




Fourth World Nations and the Process of Free, Prior and Informed Consent

Watch on  YouTube



What is Free, Prior and Informed Consent



Why is FPIC Relevant?



Extraction Industry Backlash



Who Benefits from Extractive Industries?



Take Action



Map



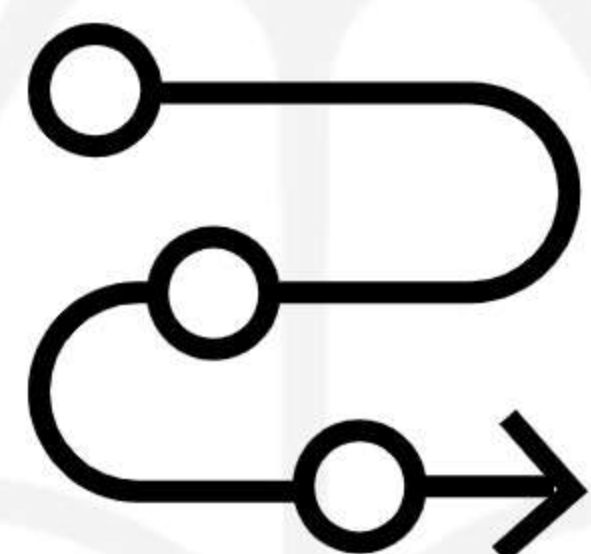
Who is in this Situation?



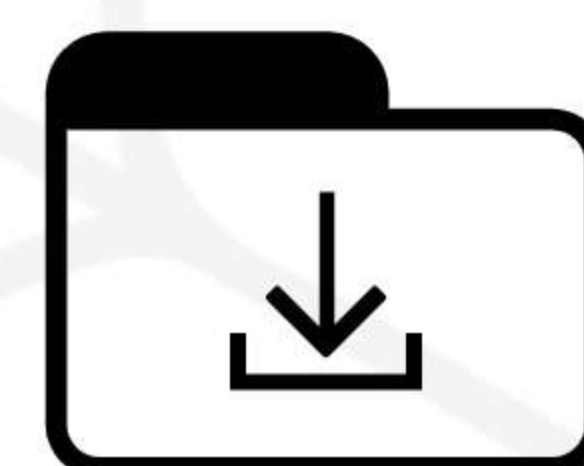
Sovereignty and Indigenous Peoples



Forum



Ancestral Lands Decolonization, Monitoring, and Enforcement Mechanism



Download the Website

About the people behind this project.

This presentation was produced by the Center for World Indigenous Studies (CWIS) thanks to the research of the Extractive Industries Panel, including Associate Scholars listed here. The aim is to explain problems created by the extraction of resources in ancestral lands of Fourth World Nations and what actions are needed to implement that internationally recognized process of Free, Prior and Informed Consent (FPIC).

A special thanks to the people who gave us their time and interviewed with us.

Sabina Singh, PhD, CWIS Associate Scholar
Hiroshi Fukurai, PhD, CWIS Associate Scholar
Melissa Farley, PhD, CWIS Associate Scholar
Rudolph C. Rýser, PhD
Mathieu Demont, CWIS Intern

Graphic Designer
Michel Medellin

Platform and Information Designers

Irene Delfanti, Intern, Edinburgh, Scotland
Max Montalbán

Assisted by

Aline Castañeda Cadena
Elleora Svoboda

Coders

Juan Gradilla
Sam Stoker

Translations

Autogenerated

Disclaimer: Not all the materials on this platform were created by CWIS members. Outsourced material is either referenced or not covered by copyright.

© 2022 – All Rights Reserved



Follow Us     

Subscribe to Newsletter



What is the Process of Free, Prior and Informed Consent?

Free, Prior and Informed Consent (FPIC) is a legal instrument that gives indigenous peoples the power to choose what to do with our land, people, and culture.

FPIC obliges outsiders to **obtain a nation's consent** before doing any action on its territory.

FPIC is not about Fourth World Nations being consulted but about us choosing if we want to be part of a deal and on what terms.

In legal terms....

We may understand the FPIC process as follows:

Free: It must be uncorrupted from coercion or intimidation before, during, and after the consent negotiation process.

Prior: Provision of all relevant information on a proposed action must be made available to a nation and all other parties before any action or decision is taken that affects any of a nation's interests or the interests of other parties.

Informed: All information must be available to all parties in a manner that is accessible and understandable and includes any social, economic, cultural, and environmental benefits and risks resulting from proposed projects, actions or policies. This information must be delivered in the language of the affected people in a manner understandable by all parties from which consent is sought.

Consent: The FPIC process requires that parties engage in shared dialogue as a first step, followed by a review of differences between the parties, potential points of agreement, and then organized negotiations of consent that both parties can accept. Negotiating consent is about indigenous people and our negotiating partners deciding if we want the particular activity on our ancestral lands or communities and on what terms.

A nation and partner may choose to withdraw from participating in negotiating consent at any stage of the process. No policy initiatives or actions originally contemplated may be taken unless and until a successful process of negotiated consent is resumed. All parties must understand the process before commencing the process.

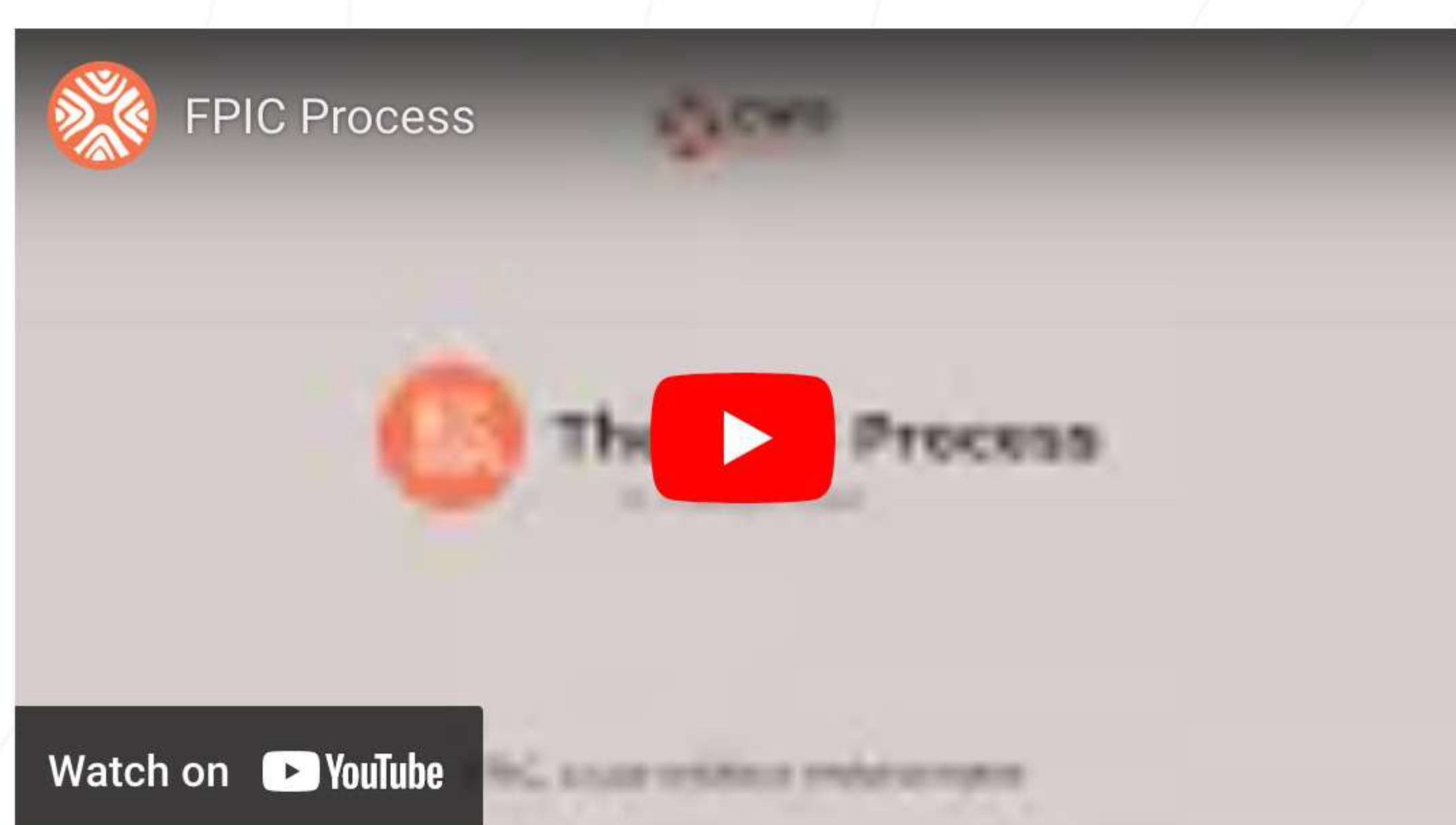
FPIC first appeared in connection with Fourth World Nations in the International Labor Organization [ILD](#) Convention 169 of 1989, and since then, it has been part of international law. It also appears in the [International Covenant on the Rights of Indigenous Nations \(1994\)](#), the 2007 United Nations Declaration for the Rights of Indigenous Peoples [the Alta Outcome Statement \(2013\)](#) and the [UN World Conference on Indigenous Peoples Outcome Statement \(2014\)](#).

What is the problem with this international human rights law? It is almost never enforced.

So it's a law that companies and states don't use; how is this possible? International treaties encourage states to implement their own laws.... but in most cases, this never happens!

Nevertheless, it doesn't mean people haven't tried to use FPIC or make it work. An example there is a long list of Fourth World Nations seeking to implement the protocols as shown on the European Network of Integrity Practitioners website: [ENIP website](#).

Another example is the [ALDMEM](#) mechanism that CWIS in cooperation with the president of the US-based National Congress of American Indians ([NCAI](#)) and Fourth World Nations in Africa, West Asia, Canada, and Melanesia are now formulating. ALDMEM will be announced soon.



Dr. Rudolph Rysler explains what FPIC is and its limitations.



Follow Us     

[Subscribe to Newsletter](#)



Why Is FPIC Relevant?

FPIC gives our communities the power to stop unwanted projects on our territories and creates a space for negotiations to make sure any activity happens on our terms.

Why is FPIC useful?

Mainly to deal with extractive industries.

On this platform, we define extractive industries to be a broad range of industries based on taking something from our lands, such as water, wood, minerals, oil, or labor. Our definition also includes industries that want to pass through our land for their benefit. Such projects include oil pipelines, conservation parks, and roads, to name a few.

