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Indigenous Peoples and Oil and Gas Development Respecting Rights, Minimizing Risks, Maximizing Benefits

By Ed Bianchi

Oil and gas exploration and development has been driven to the doorsteps and backyards of Indigenous communities across Canada by society's seemingly insatiable demand for non-renewable fossil fuels. Historically, the societies and cultures of First Nations, Inuit and Métis peoples have been seriously damaged by unsustainable resource exploitation practices over which they usually had little or no control. Today, Indigenous peoples are adamant that history not repeat itself. This time they are demanding that resource extraction projects be carried out in a sustainable way that respects their rights as peoples and nations with distinct cultures and identities.

Indigenous peoples today are among the poorest and most marginalized in Canada and, while there is some acknowledgement that extractive activities may alleviate the serious and chronic socioeconomic challenges that plague so many communities, there is also an unwillingness to sacrifice the long term health and viability of territories and lifestyles for relatively short term economic gain. For many Indigenous peoples the threat of permanent harm to their unique cultures and identities from damage to their lands is simply too high a price to pay.

Before projects on traditional lands even reach the drawing board certain conditions must prevail.

Governments and industry must respect and protect traditional cultures and values, honour and enforce Indigenous land rights and recognize Indigenous peoples' right to self-determination, including the right to free, prior and informed consent. In this way, First Nations, Inuit and Métis peoples will be better able to control and manage the exploitation of oil and gas on their lands so that they are a benefit to their land-based cultures and their future generations.

This paper examines how these principles influence Indigenous peoples' responses to resource extraction projects. And how these principles guide the decisions of various Indigenous communities across Canada, including the northern Alberta communities of Fort McKay and Fort Chipewyan, which are, respectively, in the middle of and downstream from one of the world's largest industrial projects.

Guiding Principles

Then Assembly of First Nations National Chief Phil Fontaine, speaking to the Prospectors and Developers Association of Canada in 2008, identified three "basic and fundamental" principles for guiding joint ventures between First Nations and corporations, which he described as "a special kind of collabora-

tion that must take our identity and status into account.”¹

The first principle is respect for and protection of cultures and values. According to Chief Fontaine, “Development which substitutes economic impoverishment for cultural impoverishment is a non-starter. It will never work because we love our cultures. They represent who we are and where we have come from. It is as simple as that.”

The second principle is the respect of Indigenous rights to lands and resources; Fontaine said: “Our inherent, Aboriginal and Treaty rights are recognized and affirmed in Canada’s Constitution and they have been repeatedly affirmed by the Supreme Court of this land. As such, the law requires that they be respected by all governments and all companies that do business in Canada.”

The third principle is for meaningful consultation—from the very beginning of a development project. “We think it is presumptuous for companies to start work on development projects which may affect our very way of life, yet come to consult with us only after the project is underway,” Fontaine said.

According to Fontaine, ignoring these principles is tantamount to perpetuating the federal government’s discriminatory policy that was condemned in the 1996 *Report of the Royal Commission on Aboriginal Peoples* (RCAP).² RCAP concluded that at the root of problems facing Indigenous peoples in Canada is the ongoing violation of their rights, in particular their fundamental right to self-determination, which flows from their existence as historical nations. Indigenous nationhood and sovereignty was recognized in the hundreds of treaties between Indigenous peoples and European states, and each of these recognized the original peoples’ traditional territories.³



Young dancers perform at a public gathering in Fort Chipewyan during the KAIROS delegation visit. Photo: Anne Lewans

“We have had enough assimilation and exploitation. Attempts to destroy our cultures, our identities never worked in the past and they will never work in the future,” National Chief Fontaine told his audience of prospectors and developers. He challenged them to break with the past of “dependency and despair” by empowering First Nations to revitalize their languages and cultures, to participate and prosper in the Canadian economy and to be “proud once again of what it means to be an Indian.”

