

**Making the Financial Case for Human & Indigenous Rights**  
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First Peoples Worldwide's [Indigenous Rights Risk Report](#) addresses one main question - why should investors and shareholders care about human rights and Indigenous Peoples? The moral argument for honoring Indigenous Peoples' rights is clear, and over the last few decades, legal rights have increased considerably with the passage and adoption of the International Labor Organization Convention 169 (ILO 169) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Yet, the reality is that morality alone does not force companies, governments, and non-governmental organizations to act in a manner that respects Indigenous Peoples' human and collective rights. However, financial incentives and penalties do. Events over the last decade have proven that companies that fail to respect Indigenous Peoples' human rights have a higher risk of protests, negative press, work stoppages, shutdowns, and lawsuits – all of which have a material impact on profits and share prices. As this article will discuss later, philanthropy can play an important role in this process.

First Peoples' Indigenous Rights Risk Report offers a financial analysis of the risks to investors and shareholders when companies fail to honor Indigenous rights. The report analyzes 52 U.S.-based extractive companies listed on the Russell 1000® Index and assesses 370 oil, gas, and mining sites located on or near Indigenous land around the world. The results are eye-opening. 92% of the sites posed a medium to high risk to shareholders. This is particularly concerning given that only five of the 52 companies had a policy for productively engaging Indigenous communities, leaving shareholders exposed to considerable risk.



One of the companies First Peoples assessed was Southwestern Energy, which stock analysts characterized as "a great long-term investment" and "a low political risk company" on October 6, 2013. Less than two weeks later, on October 17, the Royal Canadian Mounted Police (RCMP) arrested about 40 Elsipogtog and Mi'kmaq First Nations tribal members and activists, using rubber bullets and pepper spray. Since June, the protestors had been blockading the road to SWN Resources Canada, a subsidiary of Southwestern Energy. Southwestern Energy had requested "a permanent injunction to prevent protests against its bid to explore for gas," claiming the blockade was costing them \$60,000 a day. The injunction was denied on October 22.

Given such a rosy stock forecast in the face of these troubling events, are traditional approaches to assessing the risk of extractive operations on or near Indigenous land relevant anymore? First Peoples does not think so and, in its report, has proposed a new risk assessment tool.

In the report, First Peoples rated the above-mentioned Southwestern Energy site a high risk. "Traditional financial analysis is no longer enough to predict the risk of an oil, gas, or mineral site that is on or near Indigenous land," says Nick Pelosi, First Peoples' Corporate Engagement Associate. "The risk of not respecting Indigenous Peoples' rights must be considered for an accurate risk assessment."

Southwestern Energy is not alone. Nearly all of the companies in the study had a medium- to high-risk profile. Of companies with over ten sites operating on or near Indigenous land (25% of the report's sample), 92% had at least one high-risk site and 23% had over five high-risk sites. With so few companies implementing Indigenous Peoples policies, the vast majority are flying blind when it comes to operating on Indigenous land, thus exposing their investors and shareholders to incredible risk.

The risk of not respecting Indigenous Peoples' rights will only increase. First Peoples President and Co-founder Rebecca Adamson forecasts a confluence of events that will make the extraction of oil, gas and minerals from Indigenous land riskier in the future. "First, Indigenous Peoples have more rights enshrined at the international and national level, and are exercising them more effectively than ever before. Second, as extractive industries search the globe for oil, gas, and minerals, they are finding them increasingly on or near Indigenous land. And third, digital media is allowing Indigenous Peoples and their allies to access and share information more easily, giving them the ability to tell their story and conduct advocacy campaigns on a global scale that can directly impact the profitability and value of a company."

It is therefore critical for investors and shareholders to have access to unbiased information about and from Indigenous Peoples to enable sound investment decisions. First Peoples hope their report will be a risk analysis tool for investors and shareholders as they assess challenges within the extractive industry. It can also act as a platform for Indigenous Peoples and investors to collaborate on shareholder action campaigns and drive the policy changes companies need to make in order to respect Indigenous Peoples' rights and maximize shareholder returns.

What is the role of grantmakers? A great entry point is to fund projects that help Indigenous Peoples make their own decisions. Self-governance, for instance, is a critical area in need of funding. In 2013, First Peoples received a \$1 million grant from Royal Dutch Shell to strengthen the self-governance of Indigenous Peoples located near Shell operations. The grant allowed Indigenous Peoples to organize, identify both modern and traditional government practices within their communities, and put together clear processes for how to reach consensus and better negotiate with governments, NGOs, and companies, including Shell themselves. The project not only built the indigenous community's capacity but also allowed Shell to engage more effectively and mitigate the risks associated with their operations. Self-governance support can even the playing field for communities across the globe that often find themselves overwhelmed and out-lawyered by large extractive companies.

Another opportunity for funders is the identification and mapping of Indigenous borders and assets. Indigenous communities that can clearly show their borders and the resource, traditional and spiritual assets on their land stand a much better chance at the negotiating table and in the court room. First Peoples' Keepers of the Earth Fund awarded a grant to the Foundation for the Sustainable Development of Altai to help the Todzhi Peoples inventory their spring waters, sacred forests, ritual places, mountains, and mineral deposits excavated by industrial companies. The research conducted by Todzhi Peoples was provided to the Todzhi elders and community, thus enabling them to better protect their traditional lands.

Grantmakers can also fund legal capacity-building in Indigenous Communities, allowing them to better understand contracts, negotiate better deals, and defend themselves in courts of law. For example, the Lumad of Mindanao, Philippines, inhabit land that has become a target for mining companies seeking gold and copper reserves. Lumad leaders who oppose the mining project have faced harassment and violence from the companies and from the Philippine Army. First Peoples awarded a grant to help the Lumad organize consultations, paralegal and leadership skills trainings, and lobbying events to voice

their concerns to both the government and mining corporations. The grantee, alugpongan sa mga Lumad sa Halayong Habagatang Mindanao, will prepare materials and forums to educate the Lumad population on the possible effects of large-scale mining on their land.

First Peoples funds communities directly whenever possible, rather than working through intermediary organizations. Working directly with Indigenous communities, grantmakers not only fund a project but build the internal capacity of Indigenous Peoples' organizations and their communities. Through support in the areas of self-governance, border and asset mapping, and legal negotiations, grantmakers can provide invaluable tools to Indigenous communities defending their human and collective rights and help mitigate the risks associated with extractive industries.

*To learn more, visit [www.firstpeoples.org](http://www.firstpeoples.org) or contact Neva Morrison at [nmorrison@firstpeoples.org](mailto:nmorrison@firstpeoples.org).*