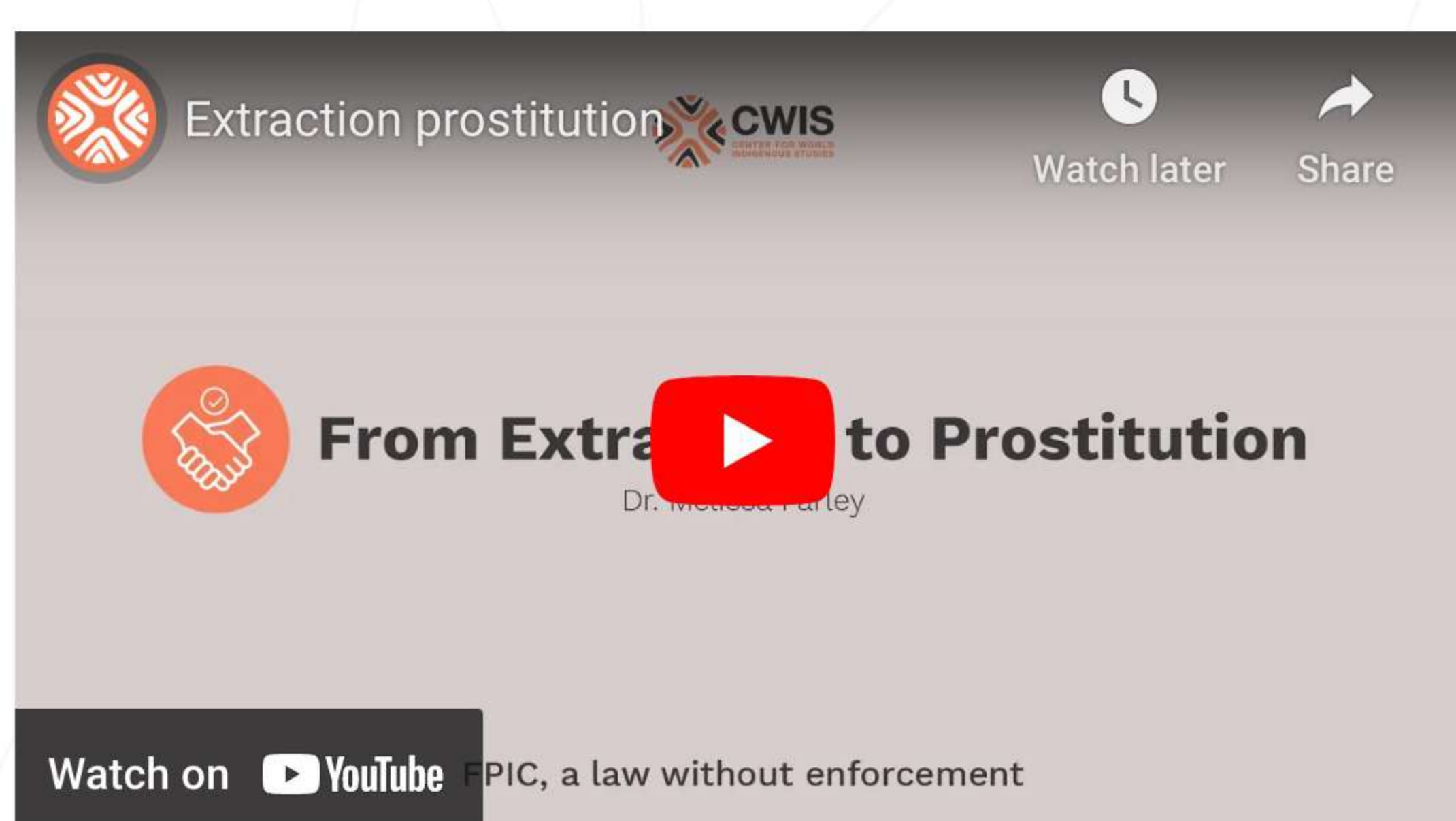
It is important to understand that FPIC also includes development projects intended to increase the quality of life in our communities, such as schools, parks, and hospitals. We have the right to negotiate the terms of these projects as well. As crucial as these assets may be for our communities, we must be aware of any potentially adverse environmental, economic, or social effects they could bring.

How do Extractive Industries Approach Fourth World Nations?

Companies may give us money or valuable objects in exchange for the right to use our land. Such acts are bribery, and no community members should accept anything outside official negotiations.

Representatives of companies or states may try to pressure us with time constraints or ask to speak with people who are not legitimate decision-makers for our community. These attempts are illegal! They violate international human rights law. FPIC allows us to make every step of the process at our own pace. See more guidelines on our [Take Action](#) page.

We have the right not to be pressured and to use our normal decision-making processes to assess all proposals.



Dr. Farley speaks about the relationship between extractive industries, poverty, climate change and prostitution.

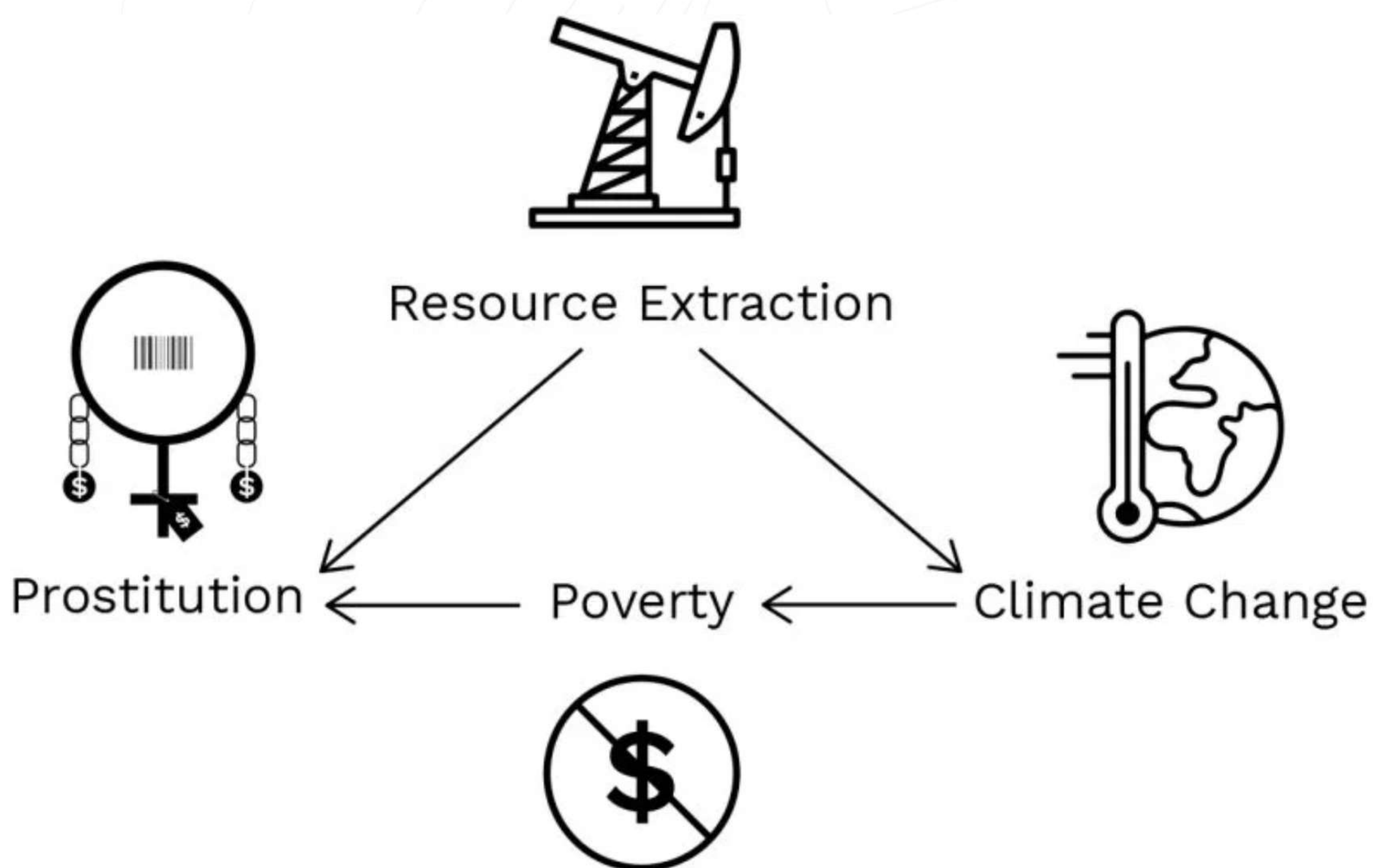
.. and what do they leave behind?

At first, extractive industries bring in a lot of money. This period may be short-term or may last for years, but eventually, we will feel the backlashes to our community's ecosystems and social structure.

Even if an industry plans to provide jobs for years, the overall loss to the community compared to the money gained may be too high of a price to pay. For this reason, our communities must negotiate the terms and conditions by which others may use our land and monitor that those terms are respected.

Backlashes from extractive industries range from poverty to health issues, prostitution to child labor, and can create an unrepairable situation.

Considering how an extractive industry will impact our community's current social and economic structure during and after its presence on our land is imperative.





Extraction Industry Backlash

Our environment, people, and the social structure of our communities are all at risk.

After the initial cash boom of the extractive industry, controversies will develop. Spills or other technical issues may poison the environment, and problems related to poor working conditions, drugs, and alcoholism may surge.

The development of human trafficking, especially of women, is a pervasive side effect of extractive industries: one that is very difficult to eradicate once installed.

Depending on the industry, there are many documented cases of child labor, but other issues for children include playing in contaminated areas.

The presence of organized crime often increases where an extractive industry operates. The reason for this is extractive industries tend to destabilize the communities in which they operate, often forcing people into criminal activity to survive and attracting other criminals seeking to take advantage of the situation.

Does the law protect against these issues?

FPIC could be a critical factor in protecting people against these issues. But unfortunately, although it is ratified in international law, it is rarely enforced, even by states that signed UNDRIP.

The reason is that when it comes to resources, indigenous nations and the state compete over sovereignty. Under state law, this allows them to go forward with the project for “the greater good of the state.”

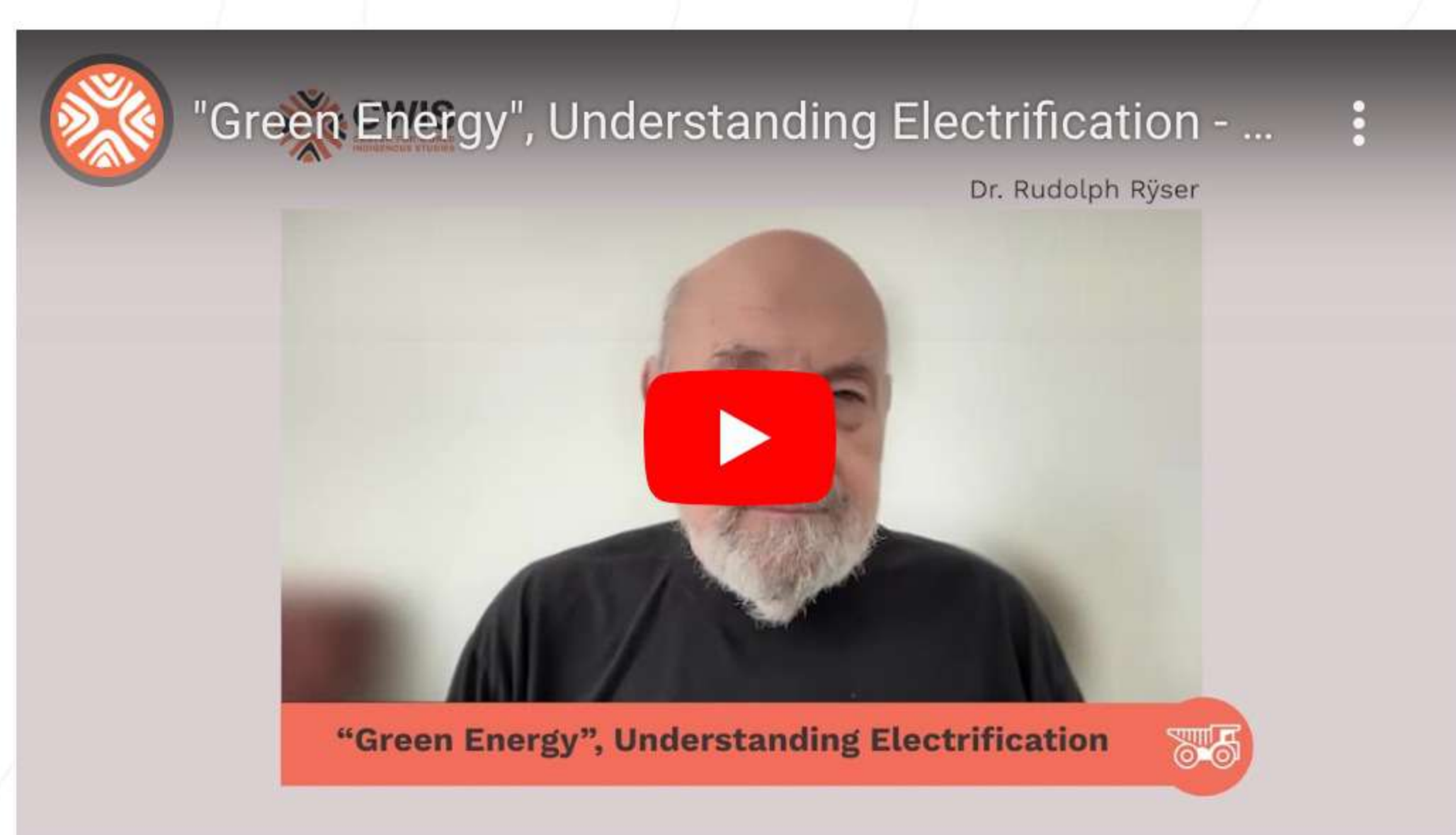
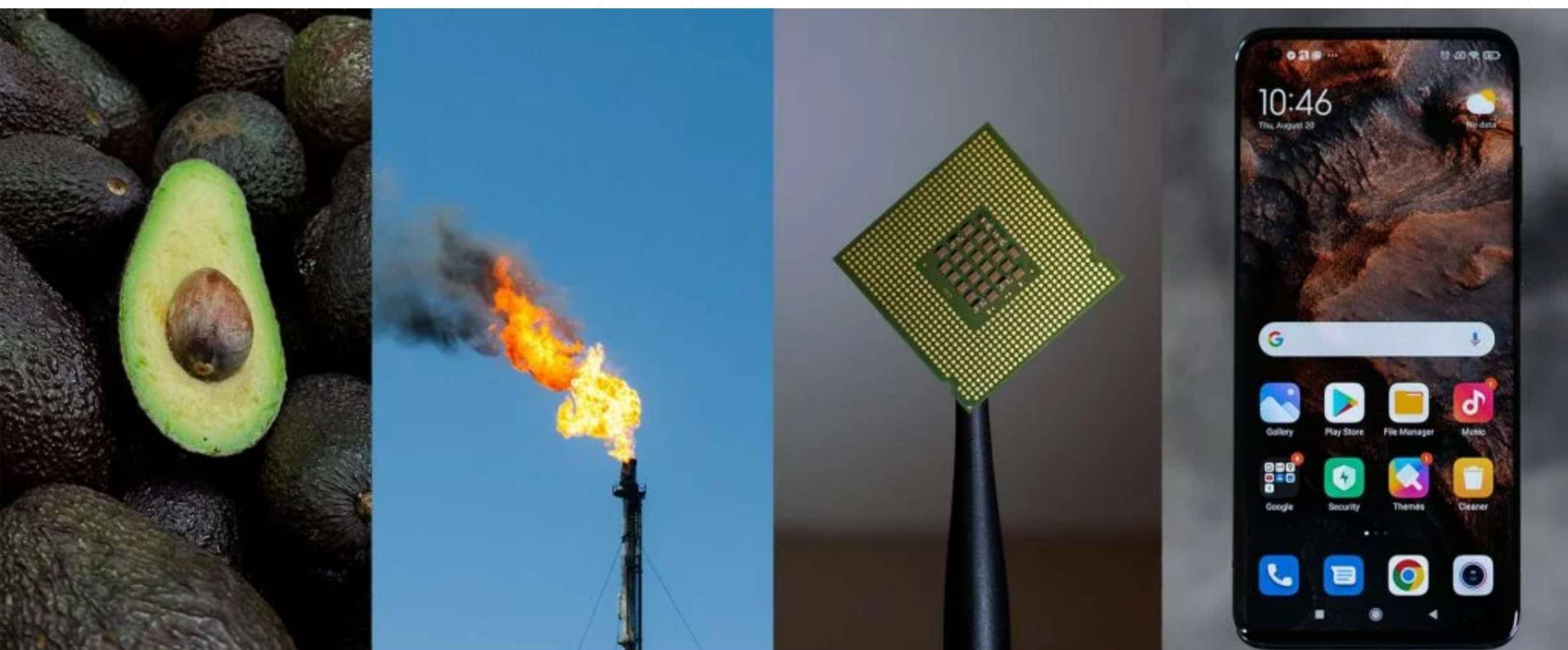
Even when the state supports us, its support may crumble because of international business threats and political pressure. Watch the following video about missing, or ignored, regulations.



