



EXTRACTIVE INDUSTRIES AND ENVIRONMENTAL JUSTICE

Issue Paper

BACKGROUND

The very term “extractive industries” implies an assumption that land and environment are things that can be used, profited from and disposed of. ELCA social teaching is at odds with an “extractive” outlook, as it views creation as a trust to be stewarded for the sake of the flourishing of all creation, and a system with which humans live interdependently. For this reason, extractive industries raise issues of environmental justice with particular urgency.

The extraction of resources forever changes land and livelihoods, but often those consequences are not fully appreciated or even articulated because those most affected do not have access to the decision makers. Those most affected by extractive industries are often those with the fewest resources. They have less authority to change what is happening to them and their communities, less power to hold corporations accountable for their impacts and less influence to demand remediation. In addition to presenting challenges to understanding our relationship to land and environment, extractives present justice issues that center on consent.

The church and industry have worked with evolving understandings of what environmental justice entails. The principle of participation, a fundamental tenet of ELCA social teaching, requires that everyone who will be affected has a voice and the opportunity to articulate the full impact of a given decision. Building on previous social teaching such as *Caring for Creation: Vision, Hope, and Justice* (1993), the 2023 message “Earth’s Climate Crisis” has challenged ELCA members to think about who must participate in environmental justice broadly, in terms of intragenerational justice, intergenerational justice and intersectional justice. By including the principle of intersectionality (Faith, Sexism and Justice: A Call to Action, 2019) in its social teaching, the ELCA also recognizes that social constructs rob people of the power of participation and authority by converging in many ways for the same person. From the perspective of the church, any attempt to give an account of the full impact of industry must begin with participation and consider intragenerational, intergenerational and intersectional impacts.

In the corporate arena, shareholders ask corporations to assess and report on environmental impacts in terms of the “stakeholder,”¹ not just shareholders. One

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).

¹ A [stakeholder](#) is someone who is affected by, or who can affect, the operations of a business.

example would be the movement for a “just transition” to a net-zero economy, which addresses the interconnected issues of climate change, racial injustice, public health and economic inequity. (Just transition is addressed by the ELCA’s climate change issue paper.)

Corporations have begun to acknowledge that they need to measure their impact through more than just profits. When 183 CEOs of the [Business Roundtable](#) issued a statement on the purpose of a corporation and included stakeholders, and not just shareholders, they sent a signal that corporations were heeding requests from investors to incorporate more holistic thinking into their business activities. That holistic thinking can help a corporation understand how activities might represent a reputational risk to the value of corporate shares. Industry groups such as the [International Council on Mining and Metals](#) and the [Initiative for Responsible Mining Assurance](#) also work to develop industry guidelines. Investors have responded to adverse events by increasing pressure on corporations to develop disclosure and safety initiatives.

Corporations have discovered that ignoring or undermining local autonomy, and thereby underestimating the full impact of a project, can result in costs on many levels. Harm to a financial institution’s reputation is only one downside. Opposition from a community poses numerous risks to the institution, from the government imposing fines to the government deciding to halt operations altogether.

INDIGENOUS PEOPLES

The activities of extractive industries on Indigenous lands present a particular set of challenges, both morally and legally. Indigenous peoples rely on their land not just for their livelihood but for culture and identity. The varying legal status of Indigenous peoples from country to country, and the historical assaults upon their lands, resources and culture, mean that extractive industries need to take an additional set of concerns into account when operating on Indigenous lands.

One way the principle of participation has been expressed legally is in terms of consent and autonomy. The United Nations has recognized the right of Indigenous peoples to [autonomy and self-determination](#), but rights of Indigenous peoples are not fully recognized and protected in many countries. The standard 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 increasingly being recognized in national law, international norms and voluntary best-practice standards and guidelines. This principle was 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. In the United States, Indigenous peoples are particularly vulnerable because of their often-unobserved treaty status with the U.S. government. In other countries legal definitions surrounding Indigenous peoples often exclude those who have been on the land for generations.

A relatively recent development in understanding the rights of Indigenous peoples would be Indigenous communities adopting a paradigm known as biocultural

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rights, which brings together the cultural practices of their ancestors in protecting the environment and honoring how to manage natural resources. The local Indigenous and Afro Colombian communities in Choco, Colombia, for example, won a case in the Constitutional Court of Colombia for protecting the biocultural rights of the Atrato River basin. The basin has been degraded by extractive mining operations, which has caused pollution and deforestation that negatively affect the well-being, health and livelihoods of the local communities.

