

Request for a Thematic Hearing of the IACHR

during the

181st Period of Sessions

October 18th to 29th, 2021

on

Extractive Industries, Climate Justice, and Human Rights in the Caribbean

Submitted by:

Malene Alleyne, LL.B, LL.M

Founder and Executive Director

Freedom Imaginaries

St. Andrew, Jamaica

malene@freedomimaginaries.org

Esther Figueroa, PhD

St. Andrew, Jamaica

efigs@aol.com

Table of Contents

I.	Introduction.....	2
II.	Objectives and Format of the Hearing.....	3
III.	Context and Summary of Information to be Presented to the Commission	3
	<i>A. Context.....</i>	<i>3</i>
	<i>B. Impact of Extractive Industries on Climate Justice and ESCE Rights: Spotlight on Mining and Fossil Fuels</i>	<i>4</i>
	1. The Right to Life, Health and a Healthy Environment	4
	2. The Right to Food and Water.....	9
	3. The Right to Cultural Identity	11
	4. Communal Land Rights	13
	5. The Right to Freedom from Forced Displacement.....	16
	6. The Right to Equality and Non-Discrimination	17
	7. The Rights of Environmental Defenders.....	19
	8. The Rights of Nature	20
	<i>C. Non-Compliance with the State Obligation to Guarantee ESCE Rights.....</i>	<i>21</i>
	1. Few Caribbean States Recognize ESCE rights	22
	2. Environmental Impact Assessment Laws Do Not Meet International Standards	22
	3. Supervision and Monitoring Mechanisms are Weak	24
	4. Contingency Plans and Mitigation Measures are Not Always Implemented or Enforced.....	25
	<i>D. Non-Compliance with the State Obligation to Guarantee Procedural Environmental Rights</i>	<i>25</i>
	1. Access to Information	26
	2. Effective Participation: Free Prior and Informed Consultation and Consent.....	27
	3. Access to Remedies.....	28
	<i>E. Non-Compliance with the State Obligation to Guarantee Communal Land Rights.....</i>	<i>29</i>
	<i>F. Non-Compliance with Climate Change Obligations</i>	<i>30</i>
II.	Conclusion and Requests.....	30
IV.	Supporters of the Request	32
V.	Annexes	39

I. Introduction

Pursuant to Article 66 of the Rules of Procedure of the Inter-American Commission on Human Rights (“IACHR” or “Commission”), Malene Alleyne, human rights lawyer and Executive Director of Freedom Imaginaries, and Dr. Esther Figueroa, environmental activist, respectfully request a thematic hearing during the 181st period of sessions. The proposed hearing will address *Extractive Industries, Climate Justice, and Human Rights in the Caribbean*, with a focus on the economic, social, cultural and environmental (ESCE) rights of women, Indigenous Peoples, Afro-descendants and rural communities. This request is supported by the organizations and individuals listed in section IV.

The timeliness and urgency of this hearing cannot be overstated. In the past few years, there has been an alarming expansion in the nature and intensity of extractive activities in the Caribbean. This includes a shocking increase in fossil fuel extraction and an expansion of mining activities in ecologically sensitive areas and lands traditionally occupied by Indigenous Peoples and Afro-descendants. Despite community resistance, this expansion is being facilitated by non-transparent governance forms that routinely exclude affected communities from public participation, access to information, and access to remedy.

The cumulative environmental degradation caused by centuries of colonial and contemporary extraction now presents *existential* threats to the enjoyment of human rights, including ESCE rights, in the Caribbean. These threats include: the climate crisis that threatens the life of present and future generations; the destruction of biological diversity; pollution and the contamination of crucial ecosystems; the erosion of food and water security; and the devastation of rural livelihoods and traditional ways of being. The impact on Indigenous, Afro-descendent and rural communities is near apocalyptic given their dependency on the natural environment for physical and cultural survival. In Guyana, for example, gold mining operations are destroying forest cover and causing extreme mercury pollution in rivers traditionally used by Indigenous Peoples for food and drinking water. In Jamaica, the near 70-year old Bauxite-Alumina Industry has wiped out entire rural communities; destroyed prime agricultural lands; and contaminated rivers, causing fish kills that dislocate the livelihoods of fisherfolk. This is taking place in the context of a COVID-19 pandemic that is exacerbating poverty across the region.

The climate dimension of extraction is of existential concern in at least two respects. First, there is scientific consensus that dominant modes of extraction are aggravating the climate crisis, which disproportionately impacts the Caribbean given its extreme vulnerability to rising sea levels and natural disasters of increasing intensity. The recent expansion of fossil fuel extraction in the region has already caused an increase in greenhouse gas emissions, which contribute to climate change and undermine the enjoyment of human rights. Second, extraction is also destroying climate resilient livelihoods and the natural resources necessary to withstand climate departure scenarios. Without urgent action, extraction-related environmental degradation will nullify efforts to build climate resilience and undermine food and water security at a time when climate crisis threatens both.

The Commission, through its various mechanisms, has already expressed concern about the impact of extractive industries on ESCE rights and the grave threat that climate change poses to humanity.¹ However, the Commission has largely excluded the Caribbean Community (CARICOM) from equal treatment and consideration, generally and specifically on issues of extraction. This is evidenced by the disproportionately low number of hearings, press releases, and reports that deal with the CARICOM sub-region. Since 2018, for example, the Commission held as many as 313 hearings, but only 16 of these hearings addressed the

¹ See, e.g., IACHR, “[Indigenous peoples, Afro-descendent Communities, and Natural Resources: Human rights Protection in the Context of Extraction, Exploitation, and Development activities](#),” December 31, 2015; IACHR Press Release, “[IACHR Expresses Concern regarding Effects of Climate Change on Human Rights](#),” December 2, 2015.

human rights situation in CARICOM member states. Between 2011 and 2021, only one of the 30 country-specific press releases issued by the Commission dealt with a CARICOM member state. And since 1962, only 12 out of the 77 country reports published by the Commission covered CAIRCOM member states, and even then, the geographic representation was severely limited to Haiti (nine reports), Suriname (two reports), and Jamaica (one report). The Commission’s 2016 report on extractive industries could have played an important role in amplifying the perspectives of CARICOM populations who have been devastated by extraction, but none of the case studies in that report relate to CARICOM member states.² This lack of diversity and inclusion in the Commission’s work exacerbates the marginalization of affected communities in the region and creates a permissive environment for human rights violations to occur.

In light of the escalating human rights and climate crisis caused by extraction—and the exclusion experienced by affected Caribbean communities—we urge the Commission to commit its attention to this matter through the granting of a hearing on *Extractive Industries, Climate Justice, and Human Rights in the Caribbean* at its 181st Period of Sessions. This hearing will provide the Commission with a landmark opportunity to consider the issue of extraction on a regional scale, and to hear from affected communities and their civil society representatives about the impact on ESCE rights in the region. The hearing would also counteract the institutional marginalization that allows human rights violations in the Caribbean to continue with impunity.

II. Objectives and Format of the Hearing

The objectives of the hearing are to:

- Provide up-to-date information and examples of the impact of extraction on ESCE rights in countries across the Caribbean.
- Provide information on non-participatory governance of extractive industries and shortcomings in the regulatory framework that create a permissive environment for ESCE rights abuses to occur.
- Provide a platform to discuss the urgent need for a new earth-centred, rights-based approach to development in the Caribbean in Harmony with Nature.

We anticipate we will require approximately one hour and thirty minutes for the hearing, during which time about five community representatives will present testimony. We kindly request that we be awarded enough time for our five community representatives to fully make their presentations, with enough time for the states and the Commission to participate.

III. Context and Summary of Information to be Presented to the Commission

A. Context

Extraction in the Caribbean is embedded in the racialized, gendered and classed discriminatory history of colonial extractivism, built on ecocide, forced labour and exploitation. Despite the formal end of colonialism, a number of Caribbean economies continue to rely on the extraction of natural resources—including hydrocarbons (gas and petroleum), metals and minerals (e.g. gold, bauxite, alumina), forest, fishery and agricultural products—primarily for exportation. Small- and medium-scale extraction, particularly gold mining, also plays a major role in some states. (See Annex 1 for case studies of extractive industries in five Caribbean states, namely: Oil Exploration in The Bahamas; Gold and Oil Production in

² IACHR, “[Indigenous peoples, Afro-descendent Communities, and Natural Resources: Human rights Protection in the Context of Extraction, Exploitation, and Development activities](#),” December 31, 2015.

