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Americas: Governments prioritize profit over Indigenous peoples' rights

Governments across the Americas are putting profit before the physical and cultural survival of thousands of Indigenous peoples, said Amnesty International in a briefing paper published ahead of the International Day of Indigenous Peoples on 9 August.

The paper explores the failure of governments to comply with their obligation to consult with Indigenous Peoples about development projects such as motorways, pipelines, hydroelectric dams and open-cast mines on or near their traditional territories.

“States have the obligation to engage with Indigenous Peoples at the earliest stage of any decision-making process that affects them. Ignoring that obligation only creates a climate of bad faith, distrust and polarisation which can fuel social unrest and conflict,” said Mariano Machain, Campaigner on Economic, Social and Cultural rights at Amnesty International.

“Mega projects can have a major negative impact on Indigenous communities and they should only go ahead if those communities have expressed their free, prior and informed consent.”

Governments' shortcomings documented in Amnesty International's paper include a lack of transparency and good faith, threats and baseless criminal charges against leaders who raise issues about the projects, and the failure to both control the actions of companies and provide reparations to affected communities when abuses take place.

In Ecuador, for example, the indigenous community of Sarayaku – who were facing the prospect of losing parts of their ancestral land to an oil project without being consulted – took their claim to the Inter American Court of Human Rights, the highest in the region.

Last month the Court ruled that Ecuador has an obligation to carry out an appropriate and participative consultation with the Sarayaku, in good faith, according to their cultural practices and with the aim of reaching consensus before going ahead with any project that may affect their territory. The Court ruling set a legal precedent for other countries in the Americas.

“The government has announced that they will share information with us and that the process of information-sharing will amount to consultation. But the right to consultation and free, prior and informed consent is something different according to international standards. To begin with, consultation will only be a reality if the authorities demonstrate that they take us seriously, they respect our rights and they proceed with good faith and transparency.” said Patricia Gualinga, one of the Sarayaku leaders, to Amnesty International.

In countries across the Americas governments have failed to control the actions of extractive industries, even when they affect local communities.

Since 2003, Canada-based Goldcorp Inc has run a mine in the San Marcos department of Guatemala. According to the Inter-American Commission on Human Rights, at least 18 Indigenous Maya communities live in the area which has been directly or indirectly affected by the mine. Community members have reported that the mine has disrupted every aspect of their lives, from pollution to intra-family divisions and harassment of those who are critical of the project.

Residents have complained about the lack of any meaningful consultation around the project. According to Carmen Mejía, an Indigenous woman from San Miguel Ixtahuacán, "The company began to operate here, in our territory, in an illegal manner, lying to us. Because they never consulted with us, they never told us (...) that this was going to have (...) so much negative impact, (...) that it was going to cause so much conflict."

"Economic development can contribute to the respect of human rights. But economic development should not be pursued at the expense of the human rights of Indigenous peoples," said Mariano Machain.

Amnesty International calls on states in the Americas to take concrete steps to make the right to consultation and free, prior and informed consent a reality for Indigenous peoples and avoid further violations of their human rights.

For a copy of Amnesty International's paper on the state of Indigenous Peoples in the Americas, please see: <http://www.amnesty.org/en/library/info/AMR01/005/2012/en>

For more information about the Inter-American Court of Human Rights's recent ruling on the right of Indigenous peoples to adequate consultation, please see: <http://www.amnesty.org/en/news/ecuador-inter-american-court-ruling-marks-key-victory-indigenous-peoples-2012-07-26>