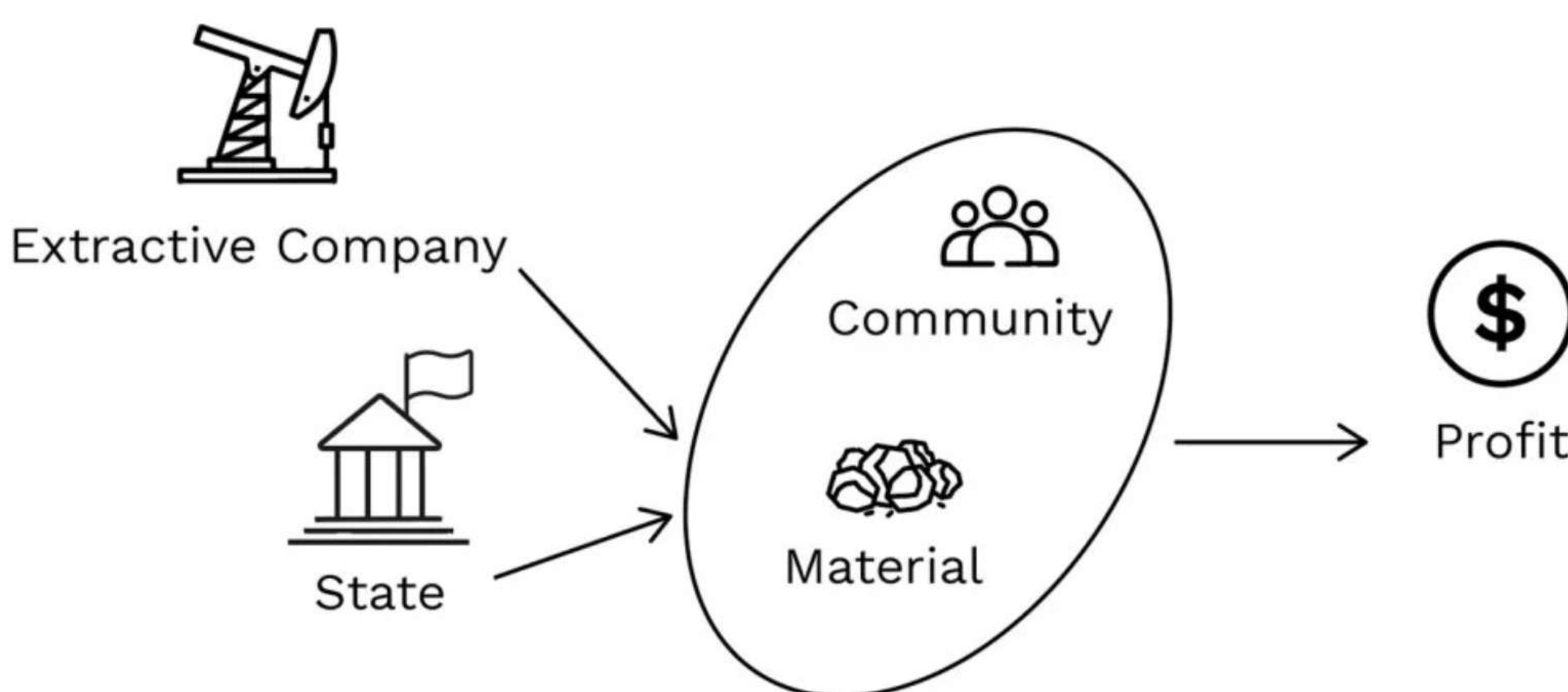
What are they extracting resources to produce?

To make a profit, create products, or make energy needed for industrial societies to run.

The term “green energy” is now frequently used when extractive industries extract rare materials – but green doesn’t mean the extraction process won’t be harmful. Because of climate change, many states and corporations are rushing to electrify many of their services and the opening of new mines is increasing. But the truth is, in many cases, the effects of extraction and production processes negate any potential decrease in the carbon emissions they hope to mitigate. Too often, “green” is just a word they use to help them get away with what they are doing.



Listen to Dr. Rudolph Rýser speaking about “green” energy and the rush to electrification.



Follow Us

Subscribe to Newsletter



Who Is In This Situation?

This situation is familiar to many people around the globe, as to how industries and their beneficiaries work follows similar patterns across the continents.

Listen to our stories



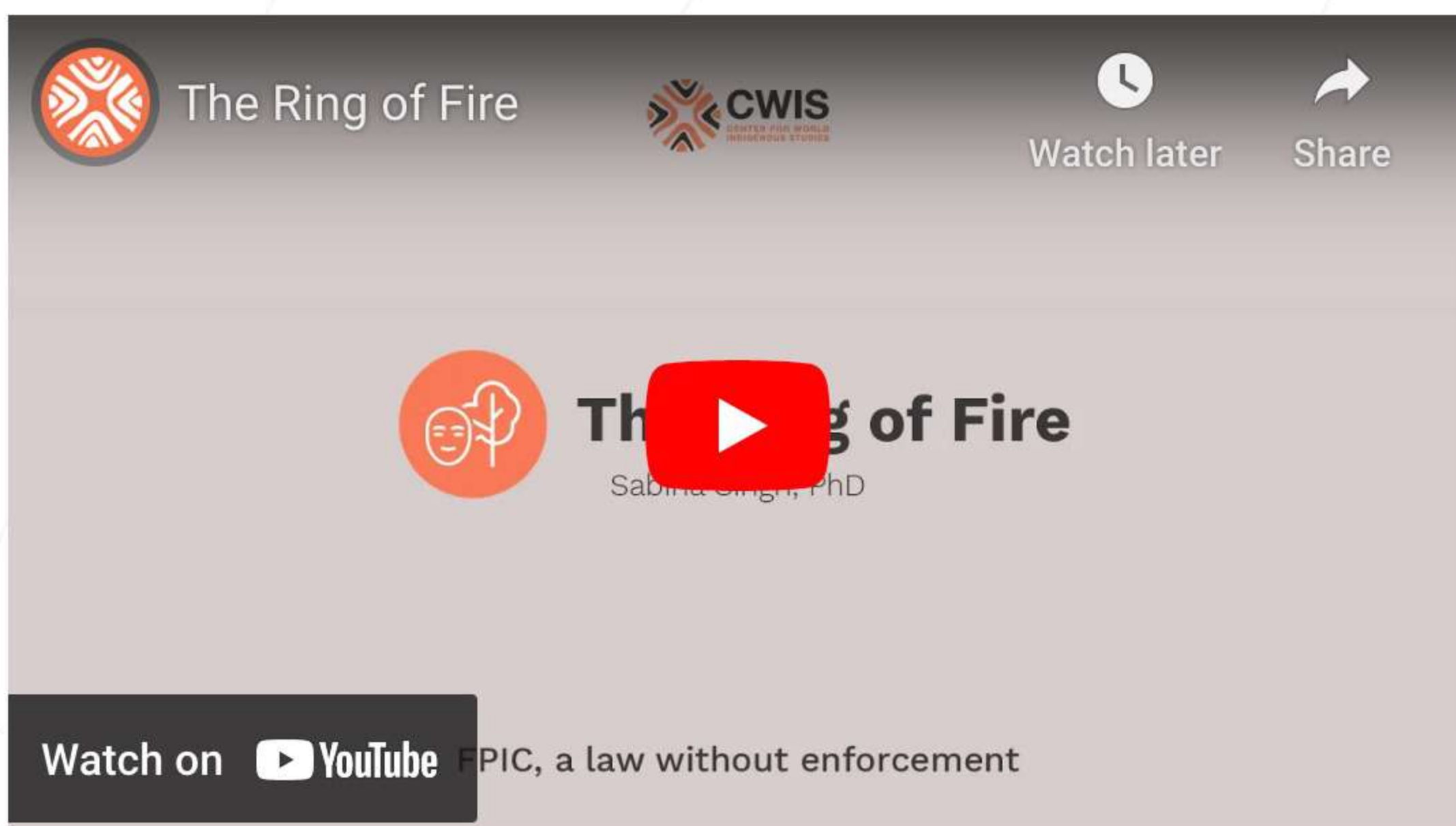
State Violence vs Nations Solidarity

Sabina Singh, PhD, highlights the efforts of the Tiny House Warriors and cooperation between nations in Canada.



