



# FIRST PEOPLES WORLDWIDE

## CORPORATE MONITOR

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#### **Tsilhqot'in Ruling a Game Changer for Canada**

In June 2014, Canada's Supreme Court awarded the Tsilhqot'in Nation title to 1,700 square kilometers of their unceded traditional lands. The case dates back to 1983, when the government issued logging licenses on lands that were outside the community's reserve boundaries, but still used by the community for hunting and trapping. After decades of arguments in lower courts, the Supreme Court awarded the community title to those lands, and determined that the government breached its constitutional duty to consult. The court also laid out processes for other First Nations to secure title to their unceded traditional lands.

Hundreds of First Nations have never ceded their traditional lands, especially in British Columbia. This ruling establishes a precedent for those communities to secure title to those lands and determine "the uses to which the land is put." In other words, projects on titled lands require not only consultation, but consent from communities. If consent is not obtained, the government must prove the project is "pressing and substantial" through the courts, where First Nations enjoy a clear winning streak. The ruling also notes that "it may be necessary for the government to reassess its prior conduct in light of its new obligations...if it starts a project without consent, it may be required to cancel the project."

Communities are already moving to stop unwanted projects from going forward by seeking title to their unceded traditional lands, making it more important than ever for companies to obtain consent from First Nations in Canada.

Sources: [CBC](#), [CBC](#), [Boundary Sentinel](#)

#### **Indigenous Peoples Protest the World Cup**

Indigenous Peoples in Brazil successfully harnessed the publicity generated from the World Cup to bring international attention to their plight. Demonstrations were held to protest the government's lavish spending on stadiums, while reducing funding for Indigenous Peoples and other social services.

Indigenous leaders toured European cities to bring attention to policies that “threaten the land rights of Indigenous groups and the health of the whole Amazon.” Meanwhile, twenty Indians were shot with rubber bullets and stun grenades at the Belo Monte Dam – one of Brazil’s most controversial projects – weeks before the tournament began. The World Cup’s corporate sponsors, which included Adidas, Budweiser, Coca-Cola, and McDonald’s, were criticized for their lack of engagement on these issues.

When associating with countries that do not respect Indigenous Peoples’ rights, companies expose themselves to reputational damage. When Indigenous Peoples use globalized media outlets to bring local and national issues to the international forefront, they tap into ever growing networks of information channels that include a focus on Indigenous issues, all of which are fueled by the global movement for Indigenous Peoples’ rights.

Sources: The Guardian, RT News, Eco-Business, The Ecologist

## **The Importance of Inclusiveness**

Tribal governments have yet to join the Multi Stakeholder Group that is overseeing implementation of the US Extractive Industries Transparency Initiative (USEITI), despite the vast quantities of natural resources extracted from tribal lands. This indicates that tribal governments do not realize the benefits that transparency offers their communities, and that more outreach is needed to mobilize tribal support for USEITI.

This shows why companies need to broaden their engagement beyond tribal governments in the US. Due to the Bureau of Indian Affairs’ (BIA) “government to government” relationship with tribes, its communications about USEITI are largely restricted to tribal governments, and siloed from many tribal institutions, community organizations, and individuals who stand to benefit. Because tribal governments are not responding, the benefits of transparency are at risk of going unrealized by Native American communities (some tribes, such as the Navajo and the Cherokee, have adopted transparency legislation in isolated instances).

In the same sense, companies that restrict their engagement to the BIA and tribal governments cannot guarantee inclusive negotiations, or that they have broad community support for their operations.

### **World Bank Pressured to Dilute Indigenous Peoples Policy**

According to the Bank Information Center, some African governments are pressuring the World Bank into restricting application of its Indigenous Peoples Policy in Africa, arguing that the term “Indigenous” is not applicable to their countries. Doing so would reverse decades of progress made by Africa’s Indigenous Peoples to gain recognition, and accelerate the onslaught of land grabs, evictions, and other irresponsible development tactics on the continent. Indigenous identity in Africa is certainly complex, but there are communities that unquestionably fit the UN’s working definition of Indigenous Peoples. The Indigenous Peoples of Africa Coordinating Committee has a network of more than 155 Indigenous organizations in 22 African countries.

