
GENDER AND THE EXTRACTIVE INDUSTRIES: PUTTING GENDER ON THE CORPORATE AGENDA

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Persistent and structural gender inequality within the extractive industries continues to undermine women's rights and the development potential of the sector. A failure to engage women from impacted communities means that companies lack important information and perspectives and, as a result, face various risks to their own interests.

This paper presents the case for extractive industry companies to take off the gender blindfold and work towards gender equality and the realisation of women's rights. It also describes the role of a company gender policy and gender impact assessment in achieving better outcomes for the women, men, girls and boys in those communities affected by extractive projects. The paper includes some case studies that demonstrate the risks to companies of ignoring gender issues.

INTRODUCTION

Women face systemic discrimination in all phases of an extractive industry project. Entrenched gender bias not only prevents women from engaging with and accessing economic benefits, but manifests in how companies and governments engage with communities at all stages of project activities. Gender-blind policies and practices in company–community consultation and decision-making processes give rise to the systematic exclusion of women and a silencing of women's experiences, perspectives and interests in relation to extractive industries projects. The result is increasing gender inequality and the further disempowerment of women.

For example, as land is expropriated for extractive industry projects, so are the family farms that women often manage. These farms give women the ability to earn an income that gives them autonomy and decision-making power in the household and community. Women can lose this influence when their livelihoods are lost because of extractive industries projects. At the same time, men's influence can increase significantly when they receive cash incomes from employment with extractives projects — men's employment, which is a benefit of mining, can have unintended consequences for women. Additionally, unpaid household and community care work often increases for women and girls as men are less available for that work, and vital resources like water and wood become scarcer. The risks of HIV/AIDS and violence against women can escalate with the influx of transient workers, the transition to a cash economy, and the emergence of new socio-economic stresses.

Tackling gender inequality within the extractive industries demands a fundamental shift within the industry. It requires a reshaping of the values, culture and norms that produce and maintain gender bias within the sector. Given the positive correlation between increasing gender equality, the progressive realisation of women's rights, and poverty alleviation, the imperative for a new paradigm is clear. Gains towards greater gender equality and the progressive realisation of women's rights must become one of the central indicators of the industry's success as a driver of sustainable development.

Case study 1: Women's unpaid care work in South Africa

The South African gold mining industry is facing a series of massive class action lawsuits from many thousands of current and former mine workers with silicosis.¹ Silicosis is a degenerative and often deadly disease of the lungs caused by breathing silica dust. The class members believe that the gold mining companies failed to protect them from silica dust inhalation while they worked in the mines. The miners (usually male) and their families are seeking damages from the mining companies.

Silicosis clearly has a devastating impact on those people with the disease. It also has a devastating impact on the typically poor families and communities that send people to work in the mines — this impact is strongly gendered. When mineworkers return home sick with silicosis, it is women who take care of them at considerable personal and financial expense. All too often, the mothers, sisters and wives of sick mineworkers are required to withdraw from formal and informal work, or (in the case of girls) leave school, in order to care for men with silicosis.²

Organisations in South Africa have applied to intervene in one of the lawsuits as amici curiae (friends of the court) to share expert information on the broader social impact of silicosis and related occupational lung diseases. They argue that women in rural communities have been forced to assume an unfair burden of care as a result of widespread industry failure to protect mine workers. Despite strong industry opposition, the relevant court dismissed industry arguments and allowed the admission of evidence.³

WHY? THE CASE FOR PUTTING GENDER ON THE CORPORATE AGENDA

Consistency with human rights obligations

Addressing the needs and interests of women in communities affected by extractive projects, and ensuring that company activities do not undermine the rights of women, is consistent with a company's human rights obligations. These obligations are articulated in the UN Guiding Principles on Business and Human Rights. Businesses have a corporate responsibility to respect human rights — this means that they should avoid infringing on the human rights of others (in other words, to do no harm) and should address adverse human rights impacts with which they are involved.⁴ Increasingly, companies are developing human rights policies⁵ and undertaking human rights impact assessments as required by the UN Guiding Principles and demanded by their stakeholders.