Guyana; Haiti’s Emerging Mining Sector; The Expansion of Mining in Jamaica; and the Oil and Gas and Quarrying Sectors in Trinidad and Tobago)

In the past few years, there has been an alarming expansion in the nature and intensity of extractive projects in the region. This includes a rapid increase in oil exploration and fossil fuel extraction as the Caribbean positions itself as the next major oil region.³ Most notably, in 2020, Guyana sent its first-ever shipment of crude oil for export, following ExxonMobil’s oil discoveries offshore Guyana in 2015.⁴ Guyana is now ExxonMobil’s largest oil development outside of the Permian Basin, with the company pushing to extract well over 9 billion barrels of oil and trillions of cubic feet of gas from ultradeep wells off Guyana’s coast.⁵

In addition to fossil fuel expansion, there has also been an expansion of mining concessions in some states, including in ecologically sensitive areas and lands traditionally inhabited by Indigenous Peoples and Afro-descendent communities. A vivid example is Jamaica’s Cockpit Country—the largest intact rainforest, the source of six major rivers supplying 40% of Western Jamaica’s fresh water, a hot spot of biological diversity, and home to the Leeward Maroons. The Cockpit Country is now under threat from Special Mining Lease (SML) 173, which was granted in 2018 for bauxite mining in parts of the Cockpit Country area. SML 173 was granted before an Environmental Impact Assessment (EIA) and without the free, prior and informed consent of the Maroons. The Government recently revised SML 173 by removing 6,000 hectares of land that are adjacent to the Cockpit Country, but it is unlikely that the area removed from SML 173 will be locked off from mining in perpetuity.⁶

The expansion of extractive projects in the Caribbean has been accompanied by a corresponding rise in socioenvironmental conflicts, including landmark legal challenges that signal the urgency of the issue. In Jamaica, two constitutional cases have been filed that, for the first time in Jamaica’s history, challenge mining projects on the ground that they violate the right to a healthy environment, among other rights. In Guyana, citizens recently filed a landmark climate case that challenges fossil fuel production on the grounds that it exacerbates global warming and threatens human rights. In The Bahamas, two environmental organizations filed a judicial review claim challenging The Bahamas’ approval of oil drilling, building on a growing grassroots coalition that is calling for a permanent ban on fossil fuel exploration.⁷ There has also been a range of advocacy efforts across the region around the EIA process, including in Guyana, Grenada, Jamaica, and Trinidad and Tobago. These efforts focus largely on challenging the lack of public participation in decision-making around extractive projects, the lack of access to information, and the failure to take into account social and environmental costs.

B. Impact of Extractive Industries on Climate Justice and ESCE Rights: Spotlight on Mining and Fossil Fuels

1. The Right to Life, Health and a Healthy Environment

The right to a healthy environment is recognized in Article 11 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”). Though not expressly mentioned in the American Convention on Human Rights (“American Convention”), the Inter-American Court of Human Rights (“Inter-American Court”) has stated that the right

³ See Annex 1.

⁴ Marianna Parraga and Neil Marks, [“Guyana’s First-Ever Oil Cargo to Be Refined by Exxon in the U.S.”](#), *Reuters*, January 20, 2020.

⁵ [“ExxonMobil Makes New Discovery off Guyana’s Coast.”](#) *Reuters*, July 28, 2021; Center for International and Environmental Law, [“Guyanese Citizens File Climate Case Claiming Massive Offshore Oil Project is Unconstitutional.”](#) May 21, 2021.

⁶ [“Waiting to Cheer Cockpit Country, Bengal Moves.”](#) *The Gleaner*, May 30, 2021; Chanel Spence, [“Government Revises Agreement For Mining In Cockpit Country.”](#) *Jamaica Information Service*, May 27, 2021.

⁷ Our Islands, Our Future, [“Stop Oil Drilling in The Bahamas.”](#) accessed April 18, 2021.

to a healthy environment is also protected by Article 26 of the American Convention.⁸ At the domestic level, the right to a healthy environment is recognized in a number of constitutions across the world, including the constitutions of Guyana and Jamaica in the Caribbean.⁹ The Inter-American Court has acknowledged the “interdependence” between the environment and other rights that are particularly vulnerable to environmental impact, including the right to life and the right to health, which are recognized in human rights instruments that are widely ratified by Caribbean states.¹⁰ In 2018, the U.N. Human Rights Committee acknowledged in its General Comment No. 36 that “environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.”¹¹

Environmental and Health Effects of Fossil Fuels in the Caribbean:

Fossil fuels present an existential threat to the right of present and future generations to life, health and a healthy environment, including through climate change and oil spills.¹²

With respect to climate change, there is now scientific consensus that fossil fuels are aggravating the climate crisis, which threatens the survival of Caribbean states given their close dependency on the natural environment and their extreme vulnerability to sea level rise and weather events of increasing frequency and intensity. Indeed, the region has experienced several storms and catastrophic hurricanes in the past few years, with severe flooding damage, loss of lives, and destruction of goods and services to the amount of billions of U.S. dollars.¹³ Many Caribbean coastal communities and livelihoods are now at risk of disappearing if the dangers of global warming are not urgently addressed. The people who are already most vulnerable and marginalized—such as women, Indigenous Peoples, Afro-descendent and rural communities—will experience the greatest impacts.

Despite this context, **Guyana** has entered into fossil fuel production, fuelling concerns that this will significantly increase greenhouse gas emissions that contribute to climate change and adversely affect the most vulnerable groups, including women, Indigenous and fishery-dependent communities, and individuals living in poverty. Environmental advocates have also complained that ExxonMobil’s gas flaring is transforming the country from a carbon sink to a carbon bomb. Ironically, Guyana is particularly vulnerable to climate change impacts because of its low-lying coastal zone that hosts over 90% of the population as well as the main livelihoods, economic activities and infrastructure of the country. According to credible climate scenarios, a large area of Guyana’s coastal zone is likely to be flooded.¹⁴

⁸ I/A Court H.R., [Case of the Indigenous Communities of the Lhaka Honhat \(Our Land\) Association v. Argentina](#), Merits, Reparations and Costs. Judgment of February 6, 2020, para. 202 [hereinafter *Our Land*].

⁹ Haiti’s constitution does not expressly refer to the “right to a healthy environment”, but contains language that guarantees this right. Article 253, for example, declares that the “environment is the natural framework of the life of the people, [and] any practices that might disturb the ecological balance are strictly forbidden.”

¹⁰ The right to life is recognized in Article 4 of the American Convention; Article 6 of the International Covenant on Civil and Political Rights, and Article I of the American Declaration on the Rights and Duties of Man. The right to health is recognized in Article 10 of the Protocol of San Salvador; Article 12 of the International Covenant on Economic Social and Cultural Rights; Article 5 of the Convention on the Elimination of Racial Discrimination; and Article 12 Convention on the Elimination of Racial Discrimination Against Women.

¹¹ U.N. Human Rights Committee, “[CPR General Comment No. 36 on Article 6 \(Right to Life\)](#),” October 30, 2018.

¹² See UNEP, “[Global Resources Outlook 2019](#),” 2019; UNEP, “[Making Peace with Nature. A Scientific Blueprint to Tackle the Climate, Biodiversity and Pollution Emergencies](#),” 2021; Oil Change International, “[The Sky’s Limit. Why the Paris Climate Goals Require a Managed Decline of Fossil Fuel Production](#),” September 2016.

¹³ See, e.g., Government of Jamaica, “[Jamaica Third National Communication to the United Nations Framework Convention on Climate Change](#),” 2018; Government of Guyana, “[Guyana Second National Communication to the United Nations Framework Convention on Climate Change](#),” 2012.

¹⁴ Government of Guyana, “[Guyana Second National Communication to the United Nations Framework Convention on Climate Change](#),” 2012.

Oil spills and marine pollution are also urgent and recurring issues, resulting in adverse health effects as well as negative impacts on livelihoods. In **Trinidad and Tobago**, for example, Fishermen and Friends of the Sea (FFOS) have informed us that “oil and gas leakages are extremely common in the Trinidad and Tobago oil and gas industry.”¹⁵ On April 23rd 2017, for example, Tank 70 of the Point a Pierre Tank Farm ruptured due to poor maintenance, leaking 126,000 barrels of crude oil into the Gulf of Paria, which was suspected to have reached all the way to the Caribbean side of Mexico, contaminating countries such as Venezuela and the ABC Dutch Islands.¹⁶ According to FFOS, to date, those responsible for the recorded 377 oil spills between 2016 to 2019 have never been held liable.¹⁷

Another salient issue is the impact of seismic surveys on fishermen. According to FFOS, many fishermen have complained that during the years after the completion of a seismic survey, there is very little fish in traditional fishing areas.¹⁸ Despite Trinidad and Tobago’s century long history in oil and gas exploration and in conducting seismic surveys, very few scientific studies have been conducted to determine the impact of seismic surveys on the fishery and marine environment locally.

The Gulf of Paria: The Large Dustbin of The Energy Sector

Testimony of Lisa Premchand, Programme Director, Fishermen and Friends of the Sea:

The Gulf of Paria is a shallow semi-enclosed body of water shared between Trinidad and Venezuela. It is one of the most productive and biodiverse waters in the Caribbean and supports over 50,000 families (753 fishing vessels operate in the Gulf of Paria which represents 46% of the fishing vessels in Trinidad and Tobago) and provides over 70% of our locally consumed seafood. Since the 1980s, scientists have stated that the Gulf of Paria was being contaminated with hydrocarbons and heavy metals. A serious concern is contamination by polycyclic aromatic hydrocarbons (PAHs). In 2019, Balgobin and Ramroop investigated the association between human cancer risk and PAH contamination in fish from the Gulf of Paria. The study concluded that 14% of our citizens who eat fish from our national food-basket of the Gulf of Paria have an “adverse risk” of acquiring non-cancerous diseases such as the breaking down of red blood cells, cataracts, kidney and liver damage, jaundice, redness and inflammation of the skin. Furthermore, the study calculated the annual cancer risk as calculated to be 5.89 per 10,000 persons who consume fish from the Gulf of Paria. This value is almost 6 times higher than the international standard for high cancer risk (which is 1 in every 10,000 people). According to the study, the areas with the highest level of PAHs were Port of Spain—possibly due to the vehicular fossil fuel combustion and shipping activities, and Point-a-Pierre—due to the high frequency of oil spills as a result of the refinery and shipping terminal that handles ocean oil tankers.¹⁹

In **The Bahamas**, while the state has not started oil production of its own, Bahamians have experienced environmental loss and devastation from the petroleum industry. In 2019, for example, more than five million gallons of oil was spilled at the Equinor South Riding Point facility in East Grand Bahama during Hurricane Dorian, impacting the ecology of the nearby wetlands and forested area. Another salient example is the oil seepage at the Clifton Pier power plant and oil transfer station, which impacted residents of the

¹⁵ Email from Lisa Premchand, Programme Director, Fishermen and Friends of the Sea, April 12, 2021.

