

A proposed EU law to prevent environmental and human rights abuses by multinationals has been cautiously welcomed by global Indigenous leaders seeking to highlight the damage done by extractive industries. However they say the text needs to go further if it is to protect Indigenous populations from mining companies.

In February 2022, the European Commission adopted a proposal called the Corporate Sustainability Due Diligence Directive.

It's goal is to ensure that businesses are held accountable for the consequences of their decisions with regards to human rights, climate change and environment, including in their value chains inside and outside Europe.

It's a move away from voluntary audits to an imposed legal responsibility enshrined in international and national laws.

As the European Union looks outwards to meet its needs for a [green transition](#) in terms of energy, transport and technology, one of the industries in the spotlight for diligence is mining.

The International Energy Agency forecasts that mineral requirements for clean energy technologies will quadruple by 2040.

Most of the world's untapped reserves for transitional minerals such as nickel, lithium, cobalt and copper, used in battery technology, are found in Indigenous territories such as South America, Africa and Asia.

Edson Krenak, a descendant of the Krenak people of Brazil, was one of three Indigenous leaders representing the American NGO [Cultural Survival](#) who came to Brussels last week to bring attention to the impacts extractive industries such as oil, gas, and mining have on Indigenous Peoples' rights, lands and environments.

Krenak says that while he was pleased by the European initiative, he is concerned it will not stand up to the pressure faced by Indigenous groups.

Vague text

Only 1 percent of companies in Europe are large enough to come under the jurisdiction of the proposed law, Krenak told RFI, adding that smaller partners of the larger companies may be able to slip through the net.

He said the text remained too vague on Indigenous Peoples' affairs.

The EU directive does not make specific reference to the right to free, prior and informed consent covered by the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UNDRIP), nor the International Labour Organisation convention 169, Krenak said. In some cases, Cultural Survival noted that previously included annexes referring to

Indigenous rights had been deleted.

“We need more visibility, more dialogue. This is going to be a huge fight,” Krenak says, hoping that EU representatives will realise just how potentially ground-breaking the deal could be.

Indigenous people represent 470 million people around the world, or about 6 percent of the total population.

“There can be no climate justice without the effective participation of Indigenous peoples, the main stewards of the planet’s biodiversity,” Krenak says.

The Business and Human Rights Resources Centre reported in 2021 that there had been 495 human rights allegations made against 115 companies involved in transition mineral extraction over a period of 10 years.

For this to change, access to justice must be improved, Krenak said, adding the communities concerned by mining projects are often in extremely remote areas, where no English, Spanish or Portuguese is spoken, only local dialects.

Krenak told RFI the people do not have enough money to for expensive legal aid for cases that can take years to come to a head.

He said a more conclusive legal structure that regulates the industry could lay the groundwork to change this and avoid debacles that have left entire communities without justice.

Waiting for justice

One example Krenak refers to is the [Brumadinho](#) disaster in January 2019. Nearly 300 people were killed when a mining dam collapsed triggering a toxic mudslide which swamped the town in southeastern Brazil.

A judge in Brazil ordered Vale - the mine owner - to pay compensation to victims in what is considered the country’s worst mining accident.

The contamination of the nearby rivers has meant the destruction of livelihoods for many [communities](#), like the Pataxo Ha-ha-hae Indigenous group. Moved to temporary shelter in schools, they have been fighting to be properly relocated, but they are still waiting for a legal resolution.

Investigators later found evidence the German company TÜV Süd that certified the structure as safe knew it was vulnerable to collapse. A class action lawsuit against TÜV Süd in Munich [began in 2021](#).

The inspection agency denies bearing any legal responsibility for the dam bursting, arguing that it was Vale who did not comply with the recommendations it made in its safety report.

Krenak says a similar situation has befallen his own people following an earlier disaster in 2015 when Vale's Mariana mining dam burst, contaminating the Rio Doce river, also in Brazil's Minas Gerais state.

Only the beginning

"I think the level of sensitivity is rising across the board, however, there is so much more work that needs to be done," Galina Angarova, a member of the Buryat people and fellow representative of Cultural Survival, told RFI after the talks in Brussels.

On a positive note, she says her delegation held talks with an "important player" willing to include an Indigenous Peoples' policy as part of their supplier code of conduct.

"Another important achievement is that in the EU Battery regulation, despite the deletion of the reference to the UNDRIP and a result of our advocacy, we obtained two references to Indigenous Peoples, one being in the risk categories. I hope this is just the beginning," Angarova says.

"We believe that the transition is inevitable but justice is not. And for this we need to ensure that justice is the core of this transition, every step of the way."

Meanwhile Krenak warns that limitless growth for European people equals poverty in other parts of the world. He calls on people to question why they think they need a new car every three years, and general patterns of consumerism.

Krenak likens humanity's predicament to the image of a sinking boat. When Mother Earth goes down, so does everyone else.

The proposal will go to the European Parliament and the council for approval later this year. Once adopted, member states will have two years to integrate the rules into national law.

Source: rfi.fr