A commitment to respect human rights, which should be the central commitment of any human rights policy, is meaningless unless issues of gender equality and women's rights are considered. Similarly, a human rights impact assessment that is gender-blind will have little utility because potential impacts on women's rights may not be identified. Failure to identify and address such impacts may have legal consequences for companies or contribute to conflict with local communities, which might put operations at risk of interruption and closure. Finally, as noted in the UN Guiding Principles, businesses may need to consider additional standards where the rights of some people require special attention to ensure that these are respected, as is the case for women and extractive industry projects.

Avoid legal risk

Companies whose operations have serious and negative impacts on people, their rights, livelihoods and environment face potential legal consequences. For example, there is increasing interest and collaboration between public interest lawyers and human rights campaigners in using tort litigation to hold multinational corporations accountable for human rights violations in developing countries.⁶ This recognises that parent companies have a duty of care and may be liable for damages if that duty of care is breached.

Numerous examples exist of women and men successfully pursuing legal cases against extractive industry companies for alleged human rights abuses — often in situations with high levels of conflict between the company and local communities. This includes cases involving the rape and sexual assault of women by company or state-employed security.⁷ While negotiation and settlement is the most likely outcome, significant expense and reputational risks do arise from such litigation for the companies involved.

Avoid company–community conflict

The costs to the extractive sector of prolonged or serious company–community conflict can be massive and can be measured in time lost (for example, delays in project start up or in the time senior executives devote to managing the problem) and money spent (for example, from lost productivity due to shut downs). The cost of conflict in the extractives sector has been estimated at up to \$20 million per week during the operation phase of a project.¹¹

A recent study of company–community conflicts¹² identified a range of issues that can trigger conflict and affect the quality of the underlying relationship between the company and community. These include social, cultural and economic

Case study 2: Compensation for victims of rape by mine security in Papua New Guinea

Investigations by human rights organisations over many years have documented serious abuse at Barrick Gold's Porgera mine in Papua New Guinea, including the brutal rapes of local women and girls by mine-employed security guards.⁸ After years of ignoring credible claims of abuse,⁹ Barrick Gold finally acknowledged the problem of rape at Porgera and, in 2012, created the Porgera Remedy Framework, a non-judicial process designed by the company to respond to claims of sexual abuse. However, Barrick Gold made the provision of remedy conditional on the women waiving their legal rights — in effect, agreeing never to sue the company for their injuries.

This approach has been widely criticised by human rights organisations, including Oxfam.

Not all of the rape victims were willing to sign away their legal rights and some threatened to file a lawsuit against Barrick Gold in the United States, where the company has several operations. An out-of-court settlement was ultimately negotiated with 11 women in April 2015,¹⁰ at significant expense and possible reputational damage to the company.

changes brought about by the project, and changes to the environment in which people live and on which their livelihoods depend. A further set of issues relates to “the process of change” such as company consultation and communication processes, and if and how community consent for a project is given.

Changes brought about by extractive projects affect women and men differently, as well as impact on gender roles and relations in a given community. For example, water pollution or a significant decline in water availability tends to impact women (and girls) more than men, because women and girls are often responsible for water collection. Having to travel further distances for potable water increases the hours women spend on unpaid care work, with an opportunity cost in terms of time lost for productive, paid work. Women are similarly impacted if the riverside gardens they rely on for income generation are affected by extractive activities.

The study on company–community conflicts found that the quality of the relationship between a company and community were largely undermined when particular groups, such as women, who were already marginalised in a given context, were disproportionately subject to the social and cultural changes brought about by an extractives project. This type of dynamic can further increase the potential for conflict.

Finally, it is worth noting that in addition to avoiding the risks of conflict with local communities, companies have the opportunity to add value and create opportunities if they can find ways to build their relationship with a section of the community that has to date been largely ignored.

Case study 3: Women’s struggle against mining in Guatemala

The massive Marlin gold mine in Guatemala was established in 2005 without the free, prior and informed consent of the local Indigenous communities. The mine has been at the centre of conflict between the company and local communities ever since, and has at times been subject to blockage and protest. In 2010, the UN and the Inter-American Commission on Human Rights called on the Government of Guatemala to suspend operations at the mine. Mining continues despite pollution, intimidation, violence and ongoing protest.

Many of the leaders of the struggle against the mine have been women. In one incident in 2008, several women protested against the building of power lines through their land by knocking over the mining company’s pylons. This interrupted power supplies to the processing plant — assumingly at great cost to the company. Some of the repression of Indigenous activists has specifically targeted women,¹³ further escalating company–community conflict and external scrutiny of the mine.