¹⁶ Ibid.

¹⁷ Rishard Khan, “[EMA: 377 Oil Spills in Four Years](#),” *Trinidad and Tobago Guardian*, March 27, 2019.

¹⁸ Email from Lisa Premchand, Programme Director, Fishermen and Friends of the Sea, April 12, 2021.

¹⁹ Balgobin, Aaron, and Natasha Ramroop Singh, “[Source Apportionment and Seasonal Cancer Risk of Polycyclic Aromatic Hydrocarbons of Sediments in a Multi-Use Coastal Environment Containing a Ramsar Wetland, for a Caribbean Island](#),” 2019, *Science of The Total Environment*, 664: 474–86.

Adelaide community, a south-western coastal community in New Providence, who were subjected to swimming in oily waters for many years.

Most recently, the Bahamas Petroleum Company's efforts to drill an exploratory well similar to the Deepwater Horizon rig has met with staunch resistance from environmental organizations and neighbouring states who have voiced concerns about a repeat of the Deepwater Horizon disaster.²⁰ This disaster dumped nearly 200 million gallons of oil into the Gulf of Mexico, fouled 16,000 miles of coastline along five US states, destroyed fisheries, and caused an unprecedented level of damage to marine life. A spill in Bahamian waters could quickly damage vibrant corals, kill off seagrass beds and coat important mangrove ecosystems, which are important carbon sinks.²¹

Environmental Devastation and Loss from the Petroleum Industry in The Bahamas

Testimony of Rashema Ingraham, Executive Director, Waterkeepers Bahamas:²²

Despite not having a history with oil production, Bahamians have experienced environmental loss and devastation from the petroleum industry. More than five million gallons of oil was spilled at the Equinor South Riding Point facility in East Grand Bahama during Hurricane Dorian in 2019. Although some portion of this oil has been recovered from the site, much of it remains, impacting the ecology of the nearby wetlands and forested area. Another example of the devastating impacts of oil spills and seepage occurred in the Adelaide community, a south-western coastal community in New Providence, where residents were subjected to swimming in oily waters for many years because of the oil seepage occurring at the Clifton Pier power plant and oil transfer station. The source of the oil seepage is said to be from the state-ran electricity Plant. Residents have documented the presence of oil in the surrounding waters. This area of New Providence is also known for sensitive coral reefs and mangrove ecosystems that were exposed to these seepage events.

In **Guyana**, Esso Production's EIA shows that an oil spill could reach as far as Venezuela, Trinidad and Tobago, Grenada, St. Vincent and the Grenadines, and St. Lucia.²³ The EIA also acknowledges that an oil spill could potentially impact Guyana's coastal areas and communities such as Shell Beach Protected Area, marine mammals, critically endangered and endangered sea turtles, and coastal Guyanese and Amerindian communities reliant on ecosystem services for sustenance and their livelihood.²⁴ This threat is exacerbated by the fact that Guyana has embarked on deep sea oil extraction of the sort that caused the 2010 British Petroleum Deep Horizon disaster, but does not have the capacity to promptly fix, contain, or mitigate oil spills of any magnitude.

Environmental and Health Effects of Mining in the Caribbean:

²⁰ According to local coalitions, on February 8, 2021, BPC announced that after 48 days of drilling in the waters of the Bahamas, they did not find commercially viable quantities of oil, but are nonetheless "exploring ways to monetize the rest of their leases in The Bahamas." See "[STOP Oil Drilling in The Bahamas](#)," change.org petition.

²¹ "[STOP Oil Drilling in The Bahamas](#)," change.org petition.

²² Waterkeepers Bahamas is an environmental organization fighting against oil pollution and environmental degradation in The Bahamas.

²³ David W. Blaha, "[Environmental Impact Assessment, Liza Phase 1 Development Project, Esso Exploration and Production Guyana, Limited](#)," May 2017, p. 395.

²⁴ *Ibid.*, p. ii.

The most frequently reported environmental and health effects associated with mining include: deforestation; soil degradation; air and water pollution and the associated negative consequences for health; water depletion, and adverse consequences to the hydrological system.

In **Jamaica**, for example, there have been numerous complaints about the negative health impacts of noise and dust pollution generated by the Bauxite-Alumina Industry, including respiratory symptoms, noise-induced hearing loss, and mental stress. While the Government of Jamaica is yet to commission a national health impact assessment of the Bauxite-Alumina Industry, these complaints are consistent with expert studies and reports from other mining-affected communities beyond the Caribbean.²⁵ Human Rights Watch, for example, has documented the experiences of residents in Guinea, stating that: “dust produced by the mining and transport of bauxite had blighted their lives, with red dust entering villages and homes and covering crops ... villagers, many of whom said they believe mining is already contributing to respiratory illnesses, worry about longer-term health impacts.”²⁶ Also of critical concern is the impact of the Bauxite-Alumina Industry on Jamaica’s environment and marine ecology, including through the contamination of rivers by effluent from bauxite plants and massive fish kills.

The Impact of Jamaica’s Bauxite-Alumina Industry on Marine Ecology and Fisher Communities

The contamination of the Rio Cobre in St Catherine, reportedly by effluent from the Bauxite-Alumina Industry, remains a long-standing problem for residents who use the river for domestic purposes or depend on it for their livelihood.²⁷ Since 2010, NEPA has issued West Indies Alumina Company (WINDALCO) with at least eight enforcement notices, two breach notices, a warning notice and a notice to suspend, for pollution of the Rio Cobre.²⁸ The most recent enforcement notice was issued in October 2019 following an effluent spill from the bauxite plant, which reportedly seeped into the Rio Cobre, resulting in what has been described as “a massive fish kill and reports of several persons falling ill after using water or consuming fish from the river.”²⁹ According to local reports, “more than 40 fishermen who operate along the Rio Cobre have had their livelihood dislocated because of the contamination of the river from effluent that triggered a fish kill.”³⁰ Residents were told to not consume the water or fish.³¹

Another source of pollution is from the transportation, stockpiling and loading onto ships of bauxite and alumina at ports. According to Dr. Esther Figueroa, one of the requesters, the release of alumina into the air and soil, and leakage of toxic chemicals at Port Esquivel, which is located in the Portland Bight Protected Area, has killed mangroves, made the shoreline soil infertile, and killed wildlife and habitat. Discovery Bay is a Special Fishery Conservation Area and is also the location of Port Rhoades where bauxite from Noranda Jamaica Bauxite Partners is loaded into ships. According to Dr. Figueroa, the loading of bauxite into ships is the major cause of sedimentation and chemical pollution in the bay. When the ships are being loaded, the entire bay can be seen to go red from the bauxite pollution, as well as

²⁵ See, e.g., Human Rights Watch, “[Guinea: Bauxite Mining Boom Threatens Human Rights](#),” October 4, 2018; Nurul Hidayah Hussain, Zailina Hashim, Jamal Hisham Hashim, Norazura Ismail and Junaidah Zakaria, “[Psychosocial and Health Impacts of Bauxite Mining among Felda Bukit Goh Communities in Kuantan, Malaysia](#),” *International Journal of Public Health and Clinical Sciences*, Vol. 3, No. 5, September/October 2016.

²⁶ Human Rights Watch, “[Guinea: Bauxite Mining Boom Threatens Human Rights](#),” October 4, 2018.

²⁷ See, e.g., Ruddy Mathison, “[Rio Cobre Fishers Reeling from Polluted River](#),” *The Gleaner*, October 23, 2019; Nickoy Wilson, “[NEPA, WINDALCO Head to Court Today Over Rio Cobre Fish Kill – Environmentalists Want Agency to Collar More Companies Over Breaches](#),” *Jamaica Gleaner*, November 26, 2019; Tanesha Mundle, “[Fish kill creates new stink in Bog Walk Gorge](#),” *The Gleaner*, August 3, 2021.

²⁸ Alpheia Saunders, “[NEPA Serves Enforcement Notice on WINDALCO](#),” *Jamaica Observer*, October 19, 2019.

²⁹ Nickoy Wilson, “[NEPA, WINDALCO Head to Court Today Over Rio Cobre Fish Kill – Environmentalists Want Agency to Collar More Companies Over Breaches](#),” *Jamaica Gleaner*, November 26, 2019.

³⁰ Ruddy Mathison, “[Rio Cobre Fishers Reeling from Polluted River](#),” *The Gleaner*, October 23, 2019.

