

12/6/21 UNPFII Expert Group Meeting Statement - Kate Finn, First Peoples Worldwide

Indigenous Peoples and Development Branch / Secretariat for the Permanent Forum on Indigenous Issues within the Division for Inclusive Social Development of the Department of Economic and Social Affairs

International Expert Group Meeting: Indigenous peoples, business, autonomy and the human rights principles of due diligence, including free, prior and informed consent

**Indigenous peoples' business enterprises and autonomies
Monday, 6 December, 2021, 10:00 am ET**

1. Introduction & Overview Statement

My name is Kate Finn. I am Executive Director at First Peoples World...

Indigenous Peoples, despite systemic barriers that hinder the full realization of their right to self-determination, have harnessed their knowledge and strength to advance their rights and protect their lands, resources, and people. But there is much to be done in the way of building capacity for states, business, and investors to better support Indigenous economic development and self-determination. Indigenous Peoples are still here and our power - political, cultural, social, and economic - is ascendant.

2. Main Barrier - Economic Invisibility

Indigenous Peoples have been subject to waves of racist and assimilationist policy globally, since the onset of colonization. This has resulted in economic invisibility that renders efforts to strengthen Native nations' economic conditions even more challenging.

In the United States, land dispossession and forced removal from traditional territories were official federal policies in the 18th and 19th centuries. An eminent scholar has noted that this intentional removal of people from their own land was indeed measured separatism. Boarding school policies served to force cultural assimilation.

The economic system in North America has its roots in these same policies. Invisibility persists.

In recent decades, though, tribal sovereignty and increased self-governance has created new economic and employment opportunities for Native nations, resulting in economic growth and improved well-being in self-determined ways. Self-determination encompasses the rights to decision-making, participation, and governance over the economic, social, cultural, and spiritual wealth and resources in Indigenous communities.

Respecting these values reiterates a respect for Indigenous Peoples' ability to self-govern apart from the undue influence of outside entities, like financiers offering unaligned capital with unfavorable terms or corporate refusal to engage with Indigenous Peoples along the supply chain. In short, an Indigenous economy allows human rights to flourish and drive growth in a way that is no longer extractive, but additive to Native communities.

The challenges that face all Native peoples in the United States are further exacerbated for Native women. [According to a 2020 study by the Institute for Women's Policy Research](#), American Indian and Alaska Native (AIAN) women in the United States are paid 40 percent less than white men. This translates to almost \$1 million lost over the course of a 40-year career.

Many AIAN women have made important advances including, starting their own businesses, and getting elected to public office, including Congress. And in 2018, AIAN women owned [1.4 percent of all female-owned businesses in the United States—an estimated 161,500 businesses employing 61,300 workers and generating \\$11 billion in revenue](#). Since 1997, [Native female-owned businesses grew by 201 percent](#), almost twice the rate of growth for all female-owned businesses.

In North America we have seen incredible opportunity blossom through Indigenous-led capital and investment projects this year alone. In the U.S. the organization [Native Women Lead](#) is seeding a major capital fund to bring more Indigenous women into financial support spaces; provide peer network activities, and [creates](#) additional opportunities for those who traditionally have not been able to access main street market.

And in Canada, Raven Indigenous Capital Partners' [Impact Investment Fund](#) launched in response to the resource gap faced by many Indigenous entrepreneurs. The fund screens through a unique, Indigenous impact lens to award investments ranging to \$2 million through a “strong social and environmental impact thesis.”

These examples demonstrate the innovative way that capital and investment funds can be value-aligned and promote true Indigenous self-determination.

As economic opportunity grows, the markets must also shift. Indigenous economic power must be built in a rights-based way to influence the capital markets towards the rights of Indigenous People.

3. Good practices

The right to free, prior and informed consent (FPIC), [as articulated in the UN Declaration on the Rights of Indigenous Peoples](#), should be a framework not only for direct engagement but for deal-making and negotiation. The Declaration may be viewed as the most important international legal [framework through which Indigenous communities relate to outside investors](#).

As First Peoples articulated in its Indigenous-centered Private Equity research, FPIC is often deemed essential to the “rights and risks” approach to decision-making in resource development, but it is equally as applicable to investment deals engineering.

The concept of FPIC includes two forms of self-determination: 1) autonomous governance and 2) participatory rights. Both these concepts tie into FPIC’s application in the investment context because Indigenous business owners seeking capital through investors often lose autonomy over business decisions. In short, for an investment deal to truly respect Indigenous Peoples’ right to FPIC, it would need to ensure the retention of their autonomous governance over, and participatory rights in, finance and business decisions and outcomes.