Value for money

By supporting women’s involvement in company–community consultation and decision-making processes, companies can increase the rate of return on their community development investments. Research indicates that men and women often prioritise community investments differently. Men tend to prioritise large-scale infrastructure projects, while women prioritise health, education, nutrition and smaller-scale infrastructure projects.¹⁴ Investments in the latter have proven more effective in terms of achieving better, and more sustainable, development outcomes. For example, improvements in women’s education and health have been linked to better outcomes for their children.¹⁵

Despite this, company–community consultation and decision-making processes often exclude women, limiting the influence women are able to have over the design of community development programs. While it is true that gender inequality is a part of the structure of many communities, companies can either exacerbate these inequalities or have a positive impact.

Women’s participation in consultation processes is key to ensuring value for money. Otherwise, companies may be wasting their money on community development programs that deliver few long-term development benefits. Importantly, opportunities to support women’s strategic gender interests (in addition to practical gender needs) may be missed.¹⁶ Without attention to gender, company claims of contributing to sustainable development must be questioned.¹⁷

Companies that ignore issues of gender equality and women’s rights may fail to meet their human rights obligations, face possible legal action or conflict with local communities, and could be wasting their investments on community development projects that do not deliver optimal results. All of these repercussions have associated reputational and financial risks.

Importantly, a failure to engage women from impacted communities in consultation and decision-making processes means that companies may lack the information and perspectives necessary to avoid these risks.

PUTTING GENDER ON THE CORPORATE AGENDA

So it is clear that there are real risks to extractive industry companies of ignoring gender issues. Acknowledging and working to address the sector's gender bias will have benefits for companies, women and men from mine-affected communities and their communities as a whole. Developing a company gender policy and conducting gender impact assessments are two practical ways that companies can work towards achieving better gender outcomes.

Gender policy

Companies should develop, publish and implement a company-level gender policy — ideally this is a standalone policy. Alternatively it could be part of other relevant policies such as on human rights or company engagement with, and commitments to, local communities. A gender policy should provide clear and overarching commitments to gender equality, to respecting women's rights and to minimising the negative impacts of extractive projects on women, men, girls and boys.¹⁸ The process of developing such a policy can be in itself useful as it prompts staff to identify and reflect on company values, culture and norms, how these produce and maintain gender bias, and what needs to change if the company is to support gender equality and the realisation of women's rights.

A gender policy should include commitments to:

- Not condone, tolerate or perpetuate discrimination against women or girls.
- Respect the human rights of women, men, girls and boys from communities affected by extractive industries projects.
- Involve both women and men in company–community consultation and decision-making processes, recognising that women and men have different experiences, perspectives, needs and interests.
- Ensure that the outcomes of consultation and decision-making processes are gender-equitable and that women and men have equal opportunity and equal access to project benefits.

These commitments should also be reflected across the range of company standards, guidelines and processes, including those on assurance, monitoring, evaluation and reporting, and be supported by gender training for key staff. In particular, company guidelines on community engagement should detail how staff can support women's participation in consultation and decision-making processes, thus ensuring the gender policy is operationalised. An organisation-wide review of existing policies is another way to start the process of integrating gender into company policy and practice.¹⁹ Finally, the gender policy should be regularly reviewed to ensure it remains relevant and is the driver for improved practice.

Gender impact assessment

Companies should also conduct gender impact assessments as another means to prevent disproportionate negative impacts of extractive projects on women and girls. A gender impact assessment identifies the likely impacts the project will have on women and men (and the relationship between them) in communities affected by the project.²⁰ Its basis is a gender analysis.²¹

A gender impact assessment can help to:

- Understand the many causes of vulnerability and marginalisation in communities, including gender.
- Understand how an extractive industry project will impact on the rights of women, men, girls and boys and how negative impacts can be avoided.
- Inform the design of gender responsive company–community consultation and decision-making processes, including the identification of barriers to women's participation.
- Inform decision-making on community development projects or compensation packages to ensure that these address women's practical gender needs and strategic gender interests, in addition to those of men.
- Involve women and men in project assessment, decision-making and planning.