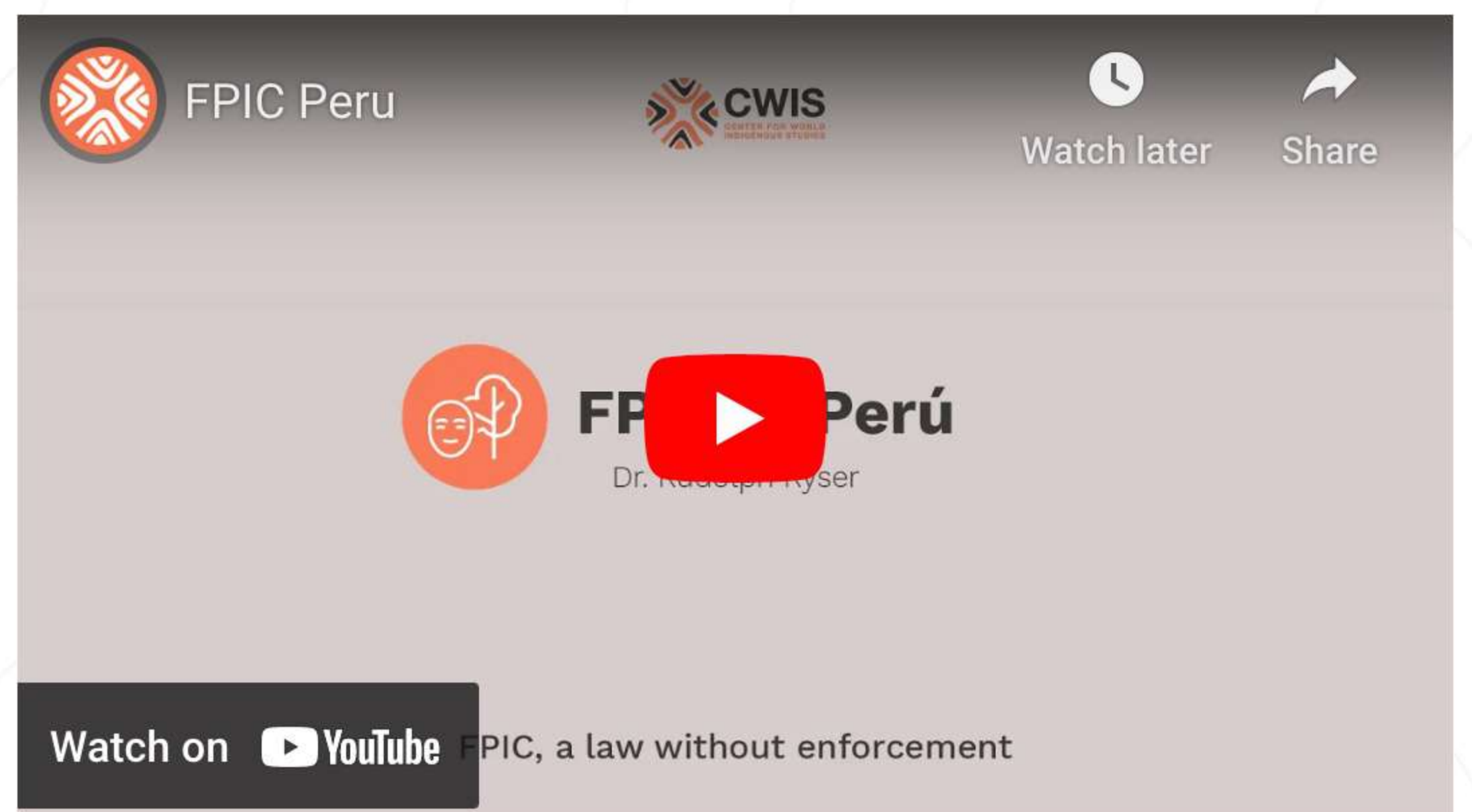
Jurado Indígena

Dr. Fukurai explains how an indigenous jury in Argentina helped the Mapuche nation see their rights respected.



Ring of Fire

Sabina Sing, PhD, talks about a new mining venture in the ring of fire and its consequences for the original nations there.



FPIC in Perú

Dr. Rudolph Rysler illustrates a case where FPIC was used successfully to win a case in a state court, but it was nevertheless not enforced.

[Submit your Story](#)

Let's connect

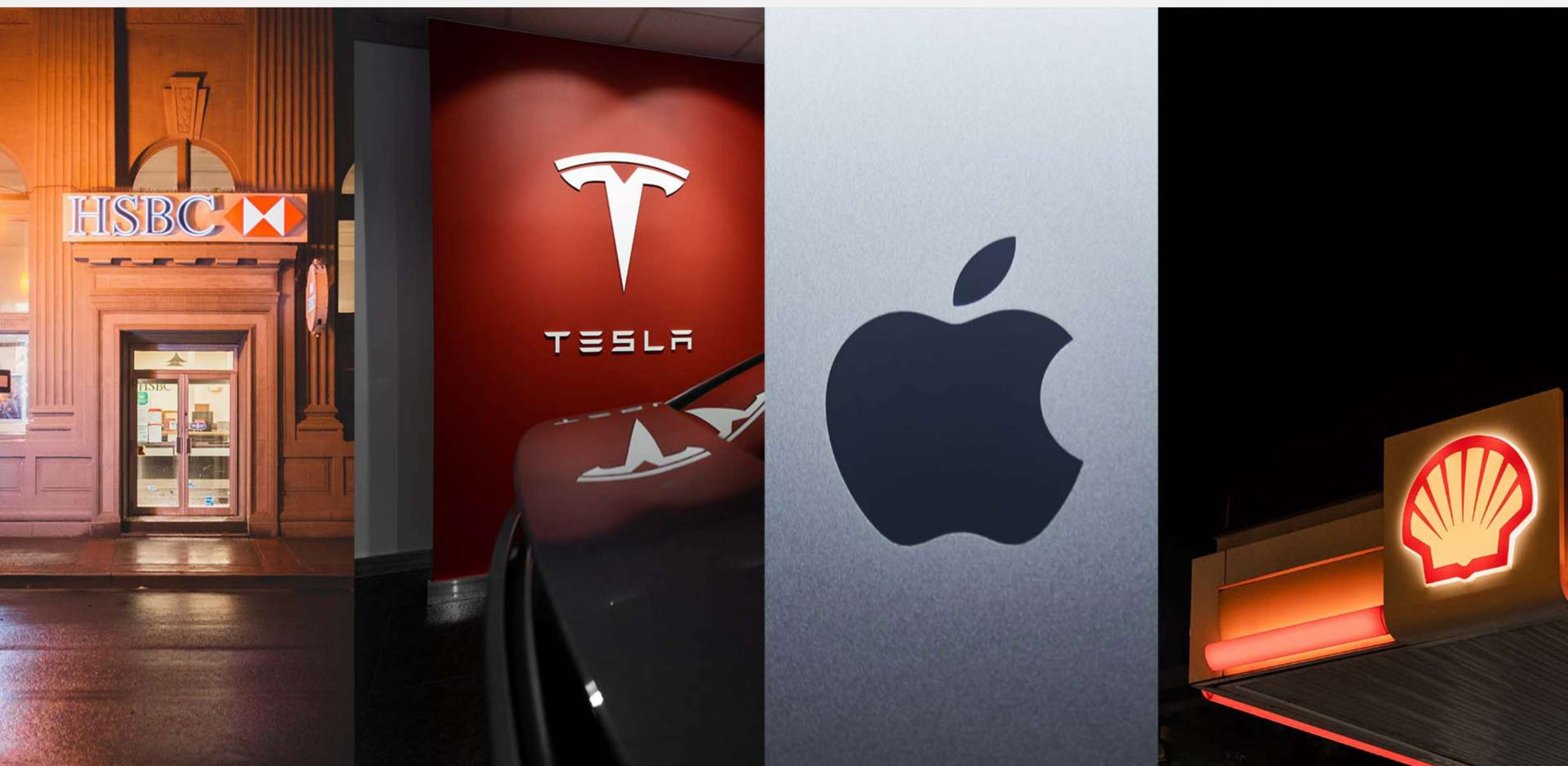
You can use this forum to leave a comment. Tell us your situation, connect to others, share your social media profile.... connecting benefits everyone!

[Go to Forum](#)



Follow Us     

[Subscribe to Newsletter](#)



Who benefits from extractive industries?

Finding the exact names of the people who will benefit from an extractive industry on our lands is not simple.

In general, mining companies are intertwined in many geopolitical power games. We may be dealing with the state, a private company, or a private company financed by the state, banks, other companies, or even single (very rich) people.

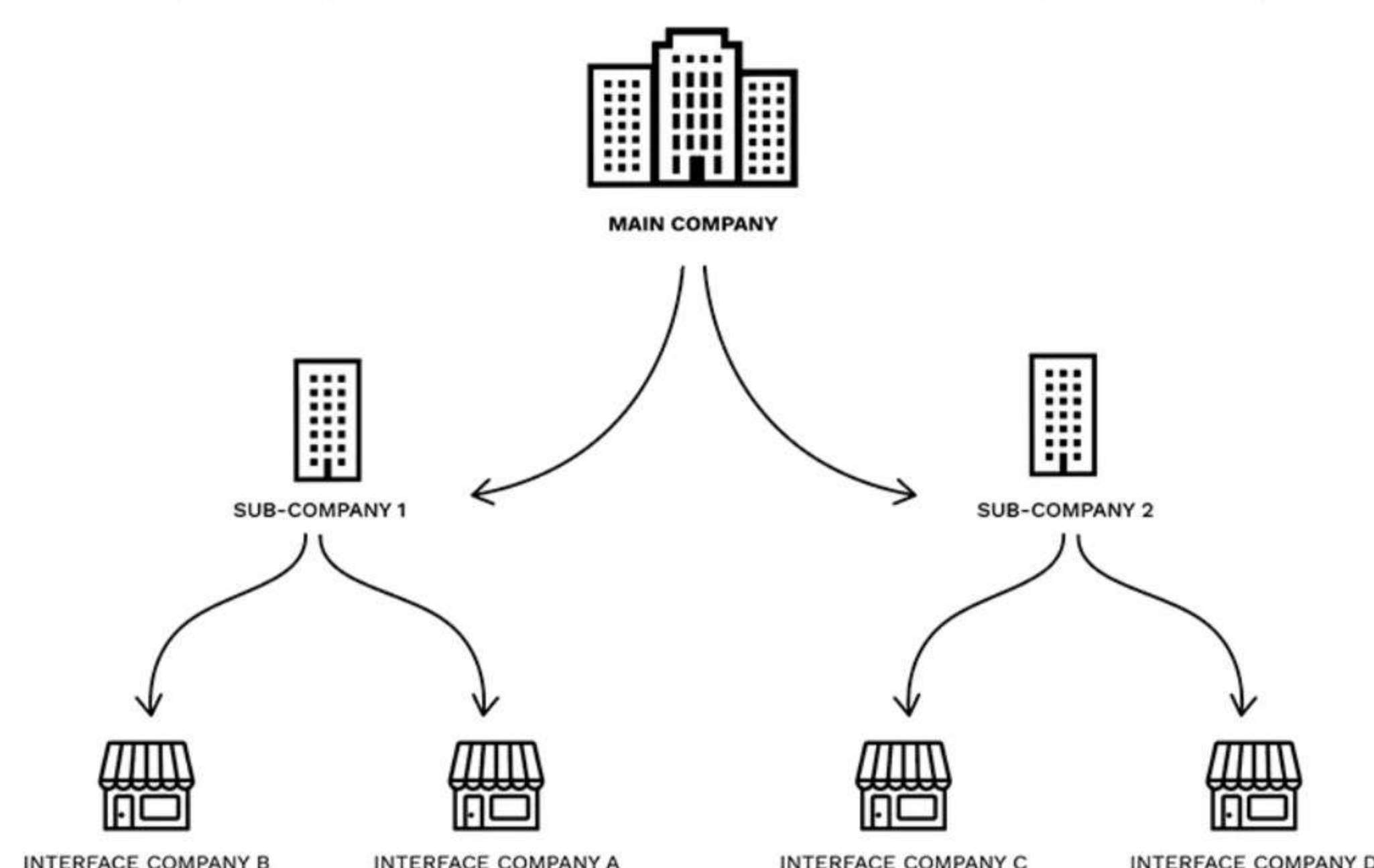
TIPS

- Make sure official negotiations follow the community's traditional process, appeal to the right of free, prior and informed consent, and think of ways of blocking access to your territory.
- Depending on the materials they are interested in, look up the major world companies that deal with those materials and see if some of the shareholders match the company that approached you. If so, the money will go straight up to them.
- Connect with neighbors and see if they have also been contacted and at on what terms.

So how to know who you are speaking with?

A single person or a small team will usually contact us. These people may work for the actual company or an interface company (front company) made specifically for the occasion.