“It will not be an easy task,” Fontaine said. “But it is not impossible either. Part of the secret to success will be collaboration and co-operation with like-minded partners, in industry, government and civil society, to ensure that development opportunities on our traditional lands will result in healthier, more sustainable First Nations communities.”

Indigenous Cultures and Values

The devastation of Indigenous lands means a loss of culture for First Nations in Canada whose spirituality is grounded on the sanctity of Mother Earth.

– Carmelle Wolfson⁴

On March 23–25, 2009, Indigenous peoples representing dozens of Indigenous nations from 35 countries gathered in Manila, Philippines, to discuss the impact of extractive industries on their lands and cultures.

As the conference’s declaration explains, unbridled resource exploitation activity has led to the erosion of traditional cultures “because of the de-

struction of biological diversity and lands, territories and resources by extractive industries upon which our cultures are based.”⁵

Article 8 of the UN Declaration on the Rights of Indigenous Peoples states “Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.”⁶

The Exploring Community-based Responses to Resource Extractive Developments in Northern Canada Roundtable was organized by the National Aboriginal Health Organization (NAHO) in March 2008. It brought together First Nations, Inuit and Métis community members to discuss the “broad health and well being impacts of resource extractive development projects (i.e. oil and gas, mining) on Aboriginal peoples, their territories and their communities.” Its goals included highlighting opportunities and challenges presented by resource extractive development and determining how to enhance the opportunities and minimize the challenges.⁷

The Roundtable discussions focused on four themes: cultural impacts, including traditional knowledge and access to land and resources; political impacts, including resource governance and decision making; economic impacts; and social impacts.

Deliberations on cultural impacts identified connectedness to the land as being common to all Indigenous cultures. Participants agreed that the fact “land is life” for Indigenous peoples must be remembered in the context of any industrial activity on Indigenous lands.

The link between land and culture for Indigenous peoples was argued by international human rights expert Erica-Irene A. Daes in her final report to the UN Commission on Human Rights.⁸ Daes noted that Indigenous peoples have emphasized the “urgent need for understanding by non-indigenous societies of the spiritual, social, cultural, economic and political significance to indigenous societies of their lands, territories and resources for their continued survival and vitality.

“In order to understand the profound relationship that indigenous peoples have with their lands, territories and resources, there is a need for recognition of the cultural differences that exist between them and non-indigenous people, particularly in the countries in which they live. Indigenous peoples have urged the world community to attach positive value to this distinct relationship.”

The relationship with the land and all living things is at the core of Indigenous societies. “As indigenous peoples have explained it is difficult to separate the concept of indigenous peoples’ relationship with their lands, territories and resources from that of their cultural differences and values.”

Professor Robert A. Williams, in a discussion about the territorial rights of Indigenous peoples in the Working Group on Indigenous Populations, stated “indigenous peoples have emphasized that the spiritual and material foundations of their cultural identities are sustained by their unique relationships to their traditional territories.”⁹

The final report of the Royal Commission on Aboriginal Peoples concluded that the dispossession of their traditional lands and resources is at the root of all challenges facing Indigenous peoples in Canada today. “Stripping Aboriginal people of their land base has meant depriving them of their means to make a living, their cultural identity, and their spiritual place of worship.”¹⁰

RCAP asked Canadians to imagine “a farmer without any farmland. A fishing village with no boats. A teacher without a schoolhouse. Or a religious congregation with no church. Now imagine your own community had no work, no social system, and no place to worship. There would be *no* community.” It was the same, RCAP said, as “an Aboriginal community with no land.”¹¹

The importance of land to Indigenous peoples was demonstrated by the small Xeni Gwet’in First Nation in British Columbia in January 2009 when it launched a court case to stop a proposed multibillion-dollar gold and copper mine on their traditional territory near Williams Lake. The project would drain a lake that is an important and traditional source of food for the community and create another lake six kilometres away.¹²

The mining project enjoys wide support from people in Williams Lake, a community still reeling from job losses to the forestry industry caused by the pine beetle infestation. One estimate said the open-pit mine would generate \$5 billion in economic activity over 20 years and contribute more to the province’s coffers than the film and television industry.