³¹ *Ibid.*

when there are heavy rains and run off from the bauxite holding areas adjacent to the port. Sedimentation and pollution stifle and kill corals and sea grasses that are crucial to the marine ecology as well as the marine organisms that the fishers depend on for their livelihoods.

In **Guyana**, gold mining takes place in the interior, which is predominantly inhabited by Indigenous communities. These communities have complained that gold mining is causing significant environmental and health concerns, including deforestation, soil degradation, depletion of fish stocks and decrease in wildlife population.³² The prolific use of mercury by small- and medium-scale mining and the increased levels of mercury in river water are illustrative of the existential nature of the environmental and health threat posed by mining. According to a recent study, mercury poisoning has become a “generalized problem” for Indigenous communities in some regions, with the situation being “especially dire for community members of Parabara with 100% of participants showing elevated ... hair mercury levels.”³³

The Omai Gold Mine disaster in Guyana is another example of the severity of the environmental risk posed by gold mining. In August 1995, the tailings pond of Omai Gold Mines Limited gave way, releasing cyanide-laden effluent into the Omai River, a tributary of the Essequibo, Guyana’s largest river.

Gold Mining in Traditional Wapichan Territory, Guyana

In 2018, the South Rupununi District Council (SRDC) Monitoring Program presented a landmark case study of the impact of mining activities on Marutu Taawa (Marudi Mountain), which is situated in traditional Wapichan territory. Marudi Mountain is an important spiritual, cultural, and resource-gathering site located at a critical watershed in Guyana. According to the SRDC, mining activities, both legal and illegal, on Marudi Mountain are causing significant deforestation and land degradation; destruction of creek beds; pollution of creeks, with documented high turbidity levels and mercury poisoning; depletion of fish stocks and decrease in wildlife populations; and health risks from mercury poisoning and amalgam burning. Moreover, the influx of miners into Marudi Mountain has caused increased rates of prostitution, sexually transmitted diseases, teenage pregnancies, and drug and alcohol use.³⁴

2. The Right to Food and Water

The right to food and the right to water are also “among the rights that are especially vulnerable to environmental impact.”³⁵ The right to adequate food is protected under Article XI of the American Declaration and Article 12(1) of the Protocol of San Salvador.³⁶ This right has also been recognized and reaffirmed in the Universal Declaration of Human Rights (UDHR) (Article 25), the UN Declaration on the Rights of Peasants (Article 15), as well as in international instruments ratified widely by CARICOM states.³⁷ Additionally, at least 23 constitutions, including the constitution of Guyana (Article 40) and Haiti

³² See, e.g., South Rupununi District Council, “Wapichan Environmental Monitoring Report,” September 2018.

³³ L. Cynthia Watson et al., “[Survey of Methylmercury Exposures and Risk Factors among Indigenous Communities in Guyana, South America](#),” *Journal of Health & Pollution* 10, no. 26, May 4, 2020.

³⁴ South Rupununi District Council, “Wapichan Environmental Monitoring Report,” September 2018.

³⁵ I/A Court H.R., “[Advisory Opinion OC-23/17, The Environment and Human Rights](#),” November 15, 2017, para. 66.

³⁶ I/A Court H.R., *Our Land*, para. 211-12.

³⁷ International Covenant on Economic, Social and Cultural Rights (Article 11); Convention on the Elimination of Discrimination Against Women (Article 14) with regard to the right of rural women to equal access to land and water; the Convention on the Rights of the Child (Articles 25, 27).

(Article 22), recognize the right to food explicitly as a human right.³⁸ With respect to the right to water, the Inter-American Court has stated that this right is protected by Article 26 of the American Convention.³⁹ Other human rights treaties and documents refer expressly to water.⁴⁰

In the Caribbean, many people, particularly Indigenous Peoples, Afro-descendent and rural communities, depend economically and for their survival on subsistence agriculture. Moreover, many of these communities do not have access to piped water and thus gather water from streams, harvest rain water from gutters, or purchase bottled water. In this context, these communities have expressed grave concerns that extractive industries, through the destruction of water resources and agricultural lands, are undermining their food security, disrupting alternative farming economies, and threatening water supplies, not only through contamination, but also through increased industrial use of water for mining. In other words, extraction-related environmental degradation is making already vulnerable food and water resources even more vulnerable at a time when climate crisis threatens both.

In **Guyana**, for example, Indigenous communities have reported concerns about mercury pollution of the river.⁴¹ There are also reports of fish in the rivers being unhealthy, with complaints about decreased numbers, decreased sizes, and sometimes odd shapes of fish. In some cases, there are also instances of miners deliberately destroying farms and working out areas that are clearly the village's farming grounds.⁴²

In **Haiti**, *Kolektif Jistis Min* has expressed concerns that “[t]he significant footprint of modern mining could exacerbate existing food crises” and threaten already vulnerable water sources in a country where “water is a scarce resource, and safe water is even scarcer.”⁴³ If mining proceeds, “costs for purchased water may rise with increased demand, which would make water—especially potable water—significantly less accessible to many communities.”⁴⁴ With respect to the right to food, communities that have experienced metal mining exploration have alleged that these activities have already destroyed their crops. *Kolektif Jistis Min* has emphasized that mining may increase violations of the right to food, noting that:

In northern Haiti where the majority of mining permits are held, most communities are dependent on subsistence farming for food. Expropriation of tracts of land large enough for industrial mining would almost definitely include land currently used for subsistence farming. Further, the potential impacts of metal mining activities—such as depletion of water resources and harm to the environment by chemicals or toxic mine drainage—could have deleterious impacts on subsistence farmers beyond the area of any given mine.⁴⁵

Haiti's experience also highlights the gendered impacts of extraction-related environmental degradation and climate crisis on food and water security. Female-headed households represent 40% of Haitian households, which means that many women bear the brunt of responsibility for water and food security.⁴⁶ As an informant from Haiti describes, “some of the key negative impacts of climate change include the loss of livestock and having to go search for water in far-off locations. Moreover, the responsibility of finding and fetching water falls primarily on women and children.”⁴⁷ Despite these gendered impacts, women are

³⁸ See Lidija Knuth and Margret Vidar, “[Constitutional and Legal Protection of the Right to Food around the World](#),” (Rome: FAO, 2011).

³⁹ I/A Court H.R., *Our Land*, para. 222.

⁴⁰ UN Declaration on the Rights of Peasants (Article 21); CRC (Article 24); CEDAW (Article 14).

⁴¹ South Rupununi District Council, “Wapichan Environmental Monitoring Report,” September 2018.

⁴² “[Mining on Indigenous Lands Continue to be a Major Problem](#),” *Guyana Chronicle*, August 31, 2019.

⁴³ Kolektif Jistis Min and Global Justice Clinic, NYU School of Law, “Submission to the United Nations Universal Periodic Review. Human Rights Impacts of Gold Mining in Haiti,” November 2016, para. 8.

⁴⁴ *Ibid.*, para. 26.

⁴⁵ *Ibid.*, para. 24.

⁴⁶ *Ibid.*, p. 45.

⁴⁷ *Ibid.*, p. 33.

marginalized from decision-making in environmental matters. For example, it is reported that “[t]he percentage of women’s participation in the Natural Disaster Mitigation Programme (PMDN) II is around 20%, below the quota for women and men required by the Haitian Constitution in the workplace, which stands at 33%.”⁴⁸

3. The Right to Cultural Identity

The right to take part in cultural life, which includes the right to cultural identity, is protected by Article XIII of the American Declaration and Article 14(1)(a) of the Protocol of San Salvador.⁴⁹ This right is also recognized and reaffirmed in other human rights treaties, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 15(1)(a)) and the International Covenant on Civil and Political Rights (ICCPR) (Article 27).

With respect to the cultural identity of Indigenous and Tribal Peoples (ITPs), Articles 4(1), 7(1), 15(1) and 23 of ILO Convention 169 establish, respectively: the State obligation that “special measures shall be adopted as appropriate for safeguarding the ... cultures and environment of [Indigenous and Tribal] peoples”; the right of such peoples “to decide their own priorities for the process of development as it affects their lives, ... and the lands they occupy or otherwise use”; “the rights of [these] peoples to the natural resources pertaining to their lands,” which “include the right of these peoples to participate in the use, management and conservation of these resources,” and that “subsistence economy and traditional activities of the peoples concerned, such as hunting, fishing, trapping and gathering, shall be recognized as important factors in the maintenance of their cultures and in their economic self-reliance and development.” The right to cultural identity of rural communities is also addressed in Article 26 of the United Nations Declaration on the Rights of Peasants. Human rights bodies have consistently recognized that the right to cultural identity “may consist in a way of life closely associated with territory and the use of its resources.”⁵⁰

Extractive activities in the Caribbean are destroying the traditional ways of life of ITPs and rural communities, including through the destruction of their traditional lands and natural resources which are essential to their cultural survival. The continuous and cumulative effect of colonial and contemporary extraction now presents an existential threat to their cultural existence, discrediting their world views and depriving them of the option to continue their life plans. Their situation of vulnerability is exacerbated by land grabs, which usually entail a change in land use and ownership from local food production to other industrial purposes.