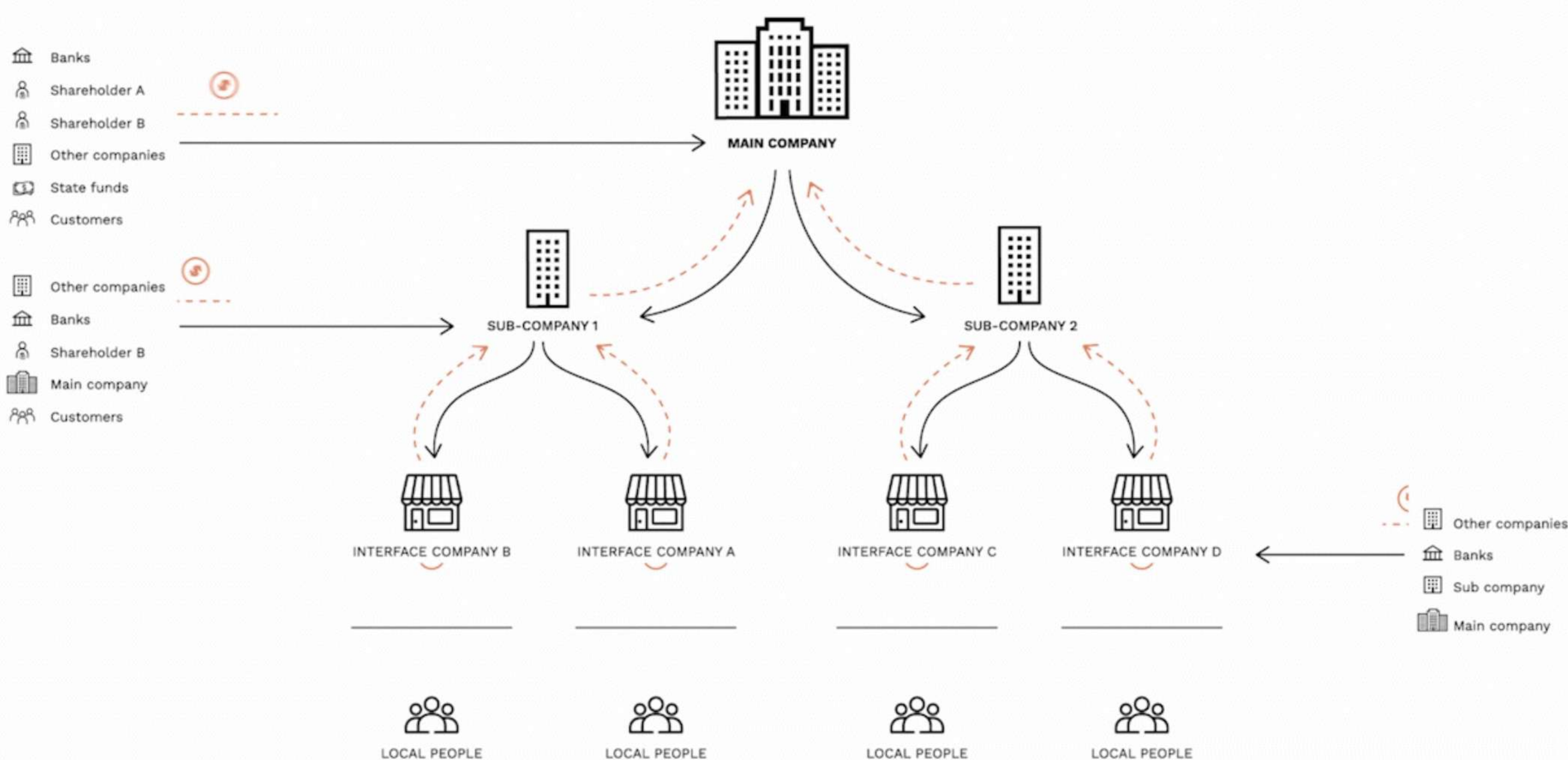
Why does this happen? If there are problems, having an interface company in place acts as a buffer for the actual company and makes it harder for us to harm the company's reputation or hold it accountable.



So, where does the money go?

No matter how much a company offers us, most of the profits will not stay in our community but will go into the company (and its board members!). Other beneficiaries may be investors, fellow companies, international institutions, and lobbyists.

It's important to note that the people who use the products produced from the extracted raw materials will pay money to use them, so neither are they the biggest beneficiaries of this production chain. In fact, sometimes you may find consumers are allies. For example, the [Right to Repair consumerist movement](#) is currently fighting battles that could positively influence how industries consume natural resources.



And what about organized crime?

It may be because a company encourages violence, because the state supports it, or because other communities prioritize their interests; still, organized crime and violence connected to extractive industries will increase wherever extraction happens.

Watch this interview of Dr. Ryser to learn more about it.

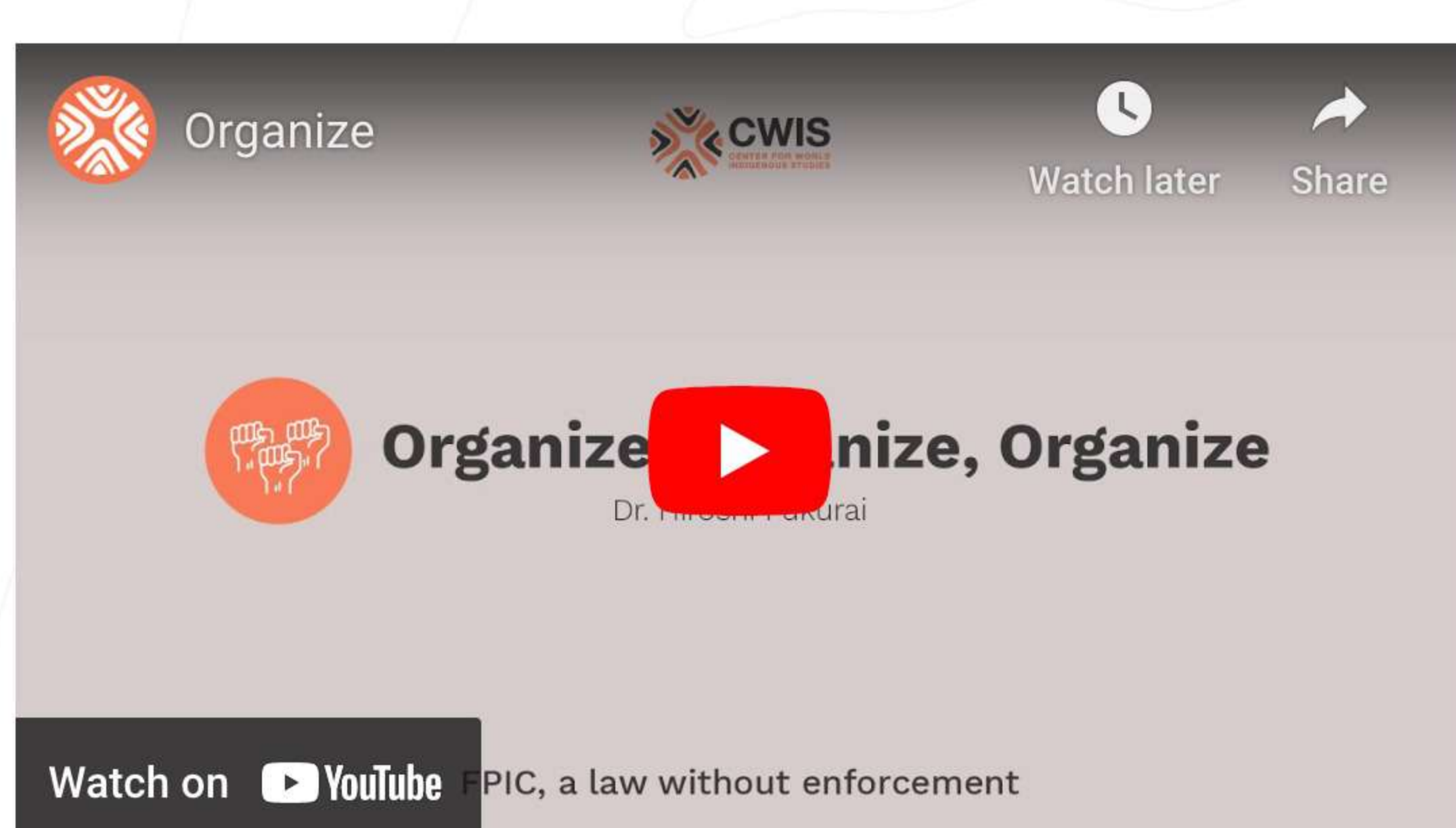


Follow Us

[Subscribe to Newsletter](#)



Take Action

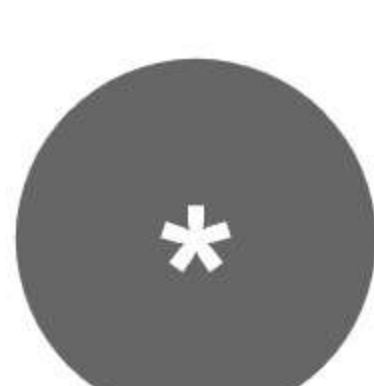


What can we do for the law to be respected?

We have gathered some strategies that have proved to be successful so far, but there is no magic trick. Ultimately, we need to fight for the enforcement of FPIC, but in the meantime, depending on who you are and where you live, these may be some helpful tips:



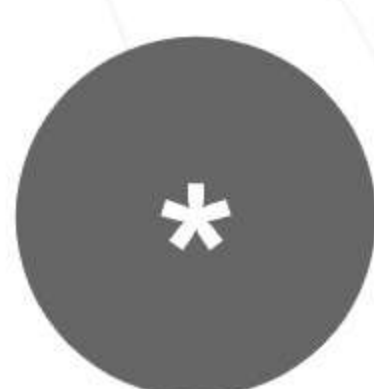
Close access to your territories:
If you live in a community with just a few roads, barricade them closed and monitor who is coming in. This proved to be an effective strategy during Covid.



Connect to others in your situation:
Connect with your neighbors, with people on the other side of the world that have the same problem as you, and with environmental, labor, and social justice activist movements. Many people are trying to come to terms with these issues!



Court cases:
Although courts should be where these issues get settled, we must consider some practicalities when pursuing this path.
[Read More](#)



Protest:
Make noise and force a public discussion about our issues. It's easy for others to take over our communities when we are silent, or there is no public pushback. Remember, these people value their image..



M. Demond gives some suggestions on how to prepare a case and use the "public shame" strategy.

What should you do if a company approaches you?

Don't accept anything outside of official negotiations. Don't accept money or valuables they may offer. It's bribery. Involve your community and speak together about it through our traditional governance systems.

Look for technical advice, both legal and environmental. Don't accept the facts claimed by the company; seek independent help. Connecting with others will help us choose the best options. Reach out to organizations that have dealt with this in the past for advice.

Beware, it's going to be a long process. It could take years to settle such disputes.

Make sure company or government representatives speak with the people who hold power in our communities. Please don't allow them to choose who they will talk with, respect our indigenous decision-making processes!

How do negotiations work?

Even if we are against all activity on our land, the state will still require negotiations to settle the dispute.

If we can't agree, we must consider involving a third party in the negotiation process. This entity can be a non-governmental organization (NGO) or another actor that will help mediate between the corporation and us.