A gender impact assessment can be done as part of project baseline studies; alongside social and environmental impact assessments (which typically do not pay particular attention to how a project's social or environmental impacts will affect women and men differently); or when planning or reviewing company–community benefit agreements, social development plans or company–community consultation and decision-making mechanisms. A gender impact assessment can be undertaken for a proposed or operating project.

Gender impact assessments should involve all members of project-affected communities but focus on supporting the participation of women — only they know what is important to them. Gender impact assessments can then inform the development of project planning at all stages of project life, from exploration to closure, so that project planning is gender responsive.

CONCLUSION

Extractive industries companies can and should do more to work towards gender equality and the realisation of women's rights. The risk to companies of failing to take a gendered approach is clear, as is the risk to the women from communities affected by extractive industry projects. Developing a gender policy and undertaking a gender impact assessment are vital steps for extractives companies to take — a key outcome of both is to support women's participation in company-community engagement and decision-making processes. More than that though, company management and staff must constantly "think gender" and be genuine in their efforts to listen and respond to the concerns and interests of the women in the communities in which they operate or risk losing valuable information and perspectives.

FOOTNOTES

- 1 For example www.leighday.co.uk/News/News-2016/March-2016/Victory-at-last-for-South-African-gold-miners-as-A
- 2 www.tac.org.za/news/tacsonke-background-amicus-application-historic-gold-mining-lawsuit
- 3 Tanya Charles and Dean Peacock, "Building Community Voice through Litigation? Lessons from the Silicosis Class Action Suit in South Africa" in Heinrich Boll Stiftung, Africa Rights and Resources Building Community Voice in the Extractives Sector, 2016
- 4 United Nations, Guiding Principles on Business and Human Rights Implementing the United Nations 'Protect, Respect and Remedy' Framework, 2011
- 5 Community Consent Index, Oxfam International, 2015
- 6 Richard Meeran, "Tort Litigation against Multinational Corporations for Violation of Human Rights: An Overview of the Position Outside the United States" in City University of Hong Kong Law Review Volume 3:1, 2011
- 7 For example, www.leighday.co.uk/News/2011/July-2011/Peruvian-torture-claimants-compensated-by-UK-mining and www.abc.net.au/news/2015-04-08/barrick-gold-to-compensate-women-raped-at-mine-site-in-png/6377040
- 8 www.earthrights.org/media/survivors-who-alleged-rape-and-killing-papua-new-guinea-mine-pleased-barrick-gold-settlement
- 9 For example <http://miningwatch.ca/news/2008/5/12/barrick-gold-s-porgera-mine-papua-new-guinea-linked-grave-human-rights-abuses>
- 10 For example <http://miningwatch.ca/news/2008/5/12/barrick-gold-s-porgera-mine-papua-new-guinea-linked-grave-human-rights-abuses>
- 11 csrm.uq.edu.au/conflict-costs
- 12 Rachel Davis and Daniel Franks, Costs of Company-Community Conflict in the Extractive Sector, Corporate Social Responsibility Initiative Report No. 66. Cambridge, MA: Harvard Kennedy School, 2014
- 13 For example www.fian.org/fileadmin/media/publications/1003UGTM_Marlin_e.pdf
- 14 The World Bank, New approaches for improving the development outcomes of the Extractive Industry in Peru: Improving impacts on women in poverty and their families Guide
- 15 World Bank, World Development Report 2012: Gender Equality and Development Outline. Washington DC, USA: World Bank.
- 16 Practical gender needs are those things that would assist women in their current activities or that relate to the responsibilities of women associated with their traditional gender roles. These needs are often shared by all household members but it is women who are responsible for meeting them. Strategic gender interests are those things that would enable women to transform existing power imbalances between women and men.
- 17 Julia Keenan and Deanna Kemp, Mining and local-level development: Examining the gender dimensions of agreements between companies and communities, Centre for Social Responsibility in Mining, The University of Queensland, 2013
- 18 A gender policy, which should focus on a company's engagement with and impact on local communities, is different to any policy a company may have on employment practices and encouraging and supporting women's employment — both are important but serve different purposes
- 19 Julia Keenan and Deanna Kemp, Mining and local-level development: Examining the gender dimensions of agreements between companies and communities, Centre for Social Responsibility in Mining, The University of Queensland, 2013
- 20 Oxfam Australia has developed a guide to assist companies to conduct gender impact assessment. The guide can be found here: www.oxfam.org.au/mining-gender
- 21 A gender analysis explores the relationships of women and men in society, and the inequalities in those relationships, by asking: Who does what? Who has what? Who decides? How? Who gains? Who loses? And: which men? Which women?