The Xení Gwet'in say the project will infringe on their Indigenous rights and are determined to stop the environmental assessment process. In court documents, the community explained: "The construction, operating and maintenance of an open-pit mining project of this magnitude, including the destruction of a fish-bearing lake, will significantly impact the ecological, cultural and spiritual integrity of the surrounding lands and waters."

According to Chief Baptiste, the Xení Gwet'in are not interested in the financial benefits of the proposed mine. They want to preserve their fishery and water for future generations. "In 1864 we had our war leaders protect our territory on the west side—they were after gold then. Now we are looking to protect our territory on the east side. Back then our leaders knew we cannot eat gold. If they go after the gold now, that would destroy our fish and our water."

RCAP identified "expanding the land base of Canada's Aboriginal communities" as the "single most important step toward providing the means to work towards sufficiency and self-reliance [and] honoring the basic terms of past treaties which promised co-existence between two equal neighbours."¹³



While the Alberta tarsands, one of the world's largest industrial projects, do provide economic benefits for Indigenous peoples, there are also concerns about the negative impacts on the health and water of the land. Photo: Sara Stratton

Indigenous Land and Resource Rights

The impact of resource extraction on Indigenous peoples' lands and lives is a human rights issue. Victoria Tauli-Corpuz, chair of the UN Permanent Forum on Indigenous Issues, echoed this understanding in her statement to the UN General Assembly following the UN's adoption of the Declaration on the Rights of Indigenous Peoples.

The Declaration "embodies the most important rights we and our ancestors have long fought for;

our right of self-determination, our right to own and control our lands, territories and resources, our right to free, prior and informed consent, among others."

Article 26 (2) states: "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired."

As Erica-Irene Daes emphasizes in her paper to the UN Sub-commission on the Promotion and Protection of Human Rights, "One of the most widespread contemporary problems is the failure of States to recognize the existence of Indigenous land use, occupancy and ownership, and the failure to accord appropriate legal status and legal rights to protect that use, occupancy or ownership."¹⁴

In November 2008, the Lubicon Lake Cree wrote

TransCanada Pipelines to call for the joint development of a written agreement "that describes how both the Lubicon Lake Indian Nation and TransCanada will work together during the construction and operation of the pipeline" across Lubicon territory.¹⁵

The Lubicon stressed that before work on such an agreement could begin, TransCanada would have to assure the Lubicon

that its concerns would be accommodated; TransCanada would

- answer Lubicon health and safety questions about activities proposed in Lubicon Territory;
- accommodate Lubicon social, cultural, environmental and wildlife concerns arising from activities proposed in unceded Lubicon Territory;

- provide the Lubicon people—through agreement with the duly elected Lubicon government—with economic opportunities resulting from proposed activities in unceded Lubicon Territory.

In a letter to TransCanada, the National Aboriginal Health Organization (NAHO) said the findings of its roundtable in March 2008 “clearly support the Lubicon demand that TransCanada Pipelines must accommodate Lubicon social, cultural, environmental and wildlife concerns arising from activities in Lubicon territory.”¹⁶

NAHO’s letter emphasized the “boom and bust” character of the resource extraction industry with potential negative impacts that could last forever. “While the employment benefits of pipeline construction are short term, the resource extraction industry can undermine traditional land use patterns and alter the health, quality and availability of resources of First Nations communities for generations if these are not addressed in good faith by all parties involved in all phases of development.”

In a recent open statement on the occasion of the Province of British Columbia’s 150th anniversary, Grand Chief Edward John stressed that it is time to end the 150 year practice in BC of ignoring Indigenous peoples’ land rights.¹⁷

“The position of the courts is clear: The provincial government and predecessor colonial governments did not and do not have legal authority to extinguish first nations’ aboriginal rights and title.