Proposed Mining in Cockpit Country Threatens the Culture of Jamaica’s Rural Peasant and Maroon Communities

The government of Jamaica has granted Special Mining Lease 173 to Noranda Jamaica Bauxite Partners II (of which it is 51% owner), which will allow bauxite mining to expand into the parish of Trelawny for the first time, including mining in Cockpit Country, a region of immense natural and cultural importance, particularly to the identity of the Maroons and deep rural communities. SML 173 falls immediately outside the eastern delimitation of the Cockpit Country Protected Area (CCPA), but the protection of this area is undermined by the absence of a provision for a buffer zone. The Government recently revised SML 173 by removing 6,000 hectares of land that are adjacent to the Cockpit Country, but it is unlikely

⁴⁸ Inter-American Development Bank, “[Study of the Impacts of Climate Change on the Women and Men of the Caribbean. Pilot Programme for Climate Resilience Countries](#),” December 2020, p. 17.

⁴⁹ I/A Court H.R., *Our Land*, paras 232-33.

⁵⁰ Human Rights Committee, “General Comment 23. Rights of Minorities (Art. 27),” para. 3. See also CESCR Committee, “General Comment 21. Right of Everyone to Take Part in Cultural Life (art. 15, para. 1(a), of the Covenant),” para. 36.

that the area removed from SML 173 will be locked off from mining in perpetuity.⁵¹ The CCPA is under consideration to be proposed as a UNESCO World Heritage Site, something that would become impossible if mined.

The Maroons: An important cultural aspect to the CCPA, and the wider Cockpit Country, is the sovereign territory and homeland of the Maroons. In March 2021, His Excellency Hon. Chief Richard Currie, declared the Cockpit Country as an independent State, though this sovereignty has not been recognized by the Government of Jamaica.⁵²

Deep Rural Communities: A recent Archaeological Impact Assessment (AIA) conducted by the Jamaica National Heritage Trust describes how, over several centuries of occupation, a peculiar land-use pattern emerged throughout the area of Cockpit Country.⁵³ After emancipation, settlers used the less fertile limestone hillocks for the establishment of villages, plantation domaciles and works facilities. The arable depressions were reserved for crop cultivation and animal grazing. Today, this general land-use pattern prevails. According to the AIA:

Though communities in the area have experienced significant changes throughout the centuries, their fundamental character has withstood the test of time ... These deep rural communities are historically agrarian with about 80% of residents making their livelihood from agriculture, cultivating mainly yam and corn. Ninety percent (90%) of the traditional farming takes place in the adjunct bauxite-rich valleys. Across their multi-century interaction with the land, the ancestor has created a pleasant and uniquely sustainable cultural landscape. Their authentically sedentary way of life and the character of their settlement, handed down by generations, may be irreversibly disrupted by the proposed mining project. Some of the potential negative changes to their authentic cultural environment may include:

- Changes to their original community layout, location and traditional farming practice;
- Potential destruction of their progenitor's legacy which is oftentimes manifested in the historical and archaeological assets;
- Exposing the communities to incursion and adverse behavioural influences that result in increased crime and violence;
- Changes in cultural or traditional way of life.

The potential impacts aforementioned may be negative, major, long-term and irreversible.⁵⁴

Extraction Threatens the Cultural Identity of Guyana's Indigenous Peoples

The South Rupununi District Council's 2018 report on Wapichan environmental monitoring highlights testimonies that demonstrate how extraction-related injury to the land of indigenous peoples causes great distress, trauma, and spiritual pain:⁵⁵

⁵¹ "[Waiting to Cheer Cockpit Country, Bengal Moves](#)," *The Gleaner*, May 30, 2021; Chanel Spence, "[Government Revises Agreement For Mining In Cockpit Country](#)," *Jamaica Information Service*, May 27, 2021.

⁵² His Excellency Hon. Chief Currie, "[The Declaration of Independence of Cockpit Country](#)," available on Twitter @ChiefCurrie. See also "[The Maroons New Chief Richard Currie Says No Mining in Cockpit Country](#)," *Caribbean National Weekly*, March 28, 2021.

⁵³ Jamaica National Heritage Trust, "[Archaeological Impact Assessment. Proposed Bauxite Mining Operation. Special Mining Lease \(SML 173\) Saint Ann/Trelawney. Noranda Jamaica Bauxite Partners II](#)," October 2019, p. lxxxvi.

⁵⁴ Jamaica National Heritage Trust, "[Archaeological Impact Assessment. Proposed Bauxite Mining Operation. Special Mining Lease \(SML 173\) Saint Ann/Trelawney. Noranda Jamaica Bauxite Partners II](#)," October 2019, p. lxxxvi.

⁵⁵ South Rupununi District Council, "Wapichan Environmental Monitoring Report," September 2018, p.12.

I am saddened by what is happening in Marutu Taawa. The miners from outside are destroying the whole place and not allowing our people to work. They are making the mountains and forest disappear down there and the rivers are all dirty. It is not good. I am worried about the situation and I am thinking about it all the time. It has to stop and we must be strong and be together to keep our land for ourselves and our children and grandchildren.

Caroline Winter, Aishara Toon Village

I am very sad. I don't know how to explain what I feel. I don't know why people go to Marudi. They don't really need the things there, they just want to live there and gain things for themselves. They are not in need of it. And they are just destroying it. When we Wapichan use the mountains we use it just a little bit and then we came back. We have worked long, using our natural way of getting what we needed - not plenty, just what we needed.

Talita James, Aishara Toon Village

Something like this, it is very sad for me. My concern is, although the place is already spoiled, contaminated, should there be something done before everything is damaged? That is my concern. Before all the fruit trees are damaged? Before all the games are chased away? Because when we get to understand that not far from now, tomorrow, the flour will be 2000 dollars a pound, meat will be 5000 dollars a pound. And if we don't have income, where will we go? We had our fish, our games. But suppose now that area is destroyed, how far will we have to go to find food? And sad to say, if we do not do something now, what will happen with our children? This is my concern. Somehow we should say 'no' to the people who are mining the place and destroying the place. And that is where I grow and I know the place. I am really concerned for my children's children. I need my forest to remain where it is. Although there is already big damage in Mazoa and Marudi, we must protect what remains.

Godfrey Pauline, Aishara Toon Village

I have been hearing what is happening in the mining fields and I am not in agreement. Those mine people are clearing forest and eating up the creek beds. The Wapichan nao never worked like that: our people would work in the ravines. They did not cut down the forest. We never felled trees in the mining area. I do not like what is happening. I do not approve of what is being done there. I hear that there is a machine road opened up into the Blue Mountains and I do not like it at all. Our grandparents did not punish the land and they respected the mountains. Now those miners are damaging it all and contaminating the waters. They just think about money. If this continues without any control we will all pay the price for the destruction.

Luisa Laita, Aishara Toon Village

4. Communal Land Rights

The right to property is recognized in a range of human rights instruments, including the American Convention (Article 21). The Inter-American Court has stated that the right to private property includes, in the case of ITPs, the communal ownership of their lands.⁵⁶ The Inter-American Court has further explained that the right to property protects not only the connection of ITPs to their territories, but also “the natural resources these territories contain that are connected to their culture, as well as the intangible elements

⁵⁶ I/A Court H.R., *Our Land*, para. 93.

derived from them.”⁵⁷ The Inter-American Court has established that states should not grant concessions within the territory of ITPs without meeting three safeguards: effective participation, benefit-sharing, and prior environmental and social impact assessments.

In the Caribbean, mining concessions and illegal mining activities threaten the collective land rights of ITPs and rural communities over their territories, lands and natural resources. Previous sections have already looked at impacts in terms of the impact on the quality of water sources, the degradation of agricultural soils, and alteration of traditional ways of relating to the land. In addition, mining concessions are routinely granted without taking steps to title and demarcate those lands and to ensure that the affected communities could participate in decision-making about those concessions. As one study notes, in Belize, Guyana and Suriname, “State agencies have been issuing natural resources concessions unilaterally to third parties over an ever-increasing percentage of ITP customary lands.”⁵⁸

In **Guyana**, from 2012 through 2020, the Amerindian Peoples Association, in collaboration with local researchers, conducted land tenure assessments across Regions 1, 2, 7, 8, and 9 in Guyana. This culminated in a landmark 2020 report, which indicates that Indigenous Peoples continue to face a number of threats to their land security, including: failure to recognize collective territories; inadequate recognition of customary lands; demarcation errors; map problems; land conflicts and lack of clarity of land titles.⁵⁹

In **Jamaica**, the Government has permitted mining in Cockpit Country without adequate consultation and despite the fact that the Maroons claim all of Cockpit Country as their sacred ancestral home and strongly oppose bauxite mining or any form of extraction that would destroy the lands where their ancestors blood “has wet the soil.”⁶⁰ His Excellency Hon. Chief Richard Currie has declared the Cockpit Country as an independent State, but this sovereignty is not recognized by the Government of Jamaica.⁶¹

This situation is not idiosyncratic or aberrational. Rather, it is rooted in histories of indigenous dispossession and a contemporary structural context relating to the failure of post-colonial Caribbean states to take positive measures to guarantee the communal land rights of ITPs.

