

**United Nations
Human Rights Council
Expert Mechanism on the Rights of Indigenous Peoples
Fourth Session
Geneva, 11 July – 15 July 2011**

Agenda Item 6: Proposals to be submitted to the Human Rights Council for its consideration and approval.

Speaker: Brian Wyatt

**STATEMENT ON BEHALF OF THE
NATIONAL NATIVE TITLE COUNCIL (NNTC)
FOUNDATION FOR ABORIGINAL AND ISLANDER RESEARCH ACTION (FAIRA)**

Mr Chairperson

Our organisations would like to recommend the next study undertaken by the Expert Mechanism be on indigenous peoples and development of natural resources through extractive industries.

For the Aboriginal and Torres Strait Islander peoples we have experienced major impacts on our lands, territories and resources over the entire period of colonization of Australia by extractive industries.

The extraction of coal and gold in Australia began in the early 19th century and led to massive dislocation and actions of genocide of our peoples.

The gold rushes in particular led to a large movement of prospectors throughout the entire continent from the southern extremes to the north, and from the east coast to the west.

These actions by miners were largely unregulated by government and law officials and occurred at a time that wholesale murder of the Aboriginal peoples went unnoticed and unpunished.

The extraction of minerals from our territories led to the Constitutional tenet that the minerals belonging to our peoples were free to ownership of the Crown and for the benefit of the colonizers but not the Aboriginal and Torres Strait Islander peoples.

This tenet in the Australian Constitution and the political and legal systems of Australia are highly discriminatory against the rights to own and control mineral resources in our territories.

In contemporary times, the Native Title laws in Australia deny our peoples the right to own or control these resources, which is inconsistent with the human rights identified, inter alia, in Articles 25 to 31 of the Declaration on the Rights of Indigenous Peoples and relevant articles in ILO Convention 169.

We note the report from the UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, to this session where he has identified persistent problems for Indigenous Peoples in regard to extractive industries on or near their territories.

We emphatically agree with his concerns that Indigenous Peoples be able to share the benefits deriving from extractive industries on or near their territories, and avoid the negative impacts that these industries may have upon the economic, social and cultural life of the Indigenous Peoples.

We believe that the Expert Mechanism ought to identify, in a study, the conflicting points of views regarding the development of natural resources, the deriving of benefits to society and the human rights of populations directly affected by extractive industries. Such a study should identify how populations, in this case the Indigenous Peoples, are affected.

The study should be able to lead to the development of specific guidelines or principles aimed at assisting States, corporate actors and Indigenous Peoples to fulfil the responsibilities that arise under the right to development and human rights, and other international standards.

These standards, as specified by the Special Rapporteur, relate to respect for lands, territories and natural resources, consultation and free, prior and informed consent, participation in and control over the design of project activities, mitigation measures, and benefit sharing.

We therefore strongly recommend to the Expert Mechanism that it request approval from the Human Rights Council to undertake next year a study on the major concerns regarding the extraction or development of natural resources within or in close proximity to the territories of Indigenous Peoples.