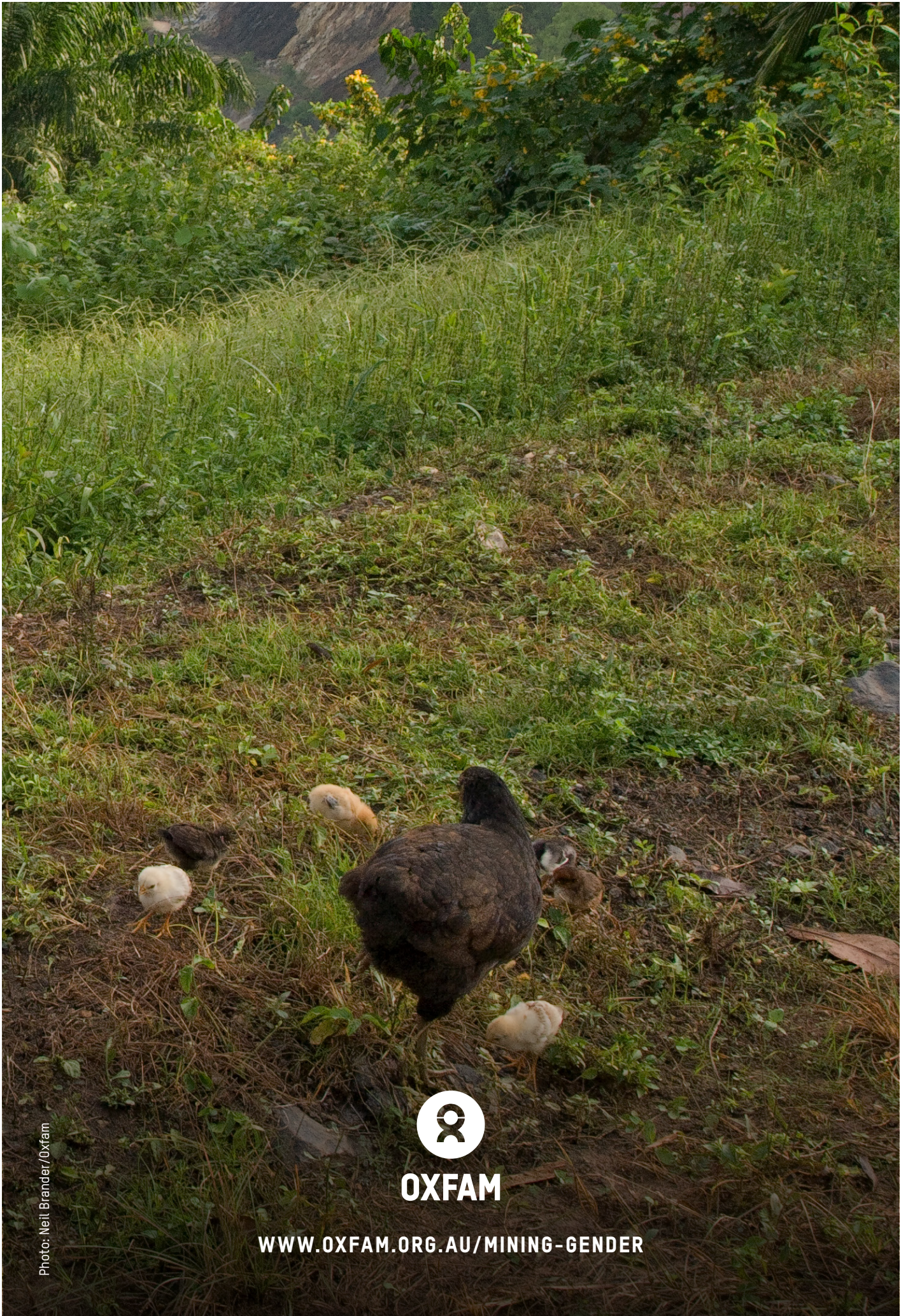


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