Cockpit Country – Voices from Jamaica’s Heart Excerpts from Documentary Film by Esther Figueroa, 2007

Colonel Petty of the Accompong Maroons:

I am Colonel Sidney Petty, Colonel of the Accompong Maroons. We in the Accompong live in Cockpit Country where it has recently been mentioned that mining will take place. We in Accompong are totally against such a destruction, because we see the Cockpit as the main watershed for the area, it is our historical spot as well and we do not want it disturbed or destroyed in anyway. People in other parts of

⁵⁷ I/A Court H.R., “[Case of the Kichwa Indigenous People of Sarayaku v. Ecuador](#),” Merits and Reparations, June 27, 2012, para. 145; I/A Court H.R., “[Case of the Yakve Axa Indigenous Community v. Paraguay](#),” Merits, Reparations and Costs, June 17, 2005, para. 137.

⁵⁸ Janette Bulkan, “[Settling Indigenous Rights and Building a Social Contract in the Circum-Caribbean Territories of Belize, Guyana and Suriname](#),” in *Re-Imagining the Guyanas*, ed. Lawrence Aje, Thomas Lacroix, and Judith Misrahi-Barak (Montpellier: Presses Universitaires de la Méditerranée), para. 5.

⁵⁹ Amerindian Peoples Association and Forest Peoples Programme and Rainforest Foundation USA, “Our Land, Our Life. A Participatory Assessment of the Land Tenure Situation of Indigenous Peoples in Guyana. Report for Regions 1, 2, 7, 8 & 9,” 2021, p. 5.

⁶⁰ Esther Figueroa, *Fly Me to the Moon*, 2019.

⁶¹ His Excellency Hon. Chief Currie, “[The Declaration of Independence of Cockpit Country](#),” available on Twitter @ChiefCurrie. See also “[The Maroons New Chief Richard Currie Says No Mining in Cockpit Country](#),” *Caribbean National Weekly*, March 28, 2021.

Jamaica where they had mining done are complaining even today, because they have been displaced. They have been moved about, pushed around and their health has deteriorated because of the red dirt that is being dug up ... We will fight it down to the last maroon is left to make sure that there is no mining done in the Cockpit Country. We want it to remain for our children and our children's children. Remain for all times.

Jamaican Peasants, Land Tenure & The Bauxite-Alumina Industry

The relational importance of land to the Jamaican peasant, and their concept of “family land,” though not equivalent to communal land tenure of ITPs, does have similar value, both as heritage and the embedded knowledge needed to steward the land.

From the colonial era to this day, access to land has been a hardship for the majority of African descended people in Jamaica and is one of the main drivers of inequity in the society. The plantation system was based on the ownership of people who had no rights over their bodies, their labour or their children, and who were forced to work land they did not own. The Jamaican Maroons fled from enslavement and set up their own communities, in the beginning in concourse with Taino, the original inhabitants of the land. In these Maroon-Indigenous settlements specific patterns of agriculture and a close relationship to land evolved. Simultaneously, on the plantations, as a form of survival and rebellion, enslaved workers grew food on lands that were not being cultivated or were close enough to access in order to enhance their inadequate diets and also to sell at markets. Post-emancipation, though many rural Jamaicans continued to be trapped in plantation servitude, others were able to leave the plantations and create alternatives to plantation life. Free villages were founded, some through missionary efforts where tracks of land were purchased and communities established, others more simply groups of people settling on lands wherever they could.

Gibraltar, St. Ann. Gibraltar in St. Ann is one of these free villages where proud rural Jamaicans built their post-emancipation lives, creating a unique heritage formed out of African and Taino continuities and new innovative creole cultural forms and practices, all based on mutual aid, subsistence and small farming, markets, trading networks, artisans, and “family land” passed down both maternally and paternally. Gibraltar, despite its residents fighting for years to stop bauxite mining entering into their community, is currently being mined under SML 172, and will be mined under SML 173. It is already a shadow of itself and unrecognizable.

Alps, Trelawny. What is now known as Alps was the first church-founded free village in Trelawny. Anthropologist Jean Besson writes: “My fieldwork revealed that the Old Families in The Alps claim descent from the emancipated slaves who purchased land in the Baptist land settlement of New Birmingham and who transmitted these lands as ‘family lands’ to their descendants regardless of their gender, age or ‘legitimacy.’”⁶² Alps is part of Cockpit Country and will be ruined by bauxite mining if SML 173 is permitted.

Hayes and Halse Hall. In Clarendon, Hayes and Halse Hall are two post-emancipation free villages, which are now the site of the Jamalco alumina refinery and tailing dams.

This evolution from pre-emancipation to post-emancipation land settlement, and the Jamaican peasant practice of inter-cropping and multi-cropping agriculture, form the backbone of the rural Jamaica. It is

⁶² Jean Besson, “[Sidney W Mintz’s ‘Peasantry’ as a Critique of Capitalism: New Evidence from Jamaica](#),” *Critique of Anthropology* 38, no. 4 (October 24, 2018): 443–60, 451.

these very rural lands that are destroyed by bauxite mining and alumina processing. Approximately 27% of Jamaica has bauxite deposits, and rural Jamaicans have already been dispossessed and displaced in five parishes. Now bauxite mining is expanding into a sixth parish—the parish of Trelawny—for the first time. The needs of rural Jamaicans must be urgently addressed. The Bauxite-Alumina industry is an existential threat to Jamaican peasants, their productivity, culture and society.

5. The Right to Freedom from Forced Displacement

Freedom from forced displacement is inherent in multiple rights recognized in major human rights treaties and documents, including the right to freedom of movement and choice of residence, the right to respect for the home and for privacy, and the right to respect for the family, recognized in the UDHR, ICCPR, Convention on the Elimination of Racial Discrimination, and the Convention on the Elimination of Discrimination Against Women. These rights also include freedom from economic displacement, which is embedded in the right to an adequate standard of living also found in the above treaties.⁶³

In the Caribbean, mining concessions expose communities to physical and economic displacement and forced eviction in mining areas. This issue has been exacerbated by land grabs by mining companies that have irreversibly disrupted traditional ways of life and land security.

Forced Displacement and Communities Affected by Mining in Haiti: Moun Andeyò

According to *Kolektif Jistis Min*, the communities affected by mining activity in the North, Northeast, and Northwest departments are Afro-descendant, peasant communities who “share much in common: they are all, as Haitians say, *moun andeyò*—literally ‘people outside.’ They are outside of Port-au-Prince, outside of Haiti’s secondary cities, outside the government, and ... outside of conversations about the development of the mining sector ... This population of *moun andeyò* are the inheritors of a system of racialized subordination that stretches from the time of slavery to the present day.”⁶⁴

In 2014, *Kolektif Jistis Min* and the Global Justice Clinic published a report that documents issues of forced displacement in these predominantly subsistence farming communities in northern Haiti where mining companies hold permits. According to the report:

Land use and ownership patterns are complex in Haiti, where many people have lived on land without formal title for generations while depending on that land for their livelihoods ... The combination of insecure tenure and dependence on land for survival adds to the risks posed by mineral mining, heightening the vulnerability of Haiti’s subsistence farmers to displacement and forced eviction in mining areas.⁶⁵

⁶³ UDHR, Article 25; ICESCR, Article 11; ICERD, Article 5(e)(iii); CEDAW, Article 14(2)(h); and CRC, Article 27 (the right to an adequate standard of living, including food and housing). Cited in *Kolektif Jistis Min* and Global Justice Clinic, NYU School of Law, “[Submission to the United Nations Universal Periodic Review. Human Rights Impacts of Gold Mining in Haiti](#),” November 2016, para. 30.

⁶⁴ Global Justice Clinic, “Haiti’s Emerging Mining Industry,” Submission in response to the request of the Special Rapporteur submission in response to the request of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Professor Tendayi Achiume, for written statements regarding her thematic report on natural resource extraction and racial discrimination, 2019, p.4. On file with authors.

⁶⁵ Haiti Justice Initiative and The Global Justice Clinic, “[Byen Konte, Mal Kalkile? Human Rights and Environmental Risks of Gold Mining in Haiti](#),” December 2015, p. 209.

Cockpit Country – Voices from Jamaica’s Heart
Excerpts from Documentary Film by Esther Figueroa, 2007

Lillian Bolt, Sherwood Content, Trelawny:

I went to Lime Tree Garden Primary School, my parents then sold their land to Kaiser and were resettled in Windsor [Trelawny]. They had planned that we would be getting school church and market and road but then nothing happens. For 41 years we owned those lands in Windsor nothing. From where I was living to the school was roughly 4 miles and the road was very bad. Then we only go to school maybe one two days out of the week. By the time you reach school in the morning you are tired ... There is no way, there is no way they could ever think of coming in anywhere in this community or surrounding to do mining again after robbing us of our beautiful homes and land in St. Ann and dumping us in the forest and then coming to destroy us again, thinking of destroying us again. There is no way.