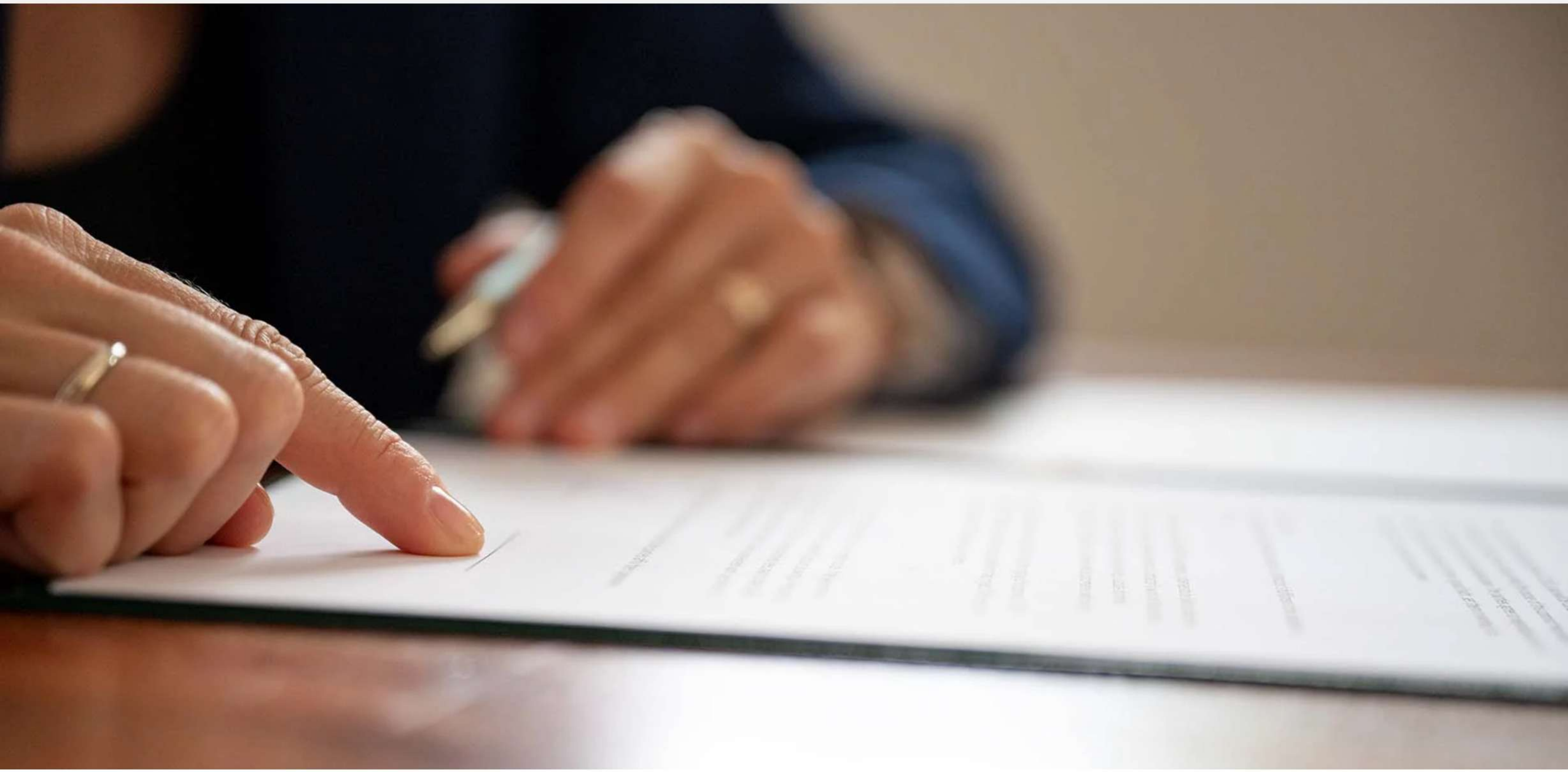
Ensure they provide all documents in a language understandable by our community.

Remember: you have the right to say no!

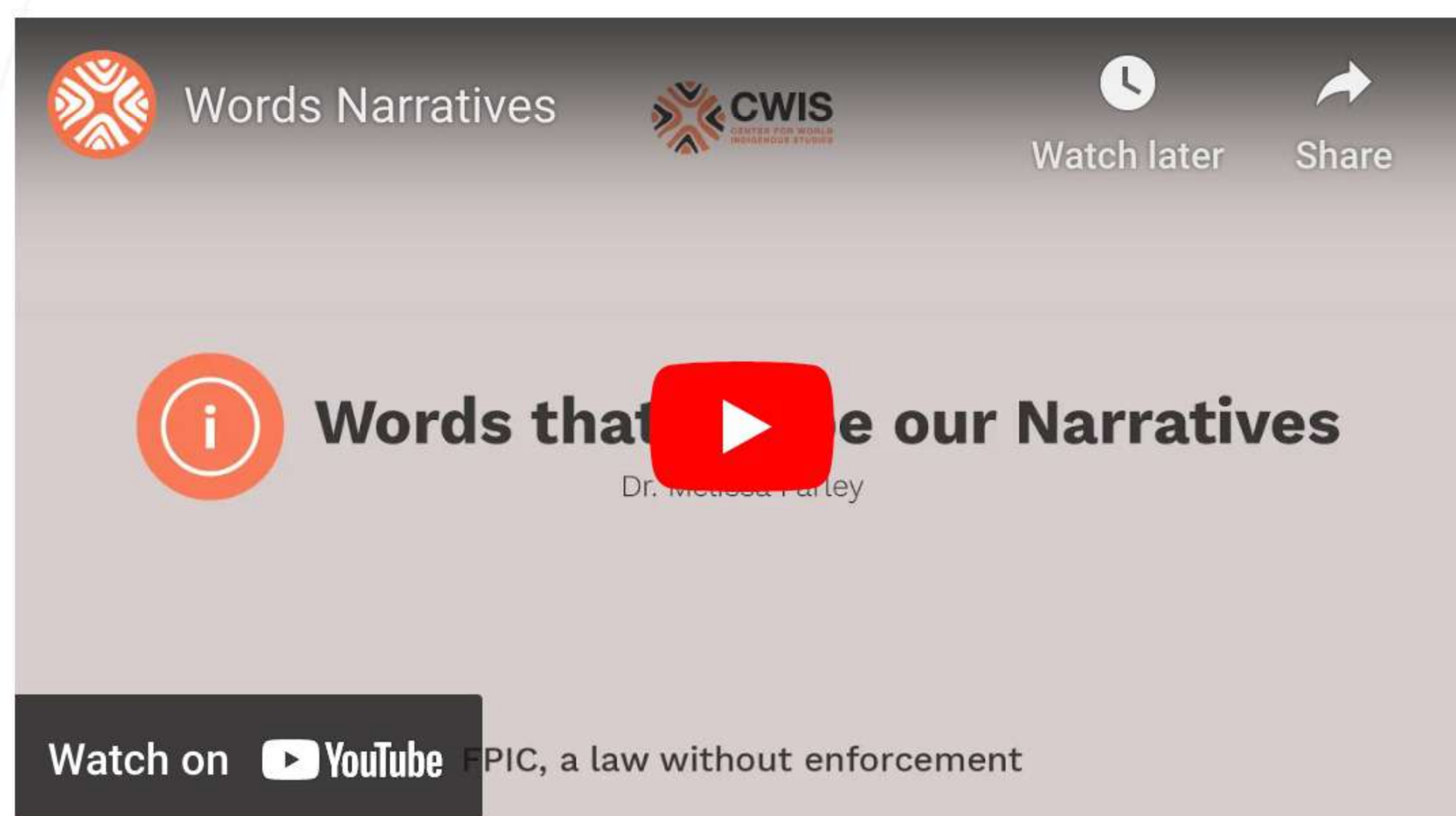
Dr. Rudolph Ryser speaking about how negotiations work

In the following videos, Dr. Rudolph Ryser explains the necessity for regulating the negotiation process and gives tips on approaching it without a regulating mechanism.





Sovereignty and Indigenous People



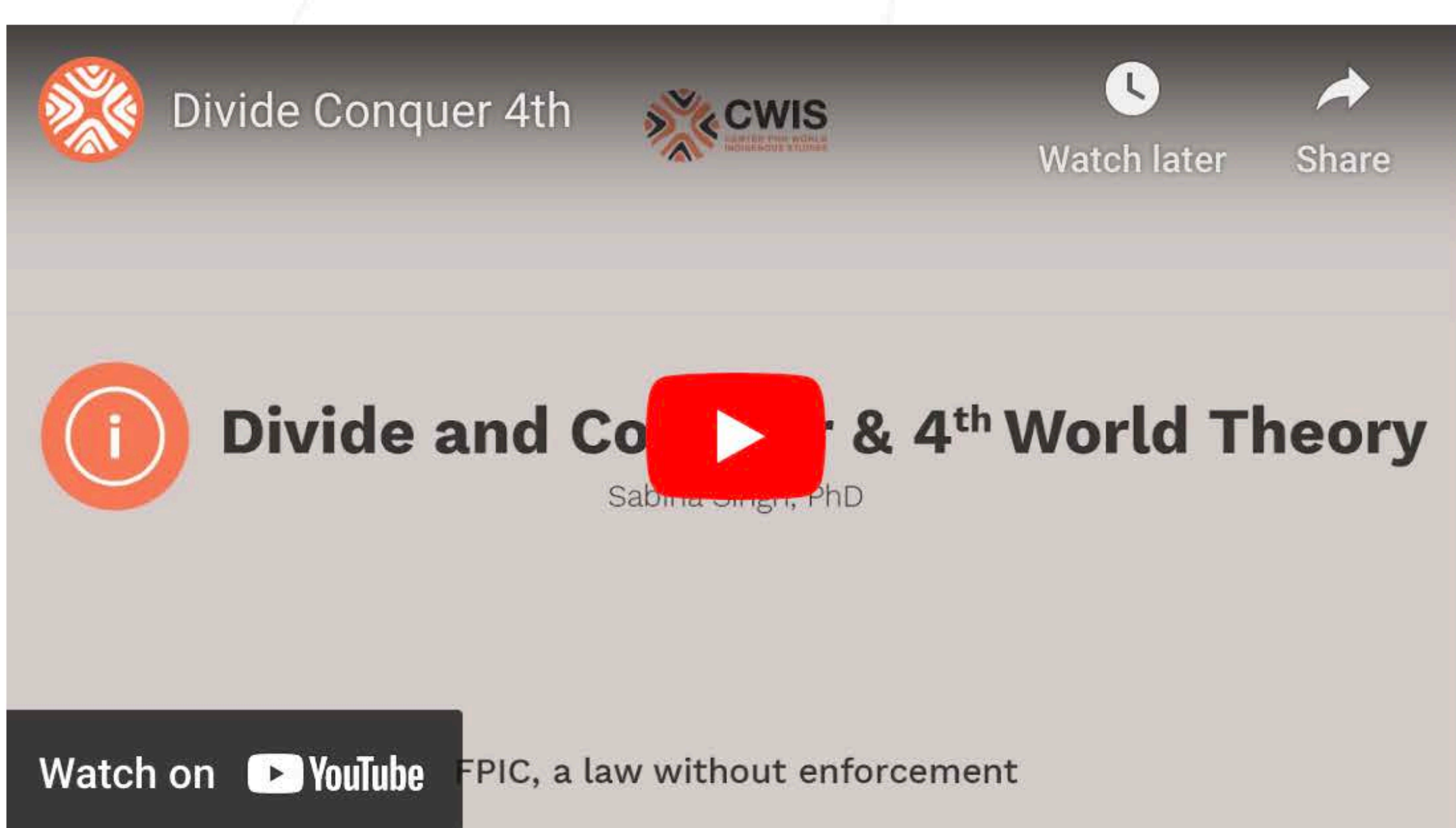
Words that shape our narrative.

The **words** we use **shape** the **reality** to which we see and subject ourselves. Companies, states, and organizations often hide behind words, using **terms** that **make it seem** like what they do is **different** than what it is.