“We first nations refuse to accept the Crown’s colonial-based extinguishment policies. We are adamant that our inherent rights be recognized through legislation and be affirmed in treaties and agreements. With this basic rights recognition, we expect to share the benefits from land and resources.”

Grand Chief John is not alone in his call for the recognition and enforcement of Indigenous peoples’ rights. Across Canada, there are many examples of Indigenous communities refusing to accept unbridled resource extraction if it means undermining their inherent and treaty rights.

According to RCAP, the profound socioeconomic challenges facing Indigenous peoples in Canada today are in large part a consequence of the failure of

successive governments to honour existing agreements or to negotiate new agreements in good faith. Rather than work with the original peoples of Canada to build a fair and just society, the governments of Canada and the provinces have pursued discriminatory and assimilative policies. In conjunction with bureaucratic mismanagement or indifference, punitive regulation and outright fraud, these policies have led to an almost 70% reduction since Confederation in the actual reserve or community land base and the near disappearance of on-reserve resources. Below the 60th parallel, for instance, Indigenous people control less than one half of one percent of Canada’s land mass and much of that is land of marginal quality.¹⁸

This relentless process of separating Indigenous peoples from their lands has occurred despite numerous court decisions confirming the existence of Indigenous rights, both prior to European settlement¹⁹ and today. Canada’s highest courts repeatedly rule that these rights cannot be extinguished without the consent of Indigenous peoples, as indisputably stated in Canada’s Constitution Act, 1982.

Meaningful Consultation

The declaration from the Indigenous conference in Manila in March 2009 asserts that Indigenous peoples “have suffered disproportionately from the impact of extractive industries” because Indigenous lands are “home to over sixty percent of the world’s most coveted resources.” It goes on to explain how the exploitation of Indigenous lands, territories and resources “without our consent” has led to “the worst forms of, environmental degradation, human rights violations and land dispossession and is contributing to climate change.”

According to the declaration, human rights violations include “violations of Indigenous Peoples’ rights to self-determination (which include the right to determine one’s own economic, social and cultural development), rights to lands, territories and resources.”

The conference declaration refers to the May 1996 Mining and Indigenous Peoples Conference in London, England, and its Indigenous Peoples’ Declaration on Mining that emphasized “Indigenous Peoples need to be the decision makers on whether or

not mining should take place in their communities and under what conditions they may occur.”²⁰

The courts have made it clear that it is the legal duty of the Crown to consult with Indigenous communities when it comes to decisions that may impact Indigenous title and rights. Consultation is the Crown’s legal obligation and cannot be delegated to a third party, such as industry. The Supreme Court has also said “The duty to consult and accommodate is part of a process of fair dealing and reconciliation that begins with the assertion of sovereignty and continues beyond formal claims resolution.”²¹ In other words, Indigenous peoples do not have to prove they have rights and title to activate Canada’s legal duty to seek consultation.

In 2007, the UN Declaration on the Rights of Indigenous Peoples, which as of September 2009 was not endorsed by the Government of Canada, recognized Indigenous peoples’ rights to consultation and free, prior and informed consent.

According to the UN Declaration, “States shall consult and cooperate in good faith with indigenous peoples ... in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources” (article 32.2).

While consensus on the criteria for free, prior and informed consent remains elusive, there is growing agreement that it is (1) free from coercion, manipulation, force, deception or interference by any government or corporation; (2) that it occurs prior to the initiation of a project; (3) that it is genuinely

informed, and based on full disclosure of activities to be undertaken in ways that are understandable to the community; and (4) that consent means the ability to say “no” at any time prior to, or during negotiations.²²

In December 2008 the Council of the Haida Nation said it was not consulted about Enbridge Inc.’s Gateway pipeline from northern Alberta to Kitimat, BC, and added that, anyway, it would never accept the plan.

