



UN Minamata Convention on Mercury
Intergovernmental Negotiating Committee Session 7 (INC7), Dead Sea, Jordan,
March 10-15, 2016
Intervention on Agenda Item 12, read by Rochelle Diver

Thank you, Mr. Chair

I speak on behalf of the International Indian Treaty Council, an organization that represents Indigenous Peoples in 4 UN regions.

The United Nations Declaration on the Rights of Indigenous Peoples represents the minimum standard for Indigenous Rights within the UN system, including standard setting processes under UNEP. Of particular importance to this agenda item is Article 29-2 which reads: “States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent”. The right of Indigenous Peoples to participate in decisions regarding contaminated sites must include this standard, which impacts rights to land, culture, development and subsistence.

Free, prior and informed consent in the situation of contaminated sites would serve as an indicator as to whether a state has fulfilled their duty to protect the human rights of Indigenous Peoples in such circumstances, and would also serve as an instrument to prevent adverse impacts on human rights.

The Working Group on the issue of human rights and transnational corporations and other business enterprises released a thematic report on Indigenous Peoples in 2013, which included commentary on the functionality of the UN Declaration on the Rights of Indigenous Peoples in the context of the state duty to protect human rights, the corporate duty to respect human rights and the right to effective remedy. They recommended that:

States should use the Guiding Principles on Business and Human Rights to clarify the duties and responsibilities of actors in preventing and addressing the human rights impacts of businesses on the rights of indigenous peoples;
Corporations should comply with the responsibility to respect human rights... carrying out human rights impact assessments with regard to current and planned operations and addressing any adverse human rights impacts that they cause, contribute to or are linked to, including by exercising leverage in business relationships to address adverse impacts and paying particular attention to any operations in the territories and lands of indigenous peoples;
Indigenous peoples should Ensure that decision-making protocols with regard to any free, prior and informed consent processes are developed, described and strengthened through their own representative institutions and in accordance with their own procedures ...

As such, we join the call by Civil Society to use IPEN’s draft guidance for identification characterization and clean up of contaminated sites, as a basis for addressing these issues, in the context of the UN Declaration on the Rights of Indigenous Peoples and the Guiding Principles on Business and Human Rights.



As the largest global source of mercury, ASGM has disproportionately affected Indigenous Peoples, particularly women and children, as well as vulnerable populations through the creation of mercury contaminated sites. Workers constitute a vulnerable population through occupational exposure by industrial emissions and releases. In particular, those related to legacy gold mines. For example, mercury run-off from open and seeping former gold mines excavated in the 1800's continues to contaminate the San Francisco Bay Area and impact Indigenous Peoples lands who rely on subsistence living on their traditional territories.

I would like to finish with a quote from the Special Rapporteur on the implications for human rights about the environmentally sound management and disposal of hazardous substances and wastes. He said, "International standards state that all businesses must ensure that their activities respect human rights. It goes without question that human rights have been violated by industrial activity. Many of these violations arise from the mismanagement of hazardous substances".

It is our hope that this Convention will provide solutions to the adverse impacts of poor waste management on human health and the environment that his statement highlights.

Thank you, Mr. Chair.
In my language, Chi-Miigwech.