

Symposium: Mineral Development & Indigenous Peoples

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Unique Lens

- * Asked to share my perspective as an Indigenous Lawyer working for Indigenous Communities located within British Columbia.
- * And to share my experiences addressing mineral exploration and mining development on Indigenous territories.



Work shaped by my concern for survival of distinct Indigenous Peoples cultures and ways-of-living impacted by proposed and existing mineral exploration and mine development projects.



Context of the Encyclical *Laudato Si'*

Respect for the Rights of Peoples and Cultures “it is essential to show special care for indigenous communities and their cultural traditions. They are not merely one minority among others, but should be the principal dialogue partners, especially when large projects affecting their land are proposed. For them, land is not a commodity but rather a gift from God and from their ancestors who rest there, a sacred space with which they need to interact if they are to maintain their identity and values. When they remain on their land, they themselves care for it best.” [LS 146]



TRC Calls to Action for UNDRIP to adopted as a framework for Reconciliation in Canada - Free, prior informed consent should be adopted and implemented by governments and companies before any mineral activities occur on Indigenous lands.



Catholic Response to TRC

- * Repudiation of the Doctrine of Discovery and the concept of *Terra Nullius* to justify the seizure of land from Indigenous Peoples and acknowledgement that there is no basis for the European seizure of land inhabited by Indigenous Peoples.
- * Formally Adopting & Implementing UNDRIP as a framework for reconciliation in Canada including the rights of Indigenous Peoples to free, prior informed consent regarding resource extraction projects that affect their lands, territories, or resources.



Decolonization is a slow process - 100 year celebration of the 1910 Declaration of the Tahltan that claims the sovereign right to all the country of our tribe because our lives depend it. “To lose it would meant we would lose our means of living, and therefore our lives.”



Indigenous Peoples experiences are inconsistent in BC

- * Indigenous People oppose and mine development did not proceed due to failure to obtain permits, inability to obtain financing, or other reasons.
- * Indigenous People oppose and mine development occurs without involvement of Indigenous Peoples. (In some case, Indigenous People have negotiated agreements after development and operation of a mine has occurred.)
- * Indigenous People support and mine development occurs with benefits to Indigenous People through agreements with governments and companies.



Indigenous Peoples promoted change in Canada

- * Continuing way-of-life and regular and exclusive use and occupation of Indigenous territories.
- * Advocating for the protection of Aboriginal Rights in the *Constitution Act, 1982*.
- * Protesting and blocking harmful land resource development.
- * Bringing domestic litigation (lots) and international complaints.
- * Sustaining media campaigns and public education.



We may be able to work together towards sustainable development if governments and companies respect Indigenous peoples right to decide and to participate.



Indigenous Peoples approaches to Mineral Exploration and Mine Development

- * Cultural Survival - Strategic Planning and Implementation to sustain Indigenous societies and cultures based on self-defined well-being indicators.
- * Collective Decision-Making and written agreements with governments and companies that respect Indigenous Peoples right of self-determination.
- * Environmental Stewardship – Higher Environmental Standards and Oversight to avoid, lessen and mitigate adverse impacts to the environment.
- * Economic Sustainability - Just and Fair Collective Compensation through direct and indirect benefits through all stages of mining.



Environmental Stewardship

- * Each proposed natural resource extraction or development will bring a change in the landscape and the possibility of environmental degradation that could threaten Indigenous Peoples way-of-life.
- * One way to address environmental protection is for Indigenous Peoples to negotiate and implement environmental stewardship in agreements with government and industry.
- * Goal to control development and to ensure activities are done in a manner that reflects Indigenous Peoples' values and laws.