Frank Lawrence, Chair, St. Ann Development Committee:

If you go back to the Dry Harbour Mountains which is our main area of focus in which mining started in the 60s, you’ll realize that some communities, Lime Tree Garden, Thatchfield, Macedonia, Scarborough, Tricy have been completely wiped out and these people were instead transported to Knapdale, Lillyfield, Retreat to name a few, and areas around Moneague without any proper sense of planning for them, inadequate water supply, inadequate road maintenance, and inadequate schools, inadequate policing, inadequate burial facilities, and as a result a lot of serious socio - economic problems are showing up in these areas and bringing pressures on some of the urban areas like Claremont, Moneague and Browns Town to which these people have to gravitate for work and for services ... The agricultural resources have shifted completely to coffee and citrus and the rich ground provisions that came out of places like Tobalski and Scarborough to marginal lands where just cash crops can be done when the weather is permissible, and as a result the people who have moved from these areas in which they had such a sense of sustainable development are now just eking out an existence in these marginal lands to which they were removed, even though sometimes they got more lands than they have (had) but the production is not what can match what they had before ... I see it as not only an ethical but a theological responsibility to preserve and protect the environment, not just being homocentric thinking of humans only, but also thinking of all creation, the plant life, the flora and fauna so that we’ll have balance and sustainable development.

6. The Right to Equality and Non-Discrimination

Localized Equality Analysis: The principles of non-discrimination and equality before the law are fundamental principles in international human rights law and are therefore codified in all core human rights instruments. At the inter-American level, the principles of non-discrimination and equality before the law are reflected in Article II of the American Declaration and Articles 1(1) and 24 of the American Convention. The Inter-American Court has stated that Article 1(1) of the American Convention “is a general norm the content of which extends to all the provisions of the treaty, because it establishes the obligation of the States Parties to respect and ensure the full and free exercise of the rights and freedoms recognized therein ‘without any discrimination.’”⁶⁶ The Inter-American Court has already recognized the vulnerability of certain

⁶⁶ I/A Court H.R., *Case of Nadege Dorzema et al v. Dominican Republic*. Merits, Reparations and Costs. October 24, 2012, Series C No. 251, para. 224.

communities who are disproportionately impacted by environmental harm, stating that “States are legally obliged to confront these vulnerabilities based on the principle of equality and non- discrimination.”⁶⁷

In the Caribbean, the issues discussed throughout this submission illustrate the racially discriminatory, gendered and intersectional nature of human rights violations caused by extraction. Indigenous Peoples, Afro-descendants, rural communities and women bear the brunt of the social and environmental costs of extractive activities. For members of these groups, their race, ethnicity and gender are important factors in their political, economic and social marginalization.

Caribbean states routinely violate the rights to equality before the law, to equal protection of the law and non-discrimination by failing to grant ITPs the protections necessary to exercise their right to property fully and equally with other members of the population. The lack of equal protection to ITP property is also exemplified by the preferential treatment afforded to individual property, in contrast to the unprotected nature of the lands and territories historically occupied by ITPs, such as the Maroons of Jamaica. As the SRDC in Guyana has stated, “It is discriminatory for the Government to prioritise the concerns of the miners over our rights,” noting that the Committee on the Elimination of Racial Discrimination recently recommended that, in order to stop discriminating against indigenous communities in the context of the activities on Marudi Mountain, the Government should, among other things, not issue any new concessions, and should revoke any concessions already issued without their consent.⁶⁸ Importantly, the lack of consultation before carrying out extractive projects on lands that have been historically occupied by ITPs and the sale of these lands are all expressions of discrimination.

The situation of rural communities is not as frequently discussed, but their racialized exclusion should be understood as part of the wider context of racial discrimination in the Caribbean and disregard of African continuities in cultural practices, including traditional ways of relating to the land. Ultimately, across the region, Government officials and foreign companies have concluded extractivist agreements without input from the affected communities, perpetuating the historical legacies of racialized exclusion of ITPs and African descended peasant communities alike.

Another salient issue related to discrimination is the failure of laws and policies to account for the negative impacts of extraction on women. In the case of Guyana, for example, the CEDAW Committee has called on the state to review its energy policies to take into account the negative effects of climate change on gender equality.⁶⁹

Global Structural Racial Inequity: The Declaration on the Granting of Independence to Colonial Countries and Peoples and The Declaration on Permanent Sovereignty over Natural Resources advance the principles of the equal right of all peoples to self-determination and the right to sovereign equality. As noted by the Special Rapporteur on racism, these documents are “vital for understanding the baseline for equal relations within the extractivism economy” and present a vision of a new international economic order based on sovereign equality.⁷⁰

In the Caribbean, as in other parts of the world, extraction takes place within the larger context of global extractivism, rooted in the racially discriminatory history of colonial extractivism and indigenous dispossession. As noted by the U.N. Special Rapporteur, “colonial-era sovereign inequality persists” in the

⁶⁷ I/A Court H.R., *Our Land*, para. 209.

⁶⁸ South Rupununi District Council, “Wapichan Environmental Monitoring Report,” September 2018, p. 27.

⁶⁹ Committee on the Elimination of Discrimination Against Women, “Concluding Observations on the Ninth Periodic Report of Guyana,” [CEDAW/C/GUY/CO/9](#), July 30, 2019.

⁷⁰ Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Tendayi Achiume), [“Global Extractivism and Racial Equality,”](#) U.N. Doc. A/HRC/41/54, U.N. Human Rights Council, May 2019, para. 31.

contemporary extractivism economy and “models of extraction that rely upon or produce racial, ethnic and indigenous exploitation remain a reality.”⁷¹ Importantly, foreign and international constraints on self-determination remain at the core of the extractivism economy. Local communities are marginalized from decision-making while the benefits of extraction often accrue to foreign shareholders or the personal fortunes of local elites, instead of contributing to overall national well-being. In **Guyana**, for example, commentators have suggested that the oil deal with ExxonMobil is skewed in favour of the oil company, rather than local communities, with Guyana receiving a mere 2% in royalties.⁷² Ultimately, the long-term costs of petroleum extraction outweigh short-term benefits to Guyana.⁷³

7. The Rights of Environmental Defenders

The right to assembly is protected by Articles XXI of the American Declaration and 15 of the American Convention. The Commission has stated that peaceful social protest, as a manifestation of freedom of assembly, is a fundamental tool in the defense of human rights, including environmental, economic, social and cultural rights.⁷⁴ The Commission has also expressed serious concern about the situation of intimidation and violence against environmental rights defenders in Latin America.⁷⁵

These issues persist in the Caribbean as well. Though infrequently discussed, one form of intimidation is the process of normalization and cultural socialization of worldviews that link extractivist development to national identity and prosperity, such that alternative views are stigmatized as anti-nation and anti-community, not only through physical violence, but also through the structural violence of othering.

In **The Bahamas**, for example, Waterkeepers Bahamas has informed us that members of their partner organization, Coalition to Protect Clifton Bay aka Save The Bays (STB), were “victims of several Hate Rallies that were organized by persons who did not agree with the way in which STB was bringing to the forefront activities of unregulated development, oil pollution, illegal and dredging and environmental destruction.” According to Rashema Ingraham, Executive Director of Waterkeepers Bahamas:

Participants in the rallies paraded throughout the streets of New Providence with derogatory placards that included pictures of Directors of STB. Although the group filed complaints with the Royal Bahamas Police Force (the Police) and made requests for the Police to investigate further, very little was done and the Directors were very fearful even to be out in public, at the offices or at home.⁷⁶

In **Jamaica**, in 2015, the rural farming community of Gibraltar St. Ann raised the alarm that an illegal haul road was being constructed and illegal bauxite pits dug outside of SML 165 by Noranda Bauxite. According to Dr. Esther Figueroa, one of the protesters:

On July 21 2015, they held a peaceful and joyful protest supported by other Cockpit Country communities and people from across Jamaica. Noranda Bauxite security personnel and the Jamaica constabulary, including high level officers, attempted to intimidate the protesters with their presence. A plain clothes policeman acting in a hostile manner video recorded everyone in

⁷¹ Ibid., para. 35.

⁷² “[This Petroleum Contract Is Not Worth the Paper It Is Written On](#),” *Kaieteur News*, July 2, 2019.

⁷³ Institute for Energy Economics and Financial Analysis, “[Guyana’s Oil Deal: Promise of Quick Cash Will Leave Country Shortchanged. Long-Term Costs Far Outweigh Benefits as Oil Industry Declines](#),” October 2020.

⁷⁴ IACHR, “[Protest and Human Rights: Standards on the rights involved in social protest and the obligations to guide the response of the State](#),” September 2019, para. 14.

⁷⁵ See, e.g., IACHR Press Release, “[IACHR Condemns Murders of Human Rights Defenders Linked to Environmental and Land Rights and to Rural Laborers in Brazil](#),” July 27, 2018.

⁷⁶ Email from Rashema Ingraham, Executive Director of Waterkeepers Bahamas, April 15, 2021.

attendance. Noranda Bauxite trucks blocked access to roads. A fire was set by someone other than the protesters and the police immediately used that as a pretense to stop the event. But the fire had already been quickly put out by community members.

