BAGUIO CITY, Philippines (September 18) – In Myanmar (formerly Burma), protests over land confiscations for the Letpadaung Copper Mine have led to a string of violent actions by state forces against peaceful protests. The most serious happened on 29 November 2012 when the police set fire to and destroyed six protest camps housing up to 500 monks and 50 farmers.
Despite the government creating the Letpadaung Investigation Commission, led by Aung Suu Kyi, protests continue as do the arrests of protesters.

In Uganda, employees of East Africa Mining arrived in local communities accompanied by soldiers before the company had met and consulted the communities. This had sown fear and confusion among the communities as the company had no attempt to secure the “free, prior and informed consent” (FPIC) of the communities to mine in their communal land.

In their 2009 submission to the UN Committee on the Elimination of Racial Discrimination (CERD), the Philippines indigenous communities raised their concerns in relation to widespread militarization and violent repression of opposition to mining. This is a “systematic practice” across Asia, reported the UN Special Rapporteur on the Rights of Indigenous Peoples in 2013.

These three cases are just among the various incidents in different indigenous territories worldwide two authors of a new book have cited as they reviewed and assessed the present state of play of the extractive industry in relation to indigenous peoples.

Despite a slowdown in the extractive industry sector following the 2007 global financial crash, the industry’s subsectors—particularly unconventional energy (such as natural gas) and resources such as nickel and copper—continue to rebound, according to the new book, also citing emerging players like China joining the big league of Europe, U.S. and Canada.

The continuing and growing demand for metals, fossil fuels and natural gas is expected to help contribute to more CO2 emissions and other environmental harms, particularly water sources, said the authors.

“Given the high correlation of indigenous territories and subsoil resources, many of these projects will impact on indigenous peoples’ enjoyment of their rights,” said Dr. Cathal M. Doyle and Andrew Whitmore, co-authors of the soon-to-be-launched *Indigenous Peoples and the Extractive Sector: Towards a Rights-Respecting Engagement*.

The authors are thus proposing an international extractive industry governance regime aimed at monitoring and regulating extractive industry operations, including those in indigenous peoples’ territories.

“Such regime should be founded on human rights and sustainable development principles,” said the book.

Both authors, who have extensively studied and wrote about indigenous peoples and the extractive sector in various parts worldwide, were commissioned by Tebtebba (Indigenous Peoples International Centre for Policy Research and Education), a Philippine-based global organization concerned with indigenous
peoples’ rights and “self-determined” development.

The book will be launched September 24 in New York right after the September 22-23 World Conference on Indigenous Peoples or WCIP.

The proposed regime’s founding principles, said the authors, must include the required FPIC, respect for indigenous peoples’ self-governance and territorial rights as recognized in the UNDRIP, and indigenous peoples and customary laws and legal systems.

“The regime should have regional and national nodes, and operate under the auspices of the United Nations human rights system and national human rights institutions, and would guarantee indigenous peoples effective participation in oversight of the sector,” said the authors.

Part of the regime’s oversight role would involve a grievance mechanism with powers to adjudicate on disputes involving State or corporate actors, which fail to adhere with indigenous rights.

The regime would duly consider four elements:

• Legacy issues pertaining to extractive operations in indigenous territories and the extent and nature of compensation to provided by the industry;

• Harmonizing existing international trade and investment agreements related to the extractive sector with indigenous rights and effective indigenous participation so as to guarantee that future negotiations of such agreements are based on the principles of self-determination and FPIC;

• Existing multilateral and stakeholder initiatives and standards such as the Extractive Industries Transparency Initiative (EITI), the Global Compact, the Organization for Economic Cooperation and Development (OECD) Guidelines on Multinational Enterprises, and the UN Guiding Principles on Business and Human Rights; and

• Establishing and resourcing a dedicated independently managed fund providing financial and technical support to indigenous peoples.

The authors’ push for an international extractive industry governance regime—which is directed at States, international
organizations, UN human rights mechanisms and corporations—is just one among other key recommendations.

Recently-appointed UN Special Rapporteur on the rights of indigenous peoples Victoria Tauli-Corpuz hailed the new book as timely, being launched in the wake of the WCIP when indigenous representatives worldwide would be engaging their governments on how their rights are being fulfilled.

“For an ever-growing number of indigenous peoples the (extractives) sector conjures up images of displaced communities, despoiled lands, desecrated sacred sites, depleted resources and destruction of livelihoods,” she wrote in the book’s foreword. “These historical and ongoing impacts underpin the widespread and sustained resistance of indigenous communities to extractive industry projects and their high degree of skepticism in relation to industry promises of responsible behavior.”

“If the book’s recommendations receive the attention they deserve by States and extractive corporations, then we will be one step closer to the prospect of genuine rights-based engagements with indigenous peoples finally becoming a tangible reality,” she said. “This is essential not only for the cultural and physical survival of indigenous peoples, but is also necessary to ensure inter-generational justice for all those whose future well-being depends on our legacy.” (Maurice Malanes/Tebtebba Indigenous Information Service)

About the authors:

Dr. Cathal M. Doyle is a member of the European Network on Indigenous Peoples (ENIP) and a research fellow with Middlesex University Business School where his doctoral thesis was entitled “Indigenous Peoples, Title to Territory, Rights and Resources: The Transformative Role of Free Prior and Informed Consent.” He has worked closely with indigenous peoples’ organizations in their engagement with the UN and the Organization for Economic Cooperation and Development (OECD) and was a member of the team providing technical assistance to Coordinadora Andina de Organizaciones Indigenas (CAOI) and the Asian Indigenous Peoples Pact (AIPP) in the context of the 2013 Forum on Business and Human Rights.

Andy Whitmore is currently working for Indigenous Peoples Links (PIPLinks) on research communications, and has undertaken graduate research on indigenous peoples’ rights at the Middlesex University. He is also the managing editor of the Mines and Communities website, and is currently co-chair of the London Mining Network. He has worked on the issues of mining and affected communities since becoming a founding member of the Minewatch collective in the 1980s. Since then, he has worked primarily on indigenous issues for, among others, Survival International, Central American Human Rights Committee and Minewatch.