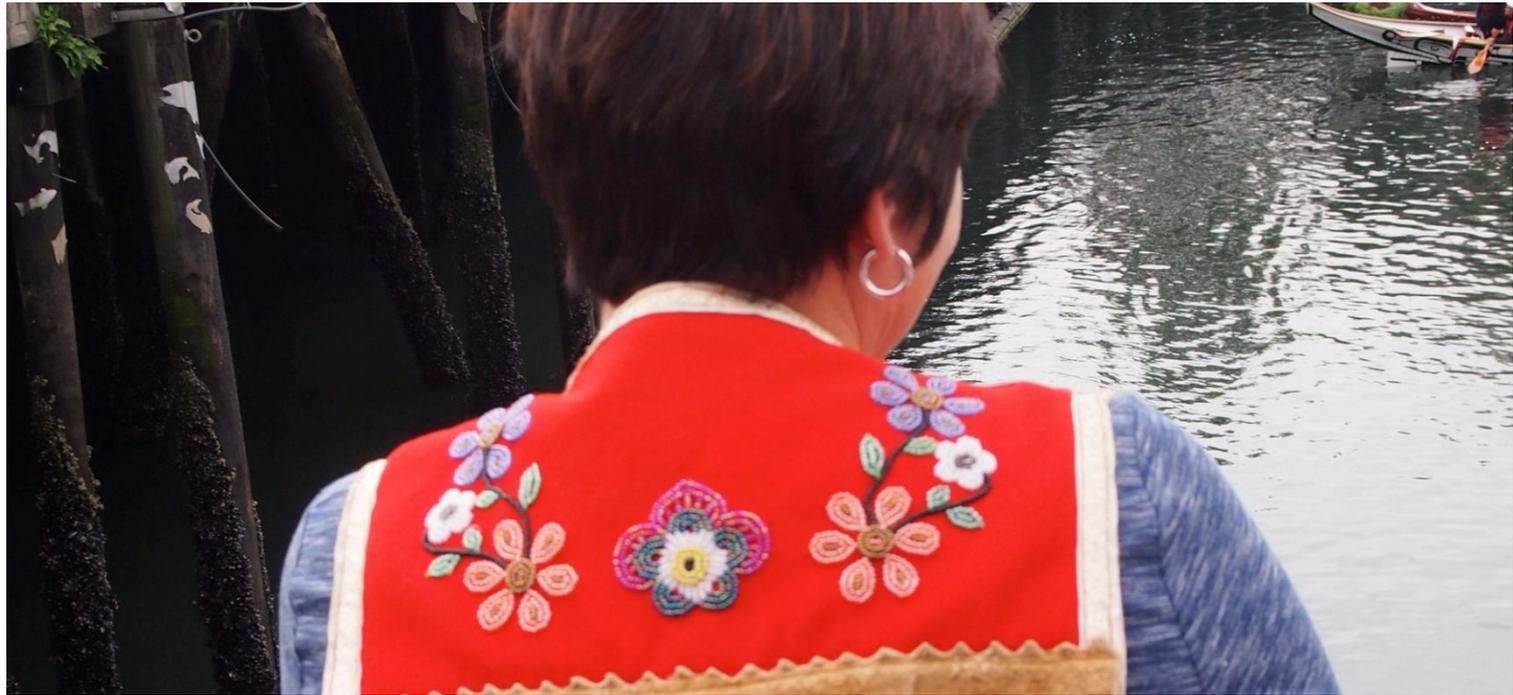


Environmental Protection

- * How can the integrity of the environmental be assured over the long-term to ensure way-of life continues for future generations?
 - * Develop Skills and Capacity
 - * Incorporate Traditional Knowledge
 - * Develop Environmental Laws
 - * Monitor all Stages of Development
 - * Prevent or Mitigate Adverse Impacts
 - * Constructively Address Concerns



We are on “a” path to legal reconciliation by restructuring decision-making authority and by exercising Indigenous laws on Indigenous lands.



Environmental Laws

- * Indigenous Peoples have always had Indigenous laws told through stories, songs, dances, and artwork related to the care of the environment and the ability of the earth to sustain us.
- * Indigenous traditions related to the management of land and resources were designed to maintain sufficient access to resources to sustain ourselves and to maintain the integrity of ecosystems.
- * Some Indigenous values and principles are part of Canadian law through provincial legislations, orders, and agreements (reconciliation agreements) and through agreements with companies (called IBAs).
- * Indigenous laws are being written and adopted by Indigenous Peoples in BC (mining and water policies).



We have to live with complexity and with each other
imagining a new approach to Indigenous self-determination.

