

Terms of Reference (ToR)

Legal Consultant: Evaluation of Environmental and Human Rights Safeguards in Critical Minerals Legislation in the Philippines

1. Background and Context

The legal and regulatory landscape for mining in the Philippines is governed by a number of foundational laws, including the **Philippines Mining Act of 1995 (RA 7942)**, **People's Small-Scale Mining Act of 1991**, **Indigenous Peoples' Rights Act of 1997**, the **Environmental Impact Statement System (PD 1586)**, and the **Local Government Code (RA 7160)**. These laws establish the framework for permitting, environmental protection, and coordination among national and local government units. Complementary frameworks such as the **Expanded National Integrated Protected Areas System (ENIPAS)** and **DENR Administrative Orders** provide guidance on zoning, protected areas, and operational methods such as open-pit mining.

While these instruments contain environmental and social safeguards, these need to be aligned with the **evolving international legal standards** on corporate responsibility, sustainability, and human rights. Jurisprudence from the **Philippine Supreme Court** highlight areas for improvement in enforcement, access to justice, and regulatory coherence. International legal and voluntary frameworks continue to shape expectations for responsible business conduct and sustainable mining practices. These frameworks emphasize legal compliance, environmental stewardship, and respect for human rights across global supply chains. Key instruments include:

- [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#) and [UN Principles to guide Critical Energy Transition minerals towards Equity and Justice](#)
- [ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all](#)
- [OECD Guidelines for Multinational enterprises on Responsible Business Conduct](#)
- [Initiative for Responsible Mining Assurance standards \(IRMA\)](#)
- [International Council on Mining and Metals \(ICMM\) Mining Principles](#)
- **ASEAN Intergovernmental Commission on Human Rights (AICHR)**: Currently developing a regional **Framework on Environmental Rights** that may enhance protection standards relevant to mining.

Beyond, the international principles and guidelines, the **European Union**, in particular, has adopted a number of legislative measures that provide normative benchmarks for sustainable supply chains

- The **EU Critical Raw Materials Act (2023)** establishes legal instruments for securing critical minerals, while promoting environmental sustainability and social standards in sourcing.
- The proposed **Corporate Sustainability Due Diligence Directive (CSDDD)** introduces legal duties for companies to identify and mitigate adverse human rights and environmental impacts along their global value chains.
- The **EU Taxonomy for Sustainable Activities** includes technical screening criteria for mining, with stringent conditions on pollution, biodiversity, and circular economy.
- The **EU Regulation on Deforestation-Free Products and Batteries Regulation** impose traceability and sustainability requirements with implications for minerals like nickel and cobalt.

This consultancy will assess the Philippine legal framework governing mining and environmental safeguards, benchmark it against international standards, and recommend improvements, whether through law or policy, to promote stronger legal integrity, environmental protection, and human rights due diligence in mining operations.

2. Objectives and Scope of Work

The legal consultant will undertake a **comprehensive review** and **legal evaluation** of the Philippines mining framework, with specific attention to:

2.1 Legal and Policy Review

- Review and analyse core laws and relevant jurisprudence governing mining, environment, and affected communities in the Philippines, including how they relate to broader Constitutional provisions, including but not limited to:
 - RA 7942 – Philippines Mining Act
 - PD 1586 and PD 1151 – Environmental Impact Statement System
 - RA 8371 – Indigenous Peoples' Rights Act (relevant sections only)

- RA 7586 as amended – National Integrated Protected Areas System
- RA 7160 – Local Government Code
- Relevant DENR Administrative Orders (e.g. DAO 2017-10, DAO 2021-40)
- Presidential Executive Orders (e.g. EO 79 s.2012 and EO 130 s.2021)
- Identify regulatory gaps and need for greater coherence:
 - Environmental permitting and impact assessment
 - Licensing and public consultation procedures
 - Monitoring and enforcement mechanisms
 - Access to remedy and accountability for harm

2.2 Subnational Implementation and Practice

- Examine the implementation of mining regulation in key provinces such as but not limited to Palawan, Caraga, Zambales
- Document any jurisdictional tensions or enforcement failures between local and national authorities and relevant jurisprudence

2.3 Institutional and Stakeholder Mapping

- Map the roles and mandates of key government agencies such as but not limited to DENR (MGB, EMB), NCIP, LGUs (where relevant)
- Identify and categorise civil society, academic, and community actors involved in mining governance or environmental advocacy

2.4 Benchmarking Against International Standards

- Compare Philippine legal and institutional practices against global and regional frameworks, including:
 - **UN Guiding Principles on Business and Human Rights**
 - **OECD Due Diligence Guidance** for Responsible Business Conduct
 - **ILO Guidelines for a just transition** towards environmentally sustainable economies and societies for all
 - **IRMA Standard v.1.0** – especially Chapters 3.1 (Legal Compliance), 3.3 (Environmental and Social Impact Assessment), 3.7–3.11 (Water, Waste, Reclamation, Emergency, Health and Safety)

- **EU legal frameworks:** CSDDD, CRMA, EU Taxonomy, and EU Battery Regulation

2.5 Legal Reform Recommendations

- Develop actionable legal and policy recommendations to:
 - Strengthen environmental and human rights safeguards
 - Enhance inter-agency coordination and local-national consistency
 - Improve monitoring, transparency, and access to data
 - Align Philippine frameworks with global norms and best practice standards
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3. Key Deliverables

The consultant will assist in producing a **written report** with these recommendations.

4. Consultant Qualifications

Essential:

- Law degree and licence to practise in the Philippines
- Relevant legal experience in environmental, mining, or administrative law
- Demonstrated experience in legal and regulatory analysis, policy drafting, or public law reform
- Fluency in English and excellent legal writing skills

Desirable:

- Postgraduate qualification in environmental law, natural resources law, or international human rights
- Familiarity with IRMA, OECD, or EU legal instruments
- Experience working with multilateral organizations, public interest law groups, or civil society

5. Remuneration

Fee: Up to **USD 18,000** (inclusive of VAT and all applicable taxes)

Applicants should indicate their **daily rate** and **anticipated number of working days** in their proposal.

6. Deadlines

- Final date for applications: **13th June, 2025**
- First draft with a framework outline with the report: 30th June – 15th July, 2025
- Second draft – 15th September, 2025
- Final draft – 30th November, 2025
- Invoicing at the end of June (subject to discussion)

7. Applications

Please send an email with your CV, cover letter and daily rate/anticipated working days by 13th June, 2025 to Kanika Sood, ksood@clientearth.org.