“The Haida Nation will certainly not accept tanker traffic where we would bear the burden of risk and oil spills in our waters. Our livelihoods would be



Indigenous people living near the Alberta tarsands have called for independent studies on the cumulative impacts of the development. Photo: Sara Stratton

jeopardized,” council spokesperson Howard Davis said. “Many of our neighbour nations are equally concerned about impacts on their lands and water. We are willing to stand united to protect our waters.”²³

“Regulators are not respecting the

fact that we have a responsibility to protect our ancestral territories, rights, title and interests,” said David de Wit, natural resources manager for the Wet’suwet’en First Nations. “Gateway is a major project with significant risks. Yet, the federal government is advancing a decision-making process for Gateway without any provision for addressing aboriginal rights and title. This is unacceptable.”

In June 2008, legal action was brought against the Alberta government by the Chipewyan Prairie Dene First Nation for the granting of mineral leases to MEG Energy Corporation for phase 3 of its Christina Lake oil sands project. The Dene were asking the courts to block approval of MEG’s project until there was “meaningful consultation” between the

Alberta government and the community regarding the protection of their treaty and Aboriginal rights.

In May 2008 the Beaver Lake Cree Nation brought legal action against the Alberta and federal governments claiming that intensive industrial development on their lands prevented them from exercising their treaty rights to fish, hunt and trap. The Cree argued that the federal government had breached its fiduciary obligations by failing to consult with them about how the industrial development would impact on their rights.

Fort Chipewyan

Fort Chipewyan is downstream from the Alberta tar sands, one of the world's largest industrial projects. Situated on the shore of Lake Athabasca in one of the world's largest freshwater deltas, the community is home to three Indigenous peoples, the Athabasca Chipewyan First Nation, the Mikisew Cree First Nation and the Métis.

In early December 2008, Fort Chipewyan took the federal government to court for not consulting the community on resource extraction activities that impact on their community. In its court documents, the community notes that the government is obliged by law to consult with First Nations before granting leases to resource companies. In this case, the companies include those operating in the tar sands.

In its response to the Oil Sands Multi-stakeholder Committee Panel for Phase

2, the Mikisew Cree First Nation noted that the "Quality of life for the Mikisew Cree is linked in-

exorably to the integrity of the land, air and water of their traditional lands."²⁴

The tar sands leases cover over half of the Mikisew Cree's traditional territories. The Mikisew point out that the Indigenous peoples of Fort Chipewyan have been trying since the 1960s to have their concerns about the tar sands heard by government and industry, with only limited success. The fact that the tar sands have been developed with "little or no regard of the Mikisew Cree's concerns and claims" have led the First Nation to conclude that "both levels of government have de facto extinguished the Treaty Rights of the Mikisew Cree."²⁵

The Mikisew Cree people believe "it is their sacred obligation to act as stewards of the environment in cooperation with the government." For the First Nation, the survival of their ecosystem is linked to the survival of their culture and cannot be separated from their economic and physical well-being.

The tar sands are only the latest in a series of impacts to hit the First Nation over the past few generations, beginning with the fur trade, which led to an influx of non-Indigenous hunters and trappers who contributed to the depletion of wildlife, and including the W.A.C. Bennett Dam, which led to lower water levels in the Athabasca River, and a further drop in wildlife populations.

The drop in water levels has had a negative impact on Mikisew culture by making it more difficult for people to visit traditional hunting sites and spiritual gathering places. The inability to use the waterways to travel across the territory has also made the teaching of lan-

guage and traditions more difficult. As the Mikisew point out "given these existing impacts on culture, community and lands and the prospect of more in-



Community discussion in Fort Chipewyan with members of KAIROS' delegation of church, Indigenous leaders and Southern partners. Photo: Sara Stratton

tense oil sands development in future years, everything is at stake for the Mikisew Cree.”²⁶

Fort Chipewyan is also home to the Athabasca Chipewyan (Dene) First Nation (ACFN). In a recent interview ACFN Chief Allan Adam admitted that many of the community’s young people work in the tar sands, where some can earn up to \$100,000 per year operating heavy equipment. But he is also concerned about the impact of the projects on his people’s health and culture.