As FPIC models an iterative process that occurs throughout a project, so should Indigenous rights be incorporated at every level of deal-making and negotiation. Human rights should be a key consideration at all points along the supply chain, including procurement and product. Indigenous Peoples are not only stakeholders, but rights bearers, and as such should also enjoy the benefits of projects like resource development. Ultimately, benefit sharing is more important than corporate social responsibility.

4. Business appropriation

There are lessons to be learned from bad business practice, such as appropriation of traditional knowledge and resources. We have seen patterns emerge from this in Indigenous communities around the globe and the results are generally further

economic deprivation and, in many cases, loss of invaluable cultural objects or lands with spiritual significance. Corporate engagement is one strategy that can provide a way out of this detrimental cycle.

Corporate engagement and shareholder advocacy are forms of advocacy, distinct from legal advocacy, that indigenous peoples employ to articulate priorities directly to corporate decision makers. Corporate engagement is also an iterative strategy, in line with best practices for operationalizing free, prior and informed consent. It gives indigenous leaders the opportunity to consistently hold businesses accountable for their actions on their territories.

At its best, corporate engagement creates the opportunity for interactive dialogue between indigenous peoples' representatives and the companies wanting to operate on their lands. Creating a direct line of communication about the types of development sought on indigenous lands gives indigenous leaders the opportunity to negotiate and to implement their own development priorities.

Where companies are not open to direct engagement, or where businesses choose to oppose indigenous leaders' priorities, there are strategies that Indigenous peoples can use to put pressure on the companies' bottom line to act more fairly towards the community and with reference to their human rights. These strategies, which can be deployed from within and from outside the community, include letter writing and convening, shareholder proposals and attending annual meetings and public pressure, and media engagement. In extreme cases, where companies refuse to address Indigenous Peoples' concerns, calls for divestment may occur.

Coalition building is another critical tactic for successful engagements. There are growing networks of investors worldwide who seek to invest their dollars in socially and environmentally responsible manners. Indigenous peoples have successfully worked with those investors to create the types of financial and media pressure that companies respond to.

In 2000, a coalition of Native organizations and investors [began a campaign](#) targeting corporate appropriation of Native imagery and names and racially offensive mascots, including Crazy Horse Malt Liquor, Cherokee Brand jeans, and Chief Wahoo, building on ICCR-supported campaigns against racist images. Through shareholder advocacy, the coalition secured a promise from Target to drop the racist image of a Native American from its Cherokee label.

Ripples like this have extended to other sectors, like the recent change of the Washington Football Team's name, demonstrating the power of Indigenous-led shareholder engagement and corporate accountability. For companies to align with DEI action, racist imagery has no place in corporate branding.

As businesses and countries around the world race to meet Net Zero goals, Indigenous Peoples are concerned how the low-carbon economy will be engineered given the extractive industry's long history of harm and negative impacts to Indigenous Peoples and their territories and resources. In 2020, [social license to operate was ranked](#) the biggest risk to mining companies; for Indigenous Peoples, social licence to operate is free, prior and informed consent and its operationalization in inclusive and equitable ways throughout project design, development and implementation.

We know that companies lose money when they are confronted with active dissent by the community. And, conversely, indigenous peoples are increasingly subjected to violence when standing up for their rights to their lands. If companies and indigenous peoples can come to better agreements in the early stages of development, then indigenous peoples may not be subjected to the types of violence that occur due to direct protests, or to others violent impacts such as human trafficking and increased crime on indigenous territories. The costs of this dissent is very real.

In sum, corporate engagement offers new strategies for indigenous peoples to elevate their concerns and to press for their rights under the Declaration. Because it also encompasses a broad range of tools, it gives communities around the globe the flexibility to determine what works best for their priorities, their lands, and their socio-economic conditions.

Indigenous Peoples are building capacity to engage with capital markets and develop their own economies in a way consonant with their values. **For corporations to move closer to fulsome respect for Indigenous Peoples' rights, they must look at economic diversification from the Indigenous governance side, and they must ensure that full attention is paid to a values-aligned pathway forward.**

Thank you.

GUIDE QUESTIONS

1. How are indigenous peoples' businesses advancing their rights, including to their lands, territories and resources and self-determination?

2. What are the main barriers or challenges for indigenous peoples' businesses towards self-determination in their territories?
3. What are the good practices for investments and cooperation between indigenous peoples and States/businesses/investors, including their ownership of businesses and/or benefit-sharing?
4. How can indigenous peoples deal, or have they dealt with businesses' appropriation of their traditional knowledge and resources, including through their enterprises?