



## EXTRACTIVE INDUSTRIES

### Issue Paper

#### BACKGROUND

The principle that communities should have the opportunity to grant or withhold their [free, prior and informed consent](#) (FPIC) to projects located on their lands or that impact the resources upon which they depend is now widely considered to be an internationally guaranteed human right of Indigenous peoples, and is increasingly being recognized in national law, international norms and voluntary best-practice standards and guidelines. This principle has been established only after centuries of exploitation of and outright theft from Indigenous populations. Sacred lands have been acquired through deceptive and inequitable means, and their resources plundered. Indigenous people in the United States are particularly vulnerable because of their treaty status with the U.S. government.

When physical resources — such as oil, gas, coal, gold and diamonds, as well as other minerals — are extracted from the earth and transported to market, they become part of that economic sector known as “extractive industries.” Those in the United States often look to Africa, South America and Asia, as well as Appalachian and Native American lands, to find these resources. The Evangelical Lutheran Church in America (ELCA) recognizes the need to respect the land claims and alleviate the hunger, poverty, and international debt of Indigenous peoples. The ELCA is concerned that the extractive industries sector often brings suffering to these people through environmental degradation and climate change. Impinging upon Indigenous lands can tie in closely with human rights violations and represents an especially severe burden on women.<sup>1</sup>

#### ELCA SOCIAL POLICY

Decades ago, the ELCA released a [social policy resolution](#) supporting the sovereignty of Native American tribes and recognizing the need for advocacy in the area of treaty rights, tribal sovereignty and religious freedom.

The very title of the ELCA's economic life social statement, [Sufficient, Sustainable Livelihood for All](#) (1999), indicates the importance of sustainability and sufficiency

<sup>1</sup> “Forced evictions and the dispossession of lands have particularly severe impacts on indigenous women, who, as a result, often have an increased workload as they must walk long distances to find alternative sources of water or fuel wood, or are driven out of income-earning productive activities and into a situation of economic dependence on men.” <https://www.un.org/development/desa/Indigenouspeoples/mandated-areas1/environment.html>

**Corporate Social Responsibility in the ELCA uses the tools of screening of investments, shareholder advocacy and community investing to work with corporations, calling them to ensure that people are treated fairly and with dignity and to create sustainable communities.**

**More at [ELCA.org/CSR](https://www.elca.org/CSR).**

in understanding economic life. Sustainability “is the capacity of natural and social systems to survive and thrive together over the long term. ... Economic life should help sustain humans and the rest of creation — now and in the future” (p. 14). The church’s vision of sufficiency and sustainability focuses on the economic life of all people, emphasizing those who are poor and disenfranchised. This emphasis often conflicts with the priorities of our economic system. Specific commitments called for in this statement include:

- scrutinizing how specific policies and practices affect the poorest people and nations, and making economic growth, trade and investment policies more beneficial to those who are poor (p. 6)
- urging companies to compensate communities more fully for the wider social and environmental costs of what the company produces (p. 16)
- enforcing laws that prevent the inordinate market power of large corporations (p. 14)

The social statement [\*Caring for Creation: Vision, Hope, and Justice\*](#) (1993) expresses this church’s vision of creation while demonstrating the gift of hope. It makes powerful observations about the interplay between our environment and our economic systems:

- Processes of environmental degradation feed on one another. Decisions affecting an immediate locale often affect the entire planet (p. 4).
- Degradation of the environment occurs where racial, gender or economic discrimination leaves people with little or no voice in decision-making. This degradation aggravates their situation and swells the numbers of those trapped in urban or rural poverty (p. 7).
- Neither economic growth that ignores environmental cost nor conservation of nature that ignores human cost is sustainable. A healthy economy can exist only within a healthy environment (p. 8).

Specifically, this social statement calls the church to engage in dialogue with corporations on how to promote justice for creation (5.E.1-1). This activity includes dialogues about implementing comprehensive environmental principles, healthy environments, and cooperation between the public and private sectors regarding sustainability.

The social message “[Human Rights](#)” (2017) commits this church to “be sensitive to the needs of indigenous peoples, whose understandings of ownership, culture and community may be at odds with corporate notions of ownership - corporations and governments do not possess the absolute right to ignore those perspectives” (p. 13).

In 2016 the ELCA Churchwide Assembly passed the resolution “[Repudiation of the Doctrine of Discovery](#)” to reject the 19th-century U.S. legal doctrine that permitted the colonization of Indigenous lands and the exploitation of Indigenous peoples. That ideological foundation has pervaded our economic systems. In response, the ELCA is called to seek and promote justice through principles of participation, solidarity, sufficiency and sustainability as described in its social teachings.

**RECOMMENDED** by Advisory Committee for Corporate Social Responsibility, Sept. 2, 2004

**ENDORSED** by Division for Church in Society Board, Oct. 22, 2004

**APPROVED** by Church Council, Nov. 11, 2004

**UPDATED** by Advisory Committee on Corporate Social Responsibility, Sept. 17, 2009

**UPDATED** by Church Council, November 2009

**UPDATED** by Church Council, November 2014 [CC14.11.18]

**UPDATED** by Corporate Social Responsibility Review Team, June 8, 2020

**APPROVED** by Church Council, November 2020 [CC20.11.33h]

## OTHER RELEVANT DOCUMENTS

The work of the American Indian and Alaska Native Ministries of the ELCA is guided by a [strategic plan](#).