“On the one hand oil sands are good for the economy, good for jobs,” Adam said. “But on the other hand, they’re bad for our health and bad for our way of living. People are dying.”²⁷

A recent government study was inconclusive in finding links between unusually high levels of rare cancers in the community and effluents from the tar sands. Dr. Tony Fields, a senior official with Alberta Health Services, said the higher cancer rate numbers do not indicate a possible link to the environment.

Mikisew Cree Chief Roxanne Marcel said the study did little in finding out why so many of her people are dying of cancer. “The question we have is what is causing this outbreak of cancer in our community, yet no one has come to us with an answer.”²⁸

Fort McKay

In some ways, Fort McKay had no choice but to participate in the tar sands projects. Located at “ground zero,” in the middle of the tar sands deposits, there is no doubt the community has benefited financially. Described by some as the “richest First Nation in Canada,” the primarily Indigenous community of Fort McKay is situated on the Athabasca River, just north of Fort McMurray and in the heart of the tar sands region.

In the 1960s the fur economy began a steady decline until it collapsed in 1980. This collapse challenged the leaders of Fort McKay to search for economic alternatives to fur trading that could support the community.²⁹ While the fur trade was collapsing the oil sands developments were just getting underway.

Today, 50 years later, the transition from a fur economy to an oil economy is complete. The Fort

McKay First Nation (FN) owns the Fort McKay Group of Companies, which comprises seven corporations with mainly Indigenous workers. These companies offer corporate clients in the tar sands various services, ranging from janitorial work to the operation of heavy machinery.

In its submission to the Oil Sands Multi-stakeholder Committee Panel for Phase 1 of the oil sands projects, Fort McKay underlined its interest in enhancing its involvement in the industry, but stressed the need for it to consider future land uses.

“Fort McKay supports the development of an integrated land management strategy for the oil sands region. As people who refer to where they are located as ‘ground zero,’ Fort McKay expects that any Alberta strategy that is going to directly affect them include their vision for sustainable development in the region.”³⁰

The ACFN, the Mikisew Cree, and the Fort McKay FN used to belong to the Athabasca Tribal Council (ATC). In 2008, the ACFN and the Mikisew Cree FN pulled out of the Council because they felt it was being used by industry to facilitate access to Indigenous lands and to undermine Indigenous rights.

While the Fort McKay FN government continues to enter into joint ventures with industry, some of its members are becoming increasingly concerned about the increase in crime, social and health problems, substance abuse and family violence, in addition to an increase in traffic and air, water and noise pollution.

For elder Celina Harpe, Fort McKay has been her home all her life. She is convinced that the rash of deaths of people in their 30s and 40s, which she says was unheard of before the projects started, is linked to the oil sands: “It’s got something to do with these plants, I’m sure of it myself because I’ve been here my whole life. In our day, that’s not the way it was.”³¹

In April 2006, Fort McKay FN and the Athabasca Oil Sands project, which is owned by Shell Canada (60%), Chevron (20%) and Western Oil Sands (20%), signed an agreement to develop the oil sands on the treaty land of the Fort McKay FN. Recognized as a landmark agreement in the interactions between First Nation communities and the extrac-

tive sector, it was seen as a possible template for future industry and First Nation partnerships that would “help overcome the antagonism that typifies the relationship between First Nations and the extractive sector.”³²

Mushkegowuk Council in Northern Ontario

Concerns about the relationship between Indigenous peoples and the mining sector in Ontario led the provincial government to revisit its outdated Mining Act. Indigenous peoples have been encouraged to participate in this process. In December 2008 the Mushkegowuk Council in Northern Ontario issued a resolution declaring they will “accept no new mining activity on their homelands” until aboriginal rights are respected. Specifically, the resolution listed three requirements for mining activity on Indigenous lands:

1. A new Mining Act that includes provisions for full consent of First Nations.
2. Land Use Plans approved by First Nations, developed with adequate funding, which sets out which lands will be available for mining and exploration.
3. Environmental assessments and permits for all mining activities.