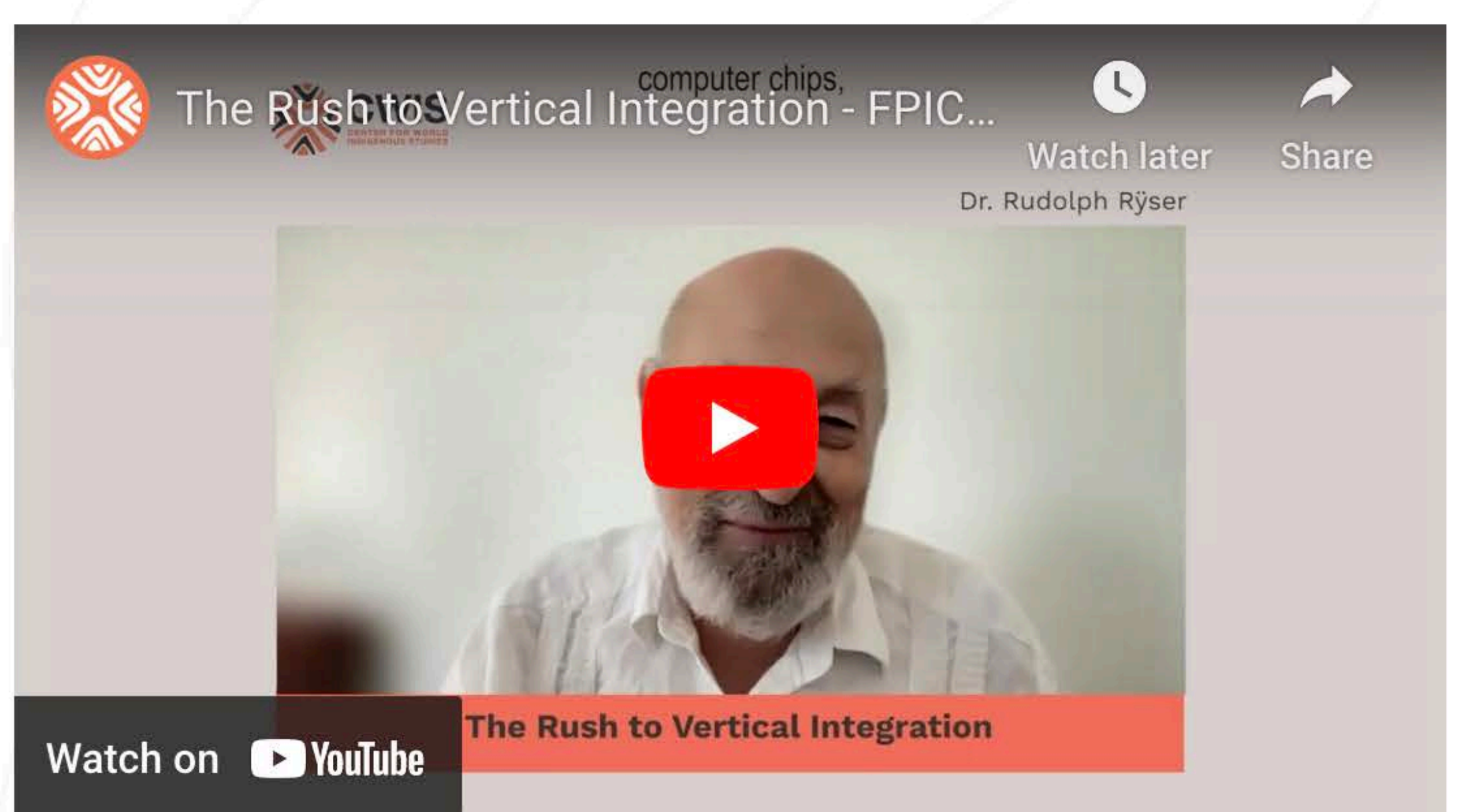
What is sovereignty?

Sovereignty is the absolute power an entity or a person has over a land and its people. Sovereignty is vital to understand because it is what states claim to justify their right to make decisions on their claimed territory. When a nation tries to stop something from happening on its territory, it challenges the state's sovereignty. Most of our struggles are rooted in this fundamental contradiction.



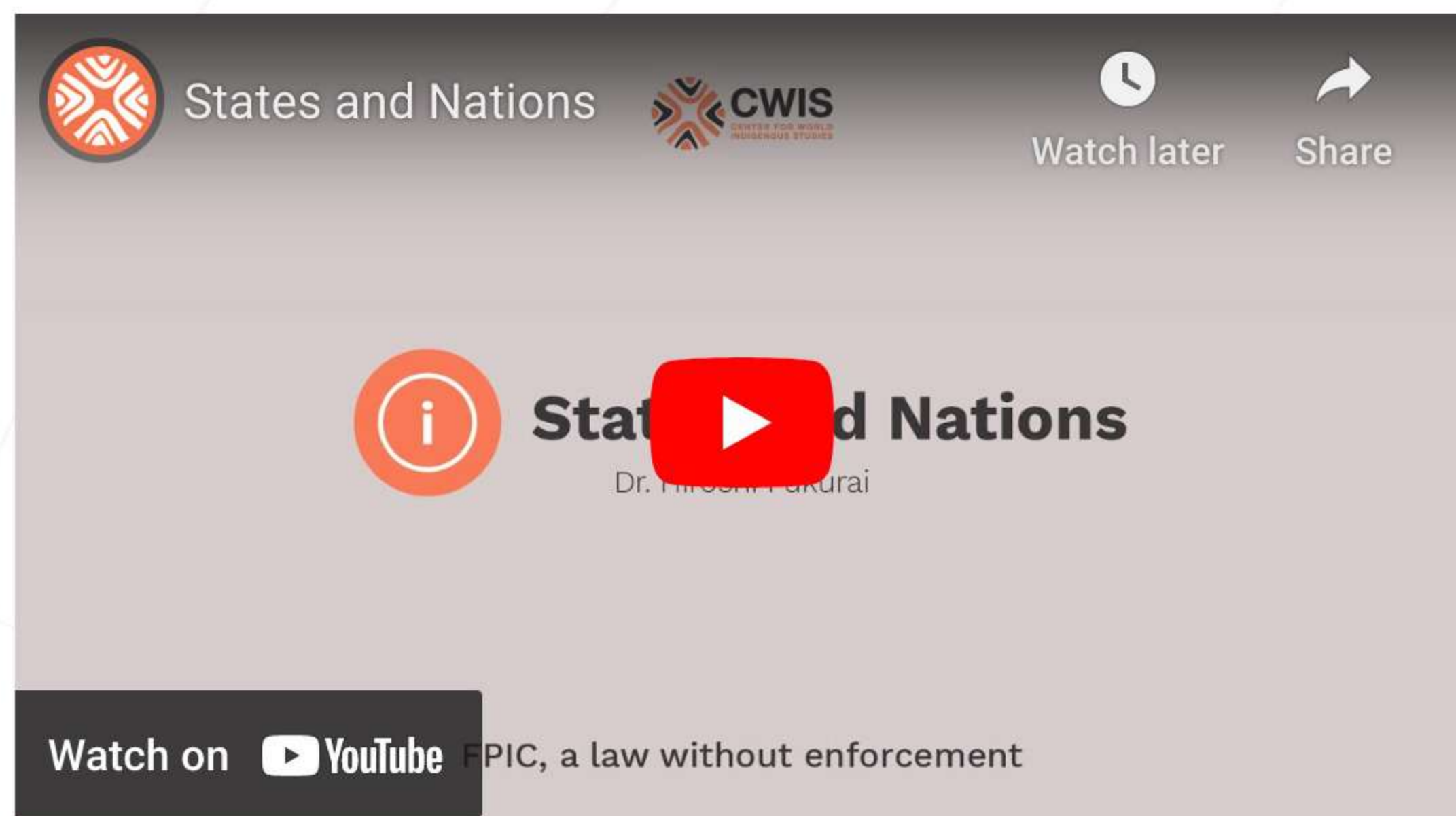
What is "divide and conquer"?

Divide and conquer is a tactic colonizers use to take over indigenous lands. By creating conflicts within and between our communities, colonizers can more easily infiltrate our decision-making processes and get what they want. It is a common tactic that, if successful, prevents us from aligning with each other and pursuing the same goals.



What is vertical integration?

Vertical integration is a business strategy through which one company expands into different sectors of the same production chain. For example, instead of a company only mining for lithium, they would also own a refinery and a company to assemble a battery. An example of such a company is [the Chinese company Shenhua](#).

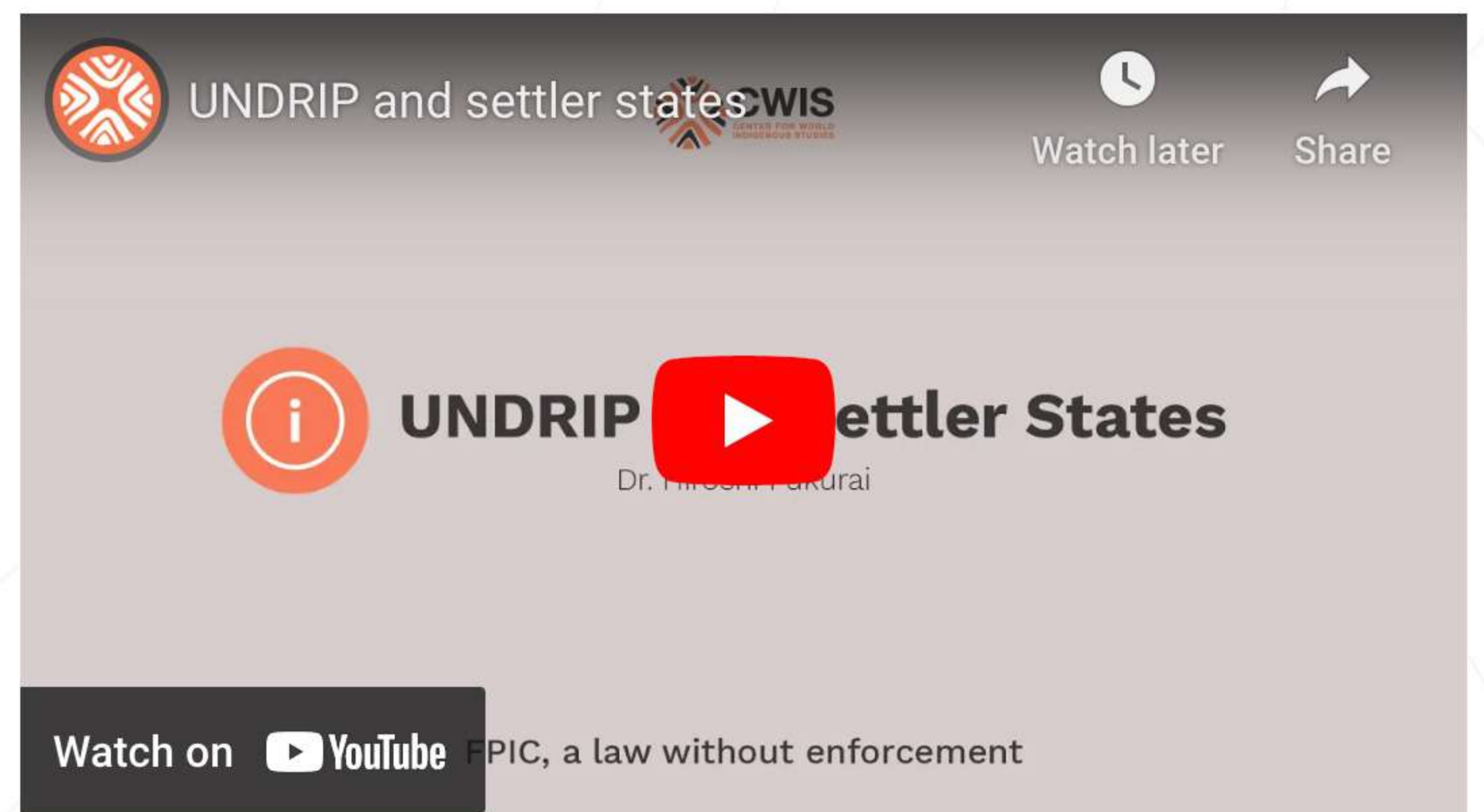


What is the difference between a nation and a state?

A nation is a group of people with common origins and culture, who live on a land and aim at passing on their culture to future generations. A state is a legal construction, originated in 16th century Europe. Unlike nations, states can be created and dismantled.

In order for a state to be considered a state it has to have all these characteristics:

- It must claim central government within its borders;
- It needs to exercise universal law;
- It needs to claim power of the people;
- It needs to be recognised by other states.
- It claims a monopoly on the use of violence.



What do I need to know about UNDRIP?

Although the United Nations Declaration on the right of Indigenous Peoples (UNDRIP) is a milestone of Indigenous Peoples' rights, it has one big downside: States are not obliged to enforce it. This means that although they may have signed the document at the United Nations, nobody will punish them if they don't respect what it says. Because of this, UNDRIP's efficiency has been continually compromised by the US, Canada, New Zealand, and Russia — the same states were also the most prominent opponents to the passage of UNDRIP by the United Nations.

What are "indigenous people" in state law? +

Inherited rights vs legal rights, what's there to know? +

What is development? +

What is the importance of enforcement? +

Is FPIC the only framework which is not respected by companies and States? +

If you have other questions you would like to see featured on here, contact us and let us know!