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## CORPORATE RESPONSE

Investors have responded to adverse events by increasing pressure on corporations to develop disclosure and safety initiatives. Failure of a tailings dam in Brazil led the [Church of England](#) to take action and organize. After pipeline projects sparked protests and garnered unfavorable publicity, financial institutions began facing increased scrutiny about the human rights impact of projects they fund.

Harm to a financial institution's reputation is only one downside of the institution failing to get involved in a community. Opposition from that community poses numerous risks to the institution, from the government imposing fines to the government deciding to halt operations altogether.

Among other movements, the [United Nations Local Communities and Indigenous Peoples Platform](#) works to address land rights, climate change, environmental rights and autonomy of Indigenous peoples. It aims to increase full participation of Indigenous peoples in all aspects of addressing climate change and to preserve indigenous land and culture. Industry groups such as the [International Council on Mining and Metals](#) and the [Initiative for Responsible Mining Assurance](#) work to develop industry guidelines.

Multinational corporations have been approached by multiple groups to clean up the environment and protect natural habitats. Groups have also sought the involvement of communities in environmental protection and planning, but barriers remain. Only a few countries recognize the rights of Indigenous peoples, and even in those places, land rights may be inadequately protected in practice, and full and informed consent complicated to obtain.

## RESOLUTION GUIDELINES FOR THE ELCA

The Evangelical Lutheran Church in America supports:

1. Incorporating the U.N. Guiding Principles into a company's operations and supply chain, and conducting Human Rights Impact Assessments in keeping with those principles.
2. Reports asking companies to assess the profitability and reputation of operations from environmental and social perspectives.
3. Reports asking companies to describe the due diligence process used to identify and address environmental and social risks, including Indigenous rights risks, in reviewing potential acquisitions. Such a report should consider:
  - which committees, departments and/or managers are responsible for review, oversight and verification
  - how environmental and social risks are identified and assessed

- which international standards are used to define the company's due diligence procedures
  - how this information informs and is weighted in acquisition decisions
  - if and how risks identified were disclosed to shareholders
4. Resolutions asking companies to report on, assess the impact of and curtail health, safety or environmental hazards to communities that result from their activities.
  5. Asking for formal public global policies and reports on implementation concerning the rights of Indigenous peoples, including issues addressing free, prior and informed consent, as well as on the rights of local communities to control local natural resources and full participation in business planning and decisions impacting their lands. We support assessments of how Indigenous rights policies could be extended to financing operations in Indigenous territories.
  6. Reports disclosing corporate analysis and steps taken to control operating in culturally or environmentally sensitive areas and/or the impact on sustainability and biodiversity in ecologically unique or sensitive areas, including lobbying efforts for access to such areas.
  7. Reports of operations for specific projects in specific regions in the United States and elsewhere in the world, including financial, environmental and social impact.
  8. Reports detailing the range of financial liability associated with a project, specifying community compensation, environmental impact and mitigation of loss of natural habitat.
  9. Reports disclosing policies and management systems to avoid loss of natural habitat.
  10. Reports reviewing and disclosing underwriting criteria related to the impact of a transaction on the environment, human rights and risk to a company's reputation.
  11. Requesting a report on the potential environmental and public health impacts of each of a company's endeavors, those of its affiliates and proposed ventures that extract water. Following [Global Reporting Initiative](#) (GRI) performance indicators, the report should consider the implications of a policy of reducing ground and surface water extraction to sustainable levels for all operations of the company and its affiliates and of not locating in water-scarce areas.
  12. Reports on how a corporation ensures accountability for its environmental impact in the communities where it operates. Such reports should contain the following information:
    - how the corporation makes available reports regarding its emissions and environmental impacts on land, water and soil—both within its legal limits as well as emergency emissions—to members of the communities where it operates
    - how the corporation integrates community environmental accountability into its current code of conduct and ongoing business practices

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- the extent to which the corporation's activities have negative health effects on individuals living in economically poor communities
13. Reports on the effects of mountaintop removal, including:
    - the effects on the local community of any activities that have negative health effects for individuals living in resource-poor communities
    - the effects on the local environment, including water, land and soil
    - the methods the company uses to communicate with the local community
  14. Requests that, as the board director's term of office expires, strong consideration be given to candidates with a high level of expertise and experience in environmental and/or human rights matters.
  15. Reports on the financial risks resulting from climate change as well as actions the board deems necessary to provide long-term protection of business interests. In addition, we support reports on plans for reduction of total greenhouse gas emissions, methane measurement, mitigation, and emission reduction, as well as reports on pipeline construction, integrity and emergency response plans.
  16. Reports on the company's approach to mitigating the heightened ethical and business risks associated with business activities in conflict-affected areas, including situations of occupation.
  17. Reports on efforts to identify and reduce environmental and health hazards associated with coal combustion residuals.

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## **RESOLUTION GUIDELINES FOR THE ELCA - GENERAL**

We support practices of good governance, specifically:

- a company having an independent board chair or independent lead director
- reports on policies and transparency of procedures for political contributions and expenditures (both direct and indirect) made with corporate funds
- reports on any portion of any dues or similar payments made to any tax-exempt organization or trade association that is used for an expenditure or contribution that might be deemed political
- guidelines or policies governing a company's political contributions and expenditures
- reports on diversity for corporate boards and upper-level management