Mushkegowuk Council Grand Chief Stan Louttit said Indigenous peoples “are tired of their homelands being invaded.” He said communities are not opposed to resource development, but they want “full consultation, accommodation and consent first.”³³

Conclusion

The success of any initiative designed to recognize and uphold the connection between resource extraction and Indigenous rights will depend on how far it goes towards recognizing the holistic nature of Indigenous reality. This means recognizing the impact of extractive industries on Indigenous identity and culture and access to traditional lands.

The NAHO roundtables emphasized that measuring the impact of resource extraction on the health and well-being of Indigenous communities means understanding that the traditional Indigenous concept

of health is a holistic one that “incorporates the mental, physical, spiritual, emotional and social aspects of health,” and that the “health and well-being of individuals and communities are interdependent and equally important.” Similarly, issues arising from resource extraction activities “need to be dealt with holistically in order to mitigate the challenges and focus on obtaining the maximum benefit from resource extractive development.” This means studying cumulative impacts and taking a long term view of projects.

Self-determination was seen as vital to preparing communities for the challenges presented by resource extraction activities. “Each community and each region is unique. The people who live in each community and each region are best situated to determine what issues need to be addressed and how.”

For Indigenous peoples, traditional lands contain traditional knowledge and foods. On these lands spiritual traditions are nourished and the language evolves, develops and is kept alive. With unfettered access to traditional lands of sufficient size and quality, Indigenous peoples are able to harvest wildlife, other foods and medicines. As the source of their spiritual and moral values, Indigenous peoples can use their traditional territories to nurture and strengthen their self-respect and self-identity; to maintain their cultures; to assert their autonomy over their economic, social and political futures; and to address and alleviate ongoing social problems.

Indigenous peoples are working to help governments and industry understand that for them the threats posed by resource extraction activities go far beyond potential environmental damage. Indigenous peoples have a spiritual connection to the land with traditional land use patterns and practices. These can be undermined by industry, which in turn can alter the health of Indigenous peoples’ cultures and identities. Indigenous peoples believe their survival as distinct societies and peoples depends on government and corporate recognition and enforcement of their rights. Of primary importance for the governments of Canada and the provinces this means ensuring that corporations collaborate with Indigenous peoples at all stages of resource extraction projects.

The 1996 RCAP report concluded that “the Crown is under a positive obligation to protect Aboriginal lands and resources.” It said the federal and provincial governments “must give Aboriginal nations much greater control over and access to their traditional territories.”³⁴ To guide the governments, RCAP recommended a number of principles that included the following:

- Aboriginal title is a real interest in land that contemplates a range of rights with respect to lands and resources.
- The Crown has an obligation to protect rights concerning lands and resources that underlie Aboriginal economies and the cultural and spiritual life of Aboriginal peoples.³⁵

The RCAP report called for change in the relationship between Indigenous and non-Indigenous peoples in Canada. It said the “direction change must take is toward freeing Aboriginal people from domination and dependence on the institutions and resources of government.”

Independence for Indigenous peoples means greater access and control over their resources. For non-Indigenous peoples in Canada, it is important to remember that Indigenous peoples seek greater independence and autonomy in order to enhance Canada by strengthening their own communities and culture. As elder Wallace Labillois of Kingsclear, Nova Scotia, told the RCAP commissioners:

“Our survival is testament to our determination and will to survive as a people. We are prepared to participate in Canada’s future—but only on the terms that we believe to be our rightful heritage.”³⁶

The change called for by RCAP will require Indigenous and non-Indigenous peoples in Canada to work collaboratively to ensure that governments and corporations honour existing treaties, negotiate new ones in good faith and, in general, conduct themselves in a way that does not undermine or violate Indigenous peoples’ rights.

After all, as RCAP emphasized, the goal of Indigenous peoples is not to undermine Canada, but to “complete it.”

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KAIROS: Canadian Ecumenical Justice Initiatives unites eleven churches and religious institutions in work for social justice in Canada and around the globe.

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