[Go to Forum](#)



Follow Us 

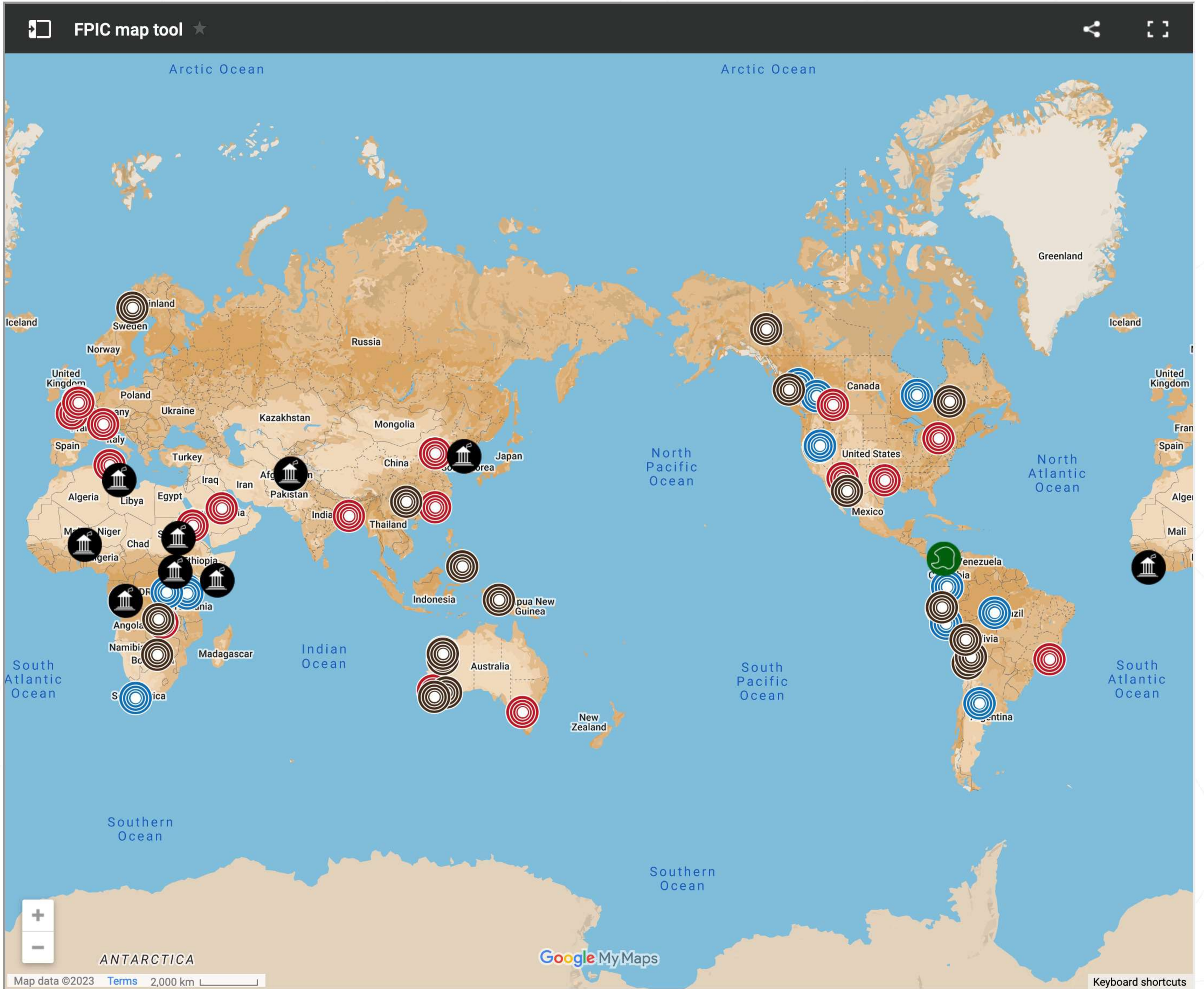
[Subscribe to Newsletter](#)

Find out what's happening

On this map you will find information about States, mining sites, industries and stories from people on the ground.

By roaming it, you may discover **connections with your neighbors**, or from **people who live far away from you**. You may find that someone is fighting a battle against a company you are also involved with, or you can gather some information on **where companies are headquartered** and organized.

Connections with people are good at any point of the production chain. If a community is making a point for a healthy living standard, a worker union may be fighting for better conditions.



Map Key

- Black:** Stats about States.
- Red:** Headquarters of mining companies.
- Blue:** Stories from the people.
- Brown:** mining sites.

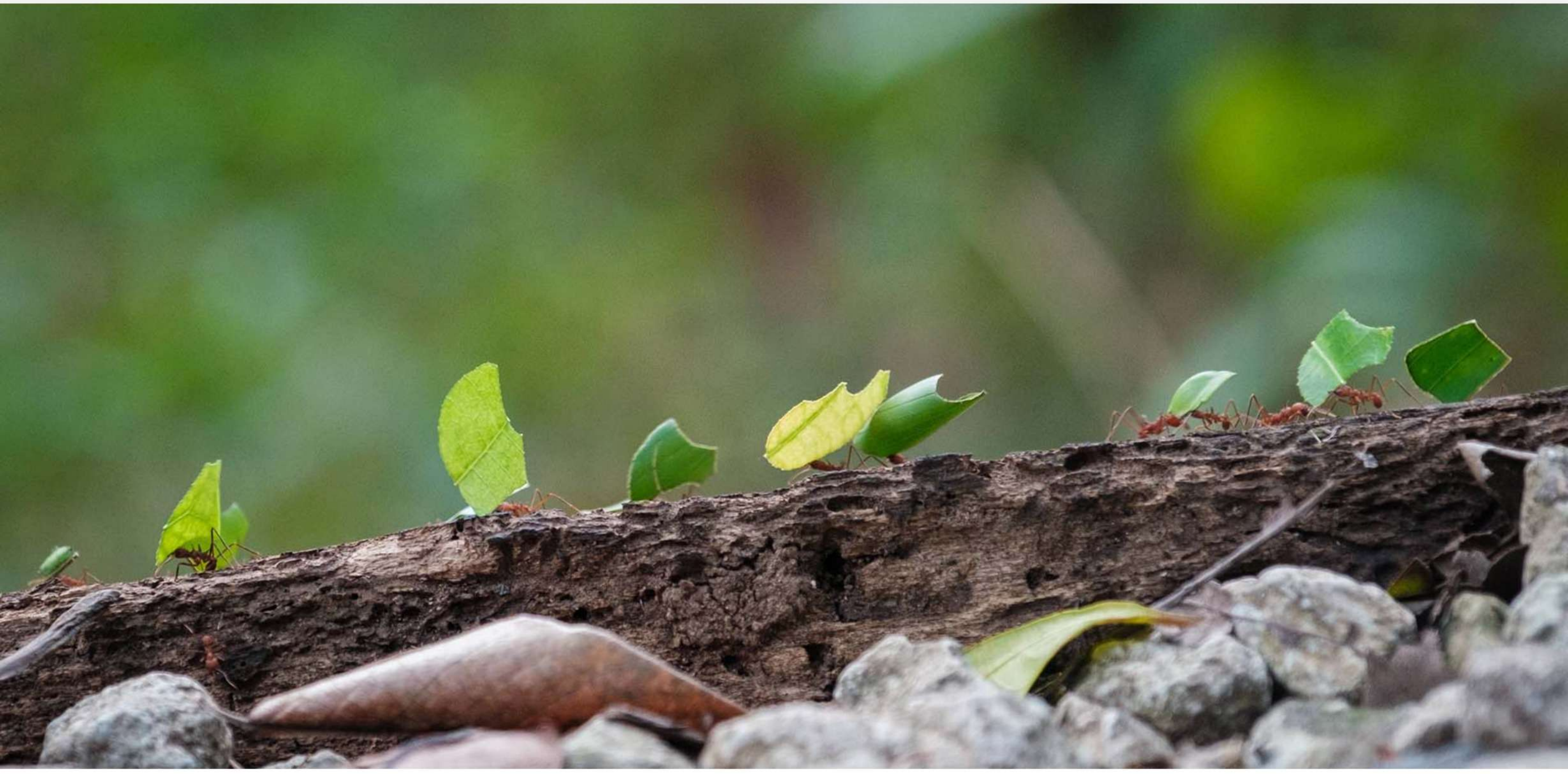
Although is a working in progress, we hope you will still find useful information, please contact us to improve it or leave a comment on the forum.

[Get in touch with us!](#)



Follow Us     

[Subscribe to Newsletter](#)



What Is ALDMEM?

ALDMEM is the acronym for **ancestral lands decolonization, monitoring, and enforcement mechanism**.

It is a work-in-progress mechanism to actualize the enforcement of free, prior, and informed consent.

It's a **response to the enforcement problems** addressed in this platform. It results from a joint effort between the Center for World Indigenous Studies (CWIS) and the National Congress of American Indians (NCAI).

Mission

To **facilitate the negotiation of agreements** between nations and parties seeking to establish policies, take actions affecting land and communities, and others who seek access to ancestral territories for the purpose of using or extracting resources for outside benefit.

Goals

- **Register nation, state, corporate, and purchaser parties seeking to socially, economically, environmentally, or culturally use or extract resources from ancestral territories.**
- **Monitor existing territorial occupations** and respond to requests for mediation between indigenous nations and other parties.
- **Facilitate Third Party Guarantor** participation in negotiations as an active party with a mutually determined role as monitor and enforcer of the final agreements.
- **Notify prospective parties** of the mediation and negotiation framework for establishing amicable relations between parties and offer venues for engagement.
- **Facilitate communications about customary governance** of nations, structure of corporate, state and purchaser systems.
- **Facilitate communications, translation, and customary languages** to maximize understanding of engagement between parties.
- **Conduct Public Affairs communications** in symposiums, public media releases, public conferences, and documentary releases.

How it works

Nations, States, organizations, and corporations will be able to independently join the mechanism.

- **Register nation, state, corporate, and purchaser parties seeking to socially, economically, environmentally, or culturally use or extract resources from ancestral territories.**
- **Monitor existing territorial occupations** and respond to requests for mediation between indigenous nations and other parties.
- **Facilitate Third Party Guarantor** participation in negotiations as an active party with a mutually determined role as monitor and enforcer of the final agreements.
- **Notify prospective parties** of the mediation and negotiation framework for establishing amicable relations between parties and offer venues for engagement.
- **Facilitate communications about customary governance** of nations, structure of corporate, state and purchaser systems.
- **Facilitate communications, translation, and customary languages** to maximize understanding of engagement between parties.
- **Conduct Public Affairs communications** in symposiums, public media releases, public conferences, and documentary releases.

How it works

Nations, States, organizations, and corporations will be able to independently join the mechanism.

- **Register nation, state, corporate, and purchaser parties seeking to socially, economically, environmentally, or culturally use or extract resources from ancestral territories.**
- **Monitor existing territorial occupations** and respond to requests for mediation between indigenous nations and other parties.
- **Facilitate Third Party Guarantor** participation in negotiations as an active party with a mutually determined role as monitor and enforcer of the final agreements.
- **Notify prospective parties** of the mediation and negotiation framework for establishing amicable relations between parties and offer venues for engagement.
- **Facilitate communications about customary governance** of nations, structure of corporate, state and purchaser systems.
- **Facilitate communications, translation, and customary languages** to maximize understanding of engagement between parties.
- **Conduct Public Affairs communications** in symposiums, public media releases, public conferences, and documentary releases.

How it works

Nations, States, organizations, and corporations will be able to independently join the mechanism.

- **Register nation, state, corporate, and purchaser parties seeking to socially, economically, environmentally, or culturally use or extract resources from ancestral territories.**
- **Monitor existing territorial occupations** and respond to requests for mediation between indigenous nations and other parties.
- **Facilitate Third Party Guarantor** participation in negotiations as an active party with a mutually determined role as monitor and enforcer of the final agreements.
- **Notify prospective parties** of the mediation and negotiation framework for establishing amicable relations between parties and offer venues for engagement.
- **Facilitate communications about customary governance** of nations, structure of corporate, state and purchaser systems.
- **Facilitate communications about customary governance** of nations, structure of corporate, state and purchaser systems.
- **Facilitate communications, translation, and customary languages** to maximize understanding of engagement between parties.
- **Conduct Public Affairs communications** in symposiums, public media releases, public conferences, and documentary releases.

How it works

Nations, States, organizations, and corporations will be able to independently join the mechanism.

- **Facilitate communications about customary governance** of nations, structure of corporate, state and purchaser systems.
- **Facilitate communications, translation, and customary languages** to maximize understanding of engagement between parties.
- **Conduct Public Affairs communications** in symposiums, public media releases, public conferences, and documentary releases.