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 as well as those throughout the global community. The ELCA is concerned that the extractive industries sector often brings suffering to these people through environmental degradation impacting land, air, water and biodiversity. Impinging upon land can tie in closely with cultural destruction and human rights violations and represents an especially severe burden on women.²

ELCA SOCIAL POLICY

To assess the impact of extractive industries means considering environmental, economic and human rights aspects. The ELCA's social teaching also incorporates intergenerational and intersectional concerns and gives a strong basis for understanding the justice aspects of extractive industries as aspects interact with race, gender and class.

The very title of the ELCA's economic life social statement, *Sufficient, Sustainable Livelihood for All* (1999), indicates the importance of sustainability and sufficiency in understanding the justice aspects related to extractive industries. 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).

Caring for Creation: Vision, Hope, and Justice expresses this church's vision of creation as an incarnational one where "God consistently meets us where we

² "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." www.un.org/development/desa/Indigenouseoples/mandated-areas1/environment.html

live, through earthy matter” (p. 2) while demonstrating the gift of hope. It makes powerful observations about the interplay between our environment and our economic systems, noting that:

- Processes of environmental degradation feed on one another, and decisions affecting an immediate locale often affect the entire planet (p. 4).
- Degradation of the environment occurs in places where racial, gender or economic discrimination leaves people with little or no voice in decision-making. This degradation aggravates their situation and swells the number 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 2023 the ELCA’s message on climate change raised the question of how to think about environmental justice: “First is the question of intragenerational justice. That is, how should society distribute fairly among present generations the burdens associated with greenhouse gas emissions (mitigation) and grappling with the costly impacts of climate change (adaptation)? Second is the question of *intergenerational* justice. That is, how can we best respect and defend the interests of future generations of our and other species and the integrity of the ecological systems upon which life depends? Finally, there is the matter of *intersectional* justice. That is, how does climate justice intersect with historical injustices related to race, class, and gender?” (p. 10-11).

The same message also explicitly rejects “beliefs, goals, and policies that ... perpetuate the disproportionate burden borne by those whose communities host industries that produce harmful pollution and greenhouse gas emissions” (p. 14).

FOCUSING ON INDIGENOUS PEOPLES

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

In 2016 the ELCA Churchwide Assembly passed the resolution “[Repudiation of the Doctrine of Discovery](#)” to reject the legal practice, first conceived in the late 15th century, that permitted colonization of Indigenous lands and exploitation

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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.

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OTHER RELEVANT DOCUMENTS

The work of Indigenous Ministries and Tribal Relations in the ELCA is guided by a [strategic plan](#).

CORPORATE RESPONSE

Publicity around failures and abuses has proved to be instrumental in changing the outlook of corporations involved in extractive industries. The spectacular failure of a tailings dam in Brazil led the Church of England to organize discussions between investors and mining companies, develop a global standard for mining tailings and push for adoption of that standard. The Church of England has spearheaded a movement to bring together churches and mining companies in a [Mining and Faith Reflections Initiative](#).

After pipeline projects sparked protests and garnered unfavorable publicity, financial institutions faced increased scrutiny about the human rights impact of projects they had funded, and they began taking a broader view as well. The ICCR has successfully worked to pressure lenders to consider the full environmental, social and reputational risk cost of funding certain projects. Unfortunately, anti-ESG (environment, social and governance) legislation and rhetoric threaten to undermine that success.

INDIGENOUS PEOPLES

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. 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. The United States has not agreed to recognize consent but operates under consultation instead, which is a weaker directive to extractive industries.

RESOLUTION GUIDELINES FOR THE ELCA

1. Incorporating the U.N. Guiding Principles on Business and Human Rights into a company's operations and supply chain, as well as conducting human rights impact assessments³ in keeping with those principles.

³ www.humanrights.dk/tools/human-rights-impact-assessment-guidance-toolbox/introduction-human-rights-impact-assessment

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 the company's 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 fully participate 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 the 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

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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.
- 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.

18. Reports on how the corporation's policies and practices and the impacts of its business perpetuate racial injustice and inflict harm on communities of color domestically and internationally.

19. Requests for reports and policies that are responsive to the regulatory and reputational pressure related to including Indigenous people and people of color, such as internal programs or policies on relations with Indigenous people and people of color, recruitment of employees who are Indigenous people or people of color, and procurement from businesses owned by Indigenous people or people of color.

20. Reports evaluating the economic, human and environmental impacts of a worst-case oil spill on any given site, clarifying the cleanup response commitments of a company.

21. Reports on environmental justice, updated annually, describing efforts to identify and reduce heightened environmental and health impacts from its operations on communities of color and low-income communities.

22. Reports on impacts on nonwhite stakeholders and communities of color and

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plans, if any, to mitigate those impacts. Input from civil rights organizations, experts on environmental racism, and employees should be considered in determining the specific matters to be analyzed.

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RESOLUTION GUIDELINES FOR THE ELCA - GENERAL

We support practices of good corporate governance, specifically:

- 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.