be informed by human rights and include the following key elements:

1. A clear commitment to respect, protect and fulfil human sustainable environment

The enjoyment of the right to a clean, healthy and sustainable environment is dependent on marine biodiversity and healthy oceans.

The impacts of deep seabed mining could bring about direct and indirect consequences for communities and livelihoods that depend on these ecosystems for their survival impacting the rights to work and life. Pollution from deep seabed mining could also have a significant impact on the rights health, food, water, housing, cultural rights, and self-determination, among others. The negative impacts of oceanic degradation in all its forms are particularly acute for Indigenous Peoples, subsistence fishers and persons living in small island developing States. While often overlooked, States have an obligation to ensure the rights of people come before economic interests. Current scientific consensus suggests that deep-sea mining would significantly damage ocean ecosystems.

The combined potential impacts from mining and other stressors on the marine environment (such as climate change, unsustainable fishing, and pollution) are catastrophic. States have a duty to prevent human rights violations and harms. Therefore, States should commit not to proceed with plans for deep-sea mineral extraction until such a time as adequate safeguards, including sufficient scientific knowledge, exist to ensure such activities can be carried out in a way that respects, protects and fulfils human rights, including the human right to a healthy environment.

2. Protection of the ability of future generations to enjoy their human rights

Before acting, decision-makers should fully understand and account for the intergenerational repercussions for children, youth, and future generations, who will inherit a degraded marine environment due to climate change, ocean acidification, loss of marine biodiversity, and other harmful human activities. Those who played little or no role in marine biodiversity and habitat loss will have limited opportunities to enjoy and benefit from these ecosystems, exacerbating inequalities, affecting food security, and potentially exposing them to hazardous conditions. States have a duty to preserve the ability of future generations to fully enjoy human rights, including the right to a clean, healthy, and sustainable environment. Deep sea mineral extraction should not proceed without adequate measures to protect the ability of future generations to enjoy their human rights.

3. A strong accountability framework for businesses

As recognized in the [Guiding Principles on Businesses and Human Rights](#) (UNGPs), States should set out clearly the expectation that business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations, which include areas beyond the limits of national jurisdictions. Safeguards should be in place to ensure that any engagement by the private sector is consistent with the corporate responsibility to respect human rights. Currently, many UN Member States have not yet done this.

As part of their responsibility to respect human rights, businesses are expected to undertake human rights due diligence, which involves identifying and assessing human rights risks with which they may be involved, taking effective measures to prevent and mitigate such risks, tracking whether those measures are effective in fact, and communicating information sufficient for external stakeholders to evaluate the adequacy of the businesses' response.

Where harms occur, those affected must have access to effective remedy. The potential exploitation of deep-sea minerals must not proceed without a strong accountability framework for businesses engaged in these activities. This framework must account for the jurisdictional challenges posed by harms impacting multiple States when the damage is originally done in marine areas beyond national jurisdictions.

4. Guarantee access to information and public participation, including in environmental matters

All people have the right to access information, public participation and access to justice, including in environmental matters. Before permitting deep-sea mineral extraction, States must take effective measures to guarantee these rights. This has three essential elements: human rights assessments, participation of those potentially impacted and access to justice. Human rights assessments are needed. They should be guided by the best available science and provide public information about biodiversity, including environmental, social, cultural, or human rights impacts. These should be available, where applicable, in accessible language and format.

States must guarantee meaningful and informed public participation, including free, prior, and informed consent of Indigenous Peoples, in environmental decision making, bearing in mind the barriers to public participation faced by Indigenous Peoples, local communities, children, persons with disabilities and others in vulnerable situations. In doing so, States must also ensure transparent, inclusive, safe and meaningful participation of civil society in environmental negotiations.

5. Ensure coherence with other instruments protecting marine biodiversity in the Area

The [Kunming-Montreal Global Biodiversity Framework](#)¹ contains strong human rights language including references to a human rights based approach, right to development, right to a healthy environment, rights of Indigenous Peoples and gender equality. The COP-15 Decision states that before deep-sea mining takes place, "the impacts on the marine environment and biodiversity are sufficiently researched and the risks understood"; to ensure that deep-sea mining does "not cause harmful effects to the marine environment and biodiversity"; and it should be ensured that "rules, regulations and procedures are put in place by the International Seabed Authority, in accordance with the best available science and the traditional knowledge of Indigenous Peoples and local communities with their free, prior and informed consent."² The Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) was recently adopted, following 20 years of negotiation, with the aim "to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term.

"Recognizing the duty to preserve the ability of future generations to enjoy their human rights provides clear benchmarks to inform decision-making on their behalf. This responsibility applies to the full spectrum of human rights, including the recently recognized right to a clean, healthy and sustainable environment, which is the foundation for the enjoyment of a wide range of other rights, such as the rights to life, health, food, housing, water and sanitation, and self-determination.(General Assembly resolution 76/300)".



More info

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¹ See also SDG 8, 12 and 14

² Decision adopted by the Conference of the Parties to the Convention on Biological Diversity, 15/24: Conservation and sustainable use of marine and coastal biodiversity CBD/ COP/DEC/15/24, para. 16.1