

## **Indigenous Peoples' Declaration on Extractive Industries**

### **Preamble:**

Our futures as indigenous peoples are threatened in many ways by developments in the extractive industries. Our ancestral lands- the tundra, drylands, small islands, forests and mountains - which are also important and critical ecosystems have been invaded by oil, gas, and mining developments which are undermining our very survival. Expansion and intensification of the extractive industries, alongside economic liberalisation, free trade aggression, extravagant consumption and globalisation are frightening signals of unsustainable greed.

Urgent actions must be taken by all, to stop and reverse the social and ecological injustice arising from the violations of our rights as indigenous peoples.

We, indigenous peoples welcome the initiative of the World Bank to carry out an extractive industries review. We note that the purpose of this review is to assess whether, and under what circumstances, the extractive industries can contribute to poverty alleviation and sustainable development.

We note that 'sustainable development' is founded on three pillars which should be given equal weight if such development is to be equitable namely environmental, economic and human rights. We note that this issue has already been addressed by the Kimberley Declaration of Indigenous Peoples to the World Summit on Sustainable Development and by the Roundtable between the World Bank and Indigenous Peoples held in Washington in October 2002. We also draw attention to the findings of the Workshop on Indigenous Peoples, Human Rights and the Extractive Industries organised by the Office of the High Commissioner for Human Rights in Geneva in December 2001.

We, indigenous peoples, reject the myth of 'sustainable mining': we have not experienced mining as a contribution to 'sustainable development' by any reasonable definition. Our experience shows that exploration and exploitation of minerals, coal, oil, and gas bring us serious social and environmental problems, so widespread and injurious that we cannot describe such development as 'sustainable'. Indeed, rather than contributing to poverty alleviation, we find that the extractive industries are creating poverty and social divisions in our communities, and showing disrespect for our culture and customary laws.

### **Key Concerns:**

Our experience of mining, oil and gas development has been one of:

- Violation of our basic human rights, such as killings, repression and the assassination of our leaders;
- The invasion of our territories and lands and the usurpation of our resources.
- By denying us rights or control over our lands, including subsurface resources our communities and cultures are, literally, undermined.
- Many of our communities have been forced to relocate from their lands and ended up seriously impoverished and disoriented.

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- Extractive industries are not transparent, withholding important information relevant to decisions affecting us.
- Consultation with our communities has been minimal and wholly inadequate measures have been taken to inform us of the consequences of these schemes before they have been embarked on.
- Consent has been engineered through bribery, threats, moral corruption and intimidation.
- Mines, oil and gas developments have ruined our basic means of subsistence, torn up our lands, polluted our soils and waters, divided our communities and poisoned the hopes of our future generations. They increase prostitution, gambling, alcoholism, drugs and divorce due to rapid changes in the local economy.
- Indigenous women have in particular suffered the imposition of mining culture and cash based economies.
- Extractive industries are unwilling to implement resource sharing with indigenous peoples on a fair and equal basis.

These problems reflect and compound our situation as indigenous peoples. Our peoples are discriminated against. Those who violate our rights do so with impunity. Corruption and bad governance compound our legal and political marginalization. We find that the extractive industries worsen our situation, create greater divisions between rich and poor and escalate violence and repression in our areas.

### **Recommendations:**

In view of this experience and in line with precautionary principles,

- ◆ We call for a moratorium on further mining, oil and gas projects that may affect us until our human rights are secure. Existing concessions should be frozen. There should be no further funding by international financial institutions such as the World Bank, no new extractive industry initiatives by governments, and no new investments by companies until respect for the rights of indigenous peoples is assured.
- ◆ Destructive practices such as riverine tailings disposal, submarine tailings disposal and open pit mining should be banned.
- ◆ Moreover, before new investments and projects are embarked on, we demand - as a show of good faith - that governments, companies and development agencies make good the damages and losses caused by past projects which have despoiled our lands and fragmented our communities. Compensation for damages encompasses not only remuneration for economic losses but also reparations for the social, cultural, environmental and spiritual losses we have endured. Measures should be taken to rehabilitate degraded environments, farmlands, forests and landscapes and to reconstitute our lands and territories taken from us. Promises and commitments made to our communities must be honoured. Appropriate mechanisms must be established to address these outstanding problems with the full participation of the affected peoples and communities.