The World Bank promised that the current overhaul of its social and environmental safeguards would not result in a dilution of its policies. Enabling African governments to “opt out” of its Indigenous Peoples Policy would violate that promise, and the implications would extend far beyond World Bank projects. Given the World Bank’s role as a global standard setter, this would allow governments and companies to justify continued disregard for the rights of some of the most marginalized communities in the world.

Sources: Huffington Post

### **Cumulative Impacts are Global**

Rising sea levels are threatening the disappearance of Kiribati, the Maldives, the Marshall Islands, Tuvalu, and other small island nations where Indigenous Peoples “currently have their own, sovereign states.” Residents of these nations are being told to “prepare to flee at some point” and questions surrounding the potential influx of “climate refugees” are being debated in Fiji, New Zealand, and other neighboring countries.

The [UN Global Compact](#) recently hosted a [webinar](#) on how companies can address cumulative impacts, which are defined as impacts “on an individual or a community that are the result of the combined actions of several actors.” Cumulative impacts are an emerging concept, typically referred to in the local or regional sense. Yet cumulative impacts in the global sense also warrant attention from companies, with climate change being the most significant. Because of their economic and cultural relationships with lands and natural resources, Indigenous Peoples are disproportionately affected by rising sea levels, shifting weather patterns, and other symptoms of climate change.

Sources: [Intercontinental Cry](#)

## **The Cost of Carelessness**

In July 2014, a pipeline owned by [Arrow Pipeline](#) (a subsidiary of [Crestwood Midstream Partners](#)) spilled one million gallons of saltwater on the Fort Berthold Reservation. The saltwater, which is up to thirty times saltier than saltwater in the ocean, is killing vegetation and might have leaked into Lake Sakakawea, a source of drinking water for the community. Tribal leaders say the spill could take years to cleanup, and are reviewing their pipeline regulations.

Had the pipeline had an effective spill detection system in place, the extent of the damage could have been drastically reduced. A spokesperson for Crestwood said that "the pipeline is not equipped with a system that sends an alert when there is a leak, and the spill was only discovered when the company was going through production loss reports." Such carelessness is an unfortunate symptom of natural resource booms, and the ramifications of this incident could be felt by all producers in the Bakken.

Just six years ago, Fort Berthold's leaders were frustrated by regulatory and bureaucratic hurdles that impeded oil and gas development on the reservation. Those leaders are now voicing the need to slow down and think about the environment. Successful oil and gas development in Indian Country must find an equilibrium between these scenarios, that balances the economic, social, and environmental needs of tribes.

Sources: [News Daily](#), [Fort Frances Times](#)

## **Intimidation is Ineffective**

In 2009, more than 2,000 Aguaruna and Wampi Indians protested a Peruvian law that allowed mining companies to enter their territories without consent. The protests turned violent, resulting in 33 deaths (23 police officers and 10 civilians) and 200 injuries. Five years later, 400 of the protesters are being prosecuted for their alleged role in the police officers' deaths, and for disrupting the operations of mining companies. Yet no charges have been brought against police officers, due to laws that exempt them "from criminal responsibility if they cause injury or death...while on duty." Human rights groups are concerned that this gives police officers a "license to kill" citizens demonstrations against mining, without repercussions.

Peru appears to be employing intimidation tactics to quell the social unrest that has ravaged many foreign investments in the country. This will only make it easier for activists to associate companies with human rights violations committed by the state, while aggravating the severity of communities' grievances. The only tangible solution to Peru's natural resource struggles lies in policies that prioritize and listen to the needs of communities.

Sources: [The Independent](#)

## **The Importance of Culture**

A new [study](#) links oil sands production with high level of arsenic, heavy metals, mercury, and other pollutants in traditional foods in northern Alberta. This is causing First Nations to shift away from their traditional diets due to fears of contamination, and consume more imported, processed foods, which are less healthy and more expensive. The study was prepared by environmental scientists from the University of Manitoba, and funded by the National First Nations Environmental Contaminants Program, Health Canada, and two communities.

Impact assessments for projects on or near Indigenous lands should include impacts to traditional foods. When mitigating these impacts, companies should remember the strong ties between traditional foods and culture, in addition to health, economic livelihoods, etc.

[According to the International Indian Treaty Council](#), "many outsiders still use only economic or

nutritional standards (not cultural standards) when they try to help us feed our communities, or when they carry out projects that affect our communities' food systems.”

Sources: Globe and Mail