

The Future in our hands Norway (FIOH)
Framtiden i våre hender

Submission to the
United Nations Universal Periodic Review of
Norway
19th session

Norway
September 2013
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Submission to the United Nations Universal Periodic Review of Norway

Submission on behalf of: Future in our hands Norway¹

Submission focus: Norway's responsibility to ensure respect for human rights and the rights of indigenous peoples overseas in the context of Norwegian transnational corporations abroad.

Relevant International Human Rights instruments and associated provisions:

International Covenant on Civil and Political Rights (ICCPR):

Articles 1, 25 and 27 and General Comment 25 - right to self-determination, right to participation and right to culture (including rights to way of life & traditional economic & social activities)

International Convention on the Elimination of all forms of Racial Discrimination (ICERD):

Articles 2, 5 and 6 and General Recommendation 23 – right to non-discrimination, to participation, to property (including lands, territories and resources) and the requirement to obtain free prior and informed consent.

United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP):

Articles 3, 4, 26 and 32 - right to self-determination, autonomy and self-government; right to lands, territories and resources; right to development and the requirement to consult and co-operate in good faith in order to obtain indigenous peoples' free prior and informed consent in the context of extractive projects impacting upon them.

United Nations Guiding Principles on Business and Human Rights

Context:

1. In its 2011 concluding observations to Norway the UN Committee on the Elimination of all forms of Racial Discrimination (CERD) noted its concerns with regard to:

the effects on indigenous peoples and other ethnic groups in territories outside Norway, including impact on their way of life and on the environment, of the activities by transnational corporations domiciled in the territory and/or under the jurisdiction of Norway. (arts. 2, 5 and 6). (Paragraph 17, http://www2.ohchr.org/english/bodies/cerd/docs/co/Norway_AUV.pdf)

2. The CERD recalled its general recommendation No. 23 (1997) on the rights of indigenous peoples, and recommended that Norway:

take appropriate legislative or administrative measures to ensure that the activities of transnational corporations domiciled in the territory and/or under the jurisdiction of Norway do not have a negative impact on the enjoyment of rights of indigenous peoples and other ethnic groups, in territories outside Norway. In particular, the State party should explore ways to hold transnational corporations domiciled in the territory and/or under the jurisdiction of Norway accountable for any adverse impacts on the rights of indigenous peoples and other ethnic groups, in conformity with the principles of social responsibility and the ethics code of corporations (ibid).

3. This submission focuses on the need for greater control and accountability from Norwegian based companies which impact on Indigenous Peoples and other ethnic groups overseas.

¹ For details on the submitting organisation: <http://www.framtiden.no/english/>

Suggested questions:

4. In light of the recommendation by the UN CERD to the Norwegian Government, what measures does the Norwegian government envisage to give effect to the 2011 recommendations of the UN CERD?
5. How can Norway develop effective mechanisms to ensure that corporations respect the UN Guiding Principles and statements from the OECD National Contact Point, and act upon their recommendations?

Background:

6. One of the key mechanisms which the Norwegian government advocate for is the implementation of the three pillars of the Ruggie framework. The OECD NCP is the specific instance where procedures within this framework is run.
7. In 2009 Future in our hands, with the help of Philippine Indigenous Peoples Links UK and Philippines and ALAMIN (Philippines), filed a complaint against the Norwegian company Intex Resources through the OECD National Contact Point, for breaching the OECD guidelines on multinational enterprises through their operations in Mindoro, Philippines. In 2011 the NCP stated that the company had breached the guidelines on human rights, indigenous peoples rights and the environment². Intex Resources has rejected the findings and failed to act on the NCPs recommendations.
8. It is essential that the government develop effective mechanisms to ensure that corporations respect the NCP findings and act on its recommendations. In cases, such as Intex, where companies reject the NCP findings and fail to act on their recommendations, we regard that some form of sanction mechanism is necessary, as otherwise the legitimacy of the NCP mechanism is challenged and it is de-facto rendered ineffective.
9. The need for such action on the part of States such as Norway has been addressed by the UN Special Rapporteur on the rights of indigenous peoples in his latest report to the Human Rights Council³ where he states the following:

Paragraph 48: States should therefore adopt regulatory measures for companies domiciled in their respective jurisdictions that are aimed at preventing and, in appropriate circumstances, sanctioning and remedying violations of the rights of indigenous peoples abroad for which those companies are responsible or in which they are complicit. The Special Rapporteur observes that some States have adopted regulatory measures with extraterritorial reach in this vein to address human rights concerns within certain contexts, but with limited applicability for the specific concerns of indigenous peoples. Regulation of the extraterritorial activities of companies to promote their compliance with international standards concerning the rights of indigenous peoples will help establish a transnational corporate culture of respect for those rights and greater possibilities of healthy relationships between extractive companies and indigenous peoples.

² Final statement on Intex Resources from the OECD NCP:
http://www.regjeringen.no/upload/UD/Vedlegg/ncp/intex_final.pdf

³ Report to the Human Rights Council A/HRC/24/41, 2013 <http://unsr.jamesanaya.org/annual-reports/report-to-the-human-rights-council-a-hrc-24-41-2013>