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- ◆ Once and if, these conditions are met, we call for a change in all future mining, oil and gas development. All future extractive industries development must uphold indigenous peoples' rights.
- ◆ Equally, international development agencies must require borrower countries and private sector clients to uphold human rights in line with their international obligations. The international financial institutions and development agencies, such as the World Bank, must themselves observe international law and be bound by it in legally accountable ways.
- ◆ By human rights, we refer to our rights established under international law. We hold our rights to be inherent and indivisible and seek recognition not only of our full social, cultural and economic rights but also our civil and political rights. Respect for all our rights is essential if 'good governance' is to have any meaning for us.
- ◆ In particular we call for recognition of our collective right as peoples, to self-determination, including a secure and full measure of self-governance and control over our territories, organisations and cultural development.
- ◆ We demand respect for our rights to our territories, lands and natural resources and that under no circumstances should we be forcibly removed from our lands. All proposed developments affecting our lands should be subject to our free, prior and informed consent as expressed through our own representative institutions, which should be afforded legal personality. The right to free, prior informed consent should not be construed as a 'veto' on development but includes the right of indigenous peoples to say 'no' to projects that we consider injurious to us as peoples. The right must be made effective through the provision of adequate information and implies a permanent process of negotiation between indigenous peoples and developers. Mechanisms for redress of grievances, arbitration and judicial review are required.
- ◆ Education and capacity building is needed to allow us to be trained and informed so we can participate effectively and make decisions in our own right.
- ◆ Before projects are embarked on, such problems as marginalisation, insecure land rights, and lack of citizenship papers must be addressed. Indigenous Peoples' Development Plans (IPDPs) must be formulated with the affected communities and Indigenous peoples should control mechanisms for the delivery of project benefits.
- ◆ Voluntary standards are not enough: there is a need for mandatory standards and binding mechanisms. Binding negotiated agreements between indigenous peoples, governments, companies and the World Bank are needed which can be invoked in the courts if other means of redress and dispute resolution fail. Formal policies and appeals procedures should be developed to ensure accountability for loan operations, official aid, development programmes and projects. These accountability measures should be formulated with indigenous peoples with a view to securing our rights throughout the strategic planning and project cycles.

- ◆ Independent oversight mechanisms, which are credible and accessible to indigenous peoples, must be established to ensure the compliance by all parties with agreed commitments and obligations.
- ◆ Companies seeking to invest in mining, oil and gas ventures on our lands should also be obliged to take out bonds as guarantees of reparations, in the case of damages to our material and immaterial properties and values, sacred sites and biological diversity.
- ◆ We recognise that many mining, oil and gas investments have their origins in national, regional and international policy agreements, which often facilitate relaxation of laws, fiscal reforms, encouragement of foreign investment and accelerated processes for handing out concessions to extractive industries. International agencies, such as the World Bank, promote such changes through adjustment and programmatic lending, through technical assistance interventions, country assistance strategies and sectoral reforms. Our experience is that often these policy and legal reforms ignore, override or even violate our constitutional rights and our rights and freedoms set out in national and international laws. Often the impacts of these developments on indigenous peoples are ignored during national planning.
- ◆ We demand our right to equal and effective participation in these planning processes and that they take full account of our rights. Given the country-wide embrace of these national strategies, we demand that the agencies such as the World Bank give equal attention to the application of existing laws and regulations which uphold our rights in policy and country dialogues and financial agreements. Development agencies should give priority to securing our rights and ensuring they are effectively implemented before facilitating access to our lands by private sector corporations such as extractive industries. Mining laws which deny our rights should be revised and replaced.
- ◆ The World Bank must encourage member states to fulfil their obligations under international human rights law and existing national legislation on indigenous peoples' rights. Consistent with the call for "Partnership into Action" by the UN Decade for Indigenous People, we call for equal participation by indigenous peoples in the formulation of general Country Assistance Strategies and particularly in Indigenous Peoples Development Plans.
- ◆ Poverty alleviation must start from indigenous peoples' own definitions and indicators of poverty, and particularly address the exclusion and lack of access to decision-making at all levels. Rather than being merely lack of money and resources, poverty is also defined by power deficits and absence of access to decision-making and management processes. Social and ecological inequalities and injustice breed and perpetuate the impoverishment of indigenous peoples.
- ◆ Independent and participatory environmental, social and cultural assessments must be carried out prior to the start of projects, and our ways of life respected throughout the project cycle, with due recognition and respect for matrilineal systems and women's social position.

- ◆ As indigenous peoples, we do not reject development but we demand that our development be determined ourselves according to our own priorities. Sustainable development for indigenous peoples is secured through the exercise of our human rights, and enjoying the respect and solidarity of all peoples. We are thus empowered to make our contributions and to play our vital role in sustainable development.

### **A Call for Action and Solidarity**

We call on the international community and regional bodies, governments, the private sector, civil society and all indigenous peoples to join their voices to this Indigenous Peoples Declaration on the Extractive Industries.

We call on the World Bank's Extractive Industries Review to uphold our recommendations and to carry through their implementation in the World Bank Group's policies, programmes, projects and processes.

We also recommend a discussion on this theme at the upcoming meeting of the United Nations Permanent Forum on Indigenous Issues. We call on the Permanent Forum to insist on respect for our human rights by companies, investors, governments and development agencies involved in the extractive industries. The Permanent Forum must promote understanding of the negative impacts of the extractive industries on the economic, cultural, social and spiritual well-being of indigenous peoples and appropriate safeguard policies. The World Bank, as part of the United Nations family, should report to the Forum on how it proposes to amend its policy on indigenous peoples, in conformity with international law and the recognition of indigenous rights.

We also propose that further discussions on this theme of 'Indigenous Peoples, Human Rights and Extractive Industries' are held at the UN Working Group on Indigenous Populations (UNWGIP) with a view to developing new standards on this matter, in conformity with the Working Group's mandate.

We call for democratic national processes to review strategies and policies for the extractive industries towards a reorientation to secure sustainable development.

We enjoin all indigenous peoples to unite in solidarity to address the global threats posed by the extractive industries.

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