8. The Rights of Nature

The Inter-American Court has established that the right to a healthy environment protects components of the environment, such as forests, seas, rivers, and other natural features, as interests in themselves, even in the absence of certainty or evidence about how it affects individual people. In other words, the right to a healthy environment protects nature, not only because of its benefits or effects for humanity, “but because of its importance for other living organisms”.⁷⁷ This case suggests that there is an emerging basis in the inter-American system for recognition of the “rights of nature,” which adds momentum to the existing Rights of Nature movement that seeks to define legal rights for ecosystems to exist, flourish, and regenerate their natural capacities.⁷⁸

Indeed, there is growing recognition that the human right to a healthy environment cannot be achieved without securing Nature’s own rights first. The UN General Assembly, for example, has stated that “the human right to life is meaningless if the ecosystems that sustain humankind do not have the legal rights to exist.”⁷⁹ The Rights of Nature have been recognized in a growing number of constitutions and Rights of Nature jurisprudence has led to legal challenges all over the world and recognized through court decisions.⁸⁰ Important developments include the treaty agreement signed with Maori in 2012 recognizing the entire Whanganui River system as a legal entity with standing. Similarly in 2013, the Te Urewera forest treaty agreement recognized the legal personhood of the Forest. Both of these treaties were then made into New Zealand Acts in 2017.⁸¹ Judicial decisions include the High Court of Bangladesh recognizing the Turag River as a living entity with legal rights, the Constitutional Court of Colombia recognizing the Altrato river as a “true subject with rights,” and the India Supreme Court recognizing the personhood of the Ganga and Yamuna rivers.⁸²

In the Caribbean, extraction presents an existential threat to soil, water, air, ecosystems, biological diversity and living organisms. Mining, for example, is an “inherently unsustainable activity: The ore that is extracted is not replenished, and over the life of the mine the minerals in the earth are depleted.”⁸³ Sites of extraction lead to human encroachment, deforestation, loss of habitat, air, soil, water and light pollution, noise, ecosystem fragmentation, introduction of invasive species, changes in micro-climates, etc. These impacts cause species extinction, dislocation, replacement and place immense stresses on surviving individuals and communities.

Within the Caribbean region are many biodiversity hotspots where species found nowhere else in the world are endangered by extraction. The Caribbean is also necessary to migratory species who make their seasonal journeys. In **Jamaica**, for example, the Cockpit Country is the largest intact rainforest, the source of six major rivers, and a hot spot of biological diversity.⁸⁴ Jamaican biologist and bird specialist Wendy Lee has identified from first hand observations, 27 Jamaican endemic bird species, 13 Jamaican endemic sub-

⁷⁷ I/A Court H.R., *Our Land*, para 203.

⁷⁸ See, e.g., Movement Rights et al, “[Rights of Nature & Mother Earth. Rights-Based Law for Systemic Change](#),” 2017.

⁷⁹ U.N. General Assembly, “[Harmony with Nature](#),” A/75/266, July 28, 2020, para. 41.

⁸⁰ See discussion in U.N. General Assembly, “[Harmony with Nature](#),” A/74/236, July 26, 2019.

⁸¹ “[New Zealand - Legal Rights for Forests and Rivers](#),” Australian Earth Laws Alliance, accessed April 17, 2021.

⁸² See discussion in U.N. General Assembly, “[Harmony with Nature](#),” A/74/236, July 26, 2019.

⁸³ Haiti Justice Initiative and The Global Justice Clinic, “[Byen Konte. Mal Kalkile? Human Rights and Environmental Risks of Gold Mining in Haiti](#),” December 2015, p. 6.

⁸⁴ Windsor Research Centre, “[Welcome to Cockpit Country](#),” accessed April 18th, 2021.

species and 35 resident and migratory species, a total of 75 species of birds in the Stewart Town environs, an area slated for bauxite mining under SML 173.

In **Trinidad and Tobago**, marine species are threatened by pollution from the oil and gas industries. According to FFOS, “A 2019 World Bank study on Marine Pollution in the Caribbean concluded that in the Eastern Caribbean, TT contributes the largest industrial pollutant loads to the marine environment. This they attributed to the increased industrial development, notably oil facilities.”⁸⁵

In **Guyana**, the intact forests of the Guiana Shield complex are one of the last 4 large scale tracts of tropical forest in the world and host high levels of biodiversity. As part of the Amazonia, Guyana has the second highest percentage of forest cover in the world. According to Guyana’s Fourth National Report to the Convention on Biological Diversity:

A number of direct and indirect threats (as a result of the mechanics of resource-use and management) associated with the various biodiversity components were identified ... The threats identified are associated with some of Guyana’s main economic activities such as agriculture (mainly rice and sugar) and extractive industries (forestry, gold, diamond and bauxite). It was found that coastal and marine, inland and freshwater ecosystems are still not adequately protected from exploitation and/or threats.⁸⁶

Guyana’s Sixth National Report to the Convention on Biological Diversity (2019) states:

Bauxite mine clearing in Guyana involves the removal of forest cover to allow stripping to be carried out. This is seen as representing a direct destruction of portions of the ecosystem of which the major casualties were fauna and flora ... Described as of immense ecological significance was the fouling of streams by colloidal clay suspensions produced by “de-sliming” of deposits in preparation for final recovery of the gold. The more obvious effects of this fouling were the prevention of the growth of aquatic plants as a result of light exclusion, leading to the “death” of streams; the fouling of fish gills causing death by asphyxiation; the smothering of the eggs of aquatic animals, further depopulating streams; and the displacement of human communities due to the loss of domestic water supplies from streams, and of fish and wildlife.⁸⁷

ExxonMobil has proclaimed its commitment to Guyana’s biodiversity, but according to Global Citizen, Annette Arjoon-Martins, the president of the Guyana Marine Conservation Society, has found that the company’s words have been followed with little action.⁸⁸ The company’s initial assessments did not properly take stock of all the species that could be affected, and so the company cannot accurately measure the impact its activity might have on marine life.⁸⁹ For example, ExxonMobil’s research has focused on the sea turtle species that nests on Shell Beach in Guyana, while ignoring the sperm whales, several of which have died and washed ashore in recent years. Arjoon-Martins suspects these whale deaths could be related to the seismic surveys carried out by companies searching for oil around Guyana.⁹⁰

C. Non-Compliance with the State Obligation to Guarantee ESCE Rights

⁸⁵ Email from Lisa Premchand, Programme Director, Friends of the Sea, April 12, 2020.

⁸⁶ Environmental Protection Agency, “[Guyana Fourth National Report to the Convention on Biological Diversity](#),” 2010, p. 1.

⁸⁷ *Ibid.*, p. 5.

⁸⁸ Gabrielle Deonath, “[New Oil Discoveries Could Reduce Poverty in Guyana — But at What Cost?](#),” *Global Citizen*, November 4, 2019.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

1. Few Caribbean States Recognize ESCE rights

Very few CARICOM states recognize the full breadth of ESCE rights. For example, only two states (Guyana and Jamaica) recognize the right to a healthy environment at the constitutional level and only four states (Belize, Guyana, Haiti and Suriname) recognize a Governmental environmental duty at the constitutional level. We are only aware of two CARICOM states (Guyana and Haiti) that recognize the right to food as a separate and stand-alone right.⁹¹ Moreover, there is a low level of ratification of treaties that recognize the right to a healthy environment and other ESCE rights. In particular, only one CARICOM state (Suriname) has ratified the San Salvador Protocol and only five CARICOM states have ratified the *Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean* (Escazú Agreement).

This is problematic since legal recognition of ESCE rights is important, though not sufficient, for the implementation of these rights. As the U.N. Special Rapporteur on the environment has stated, constitutional protection is essential because the constitution represents the highest and strongest law in a domestic legal system.⁹² Additionally, it is also important that legislation be enacted and implemented to respect, protect and fulfil ESCE rights. Consistent with this understanding, the right to a healthy environment enjoys constitutional protection in 110 States around the world and there are 101 States where this right has been incorporated into national legislation.⁹³ There is also a growing number of constitutions that recognize the rights of nature, that refer to the rights of future generations to enjoy a healthy environment, that address the right to an adequate supply of clean water, and that include responsibilities relating to climate change.⁹⁴

2. Environmental Impact Assessment Laws Do Not Meet International Standards

International standards establish that EIAs must be clear and, moreover, must meet the following conditions: the assessment must be made before the activity is carried out; it must be carried out by independent entities; it must include the cumulative impact; it must provide for adequate participation of interested parties; it must respect the traditions and culture of Indigenous Peoples; and laws should determine the content of EIAs.⁹⁵ Most CARICOM states have adopted legislation which provides for EIAs to be carried out prior to the authorisation of development projects which could have significant adverse environmental impacts. However, in many cases, EIA laws in the region do not meet international standards. The discussion below is not exhaustive, but provides examples of patterns of non-compliance.⁹⁶

- **Lack of clarity:** EIA legislation in CARICOM states generally lacks sufficient clarity to adequately protect Nature, the right to a healthy environment. In most CARICOM states, the relevant legislation fails to specify the particulars with respect to the screening criteria for identifying the projects for which an EIA should be required, the minimum contents of the EIA report, and the requirements and procedures of the EIA. A 2018 survey of EIA legislation in 14 Caribbean states, for example, concluded that only two states (Belize and Trinidad and Tobago) had robust statutory provisions for EIAs and only four states (Belize, Guyana, Montserrat and Trinidad and Tobago) have statutory provisions that set out minimum standards for carrying out EIAs and EIA reports. In many states, such as Jamaica, the law regarding EIAs depends almost entirely upon the making

⁹¹ See Lidija Knuth and Margret Vidar, "[Constitutional and Legal Protection of the Right to Food around the World](#)," (Rome: FAO, 2011).

⁹² Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (David R. Boyd), "Right to a Healthy Environment: Good Practices," [A/HRC/43/53](#), December 30, 2019, para 9.

⁹³ *Ibid.*, para. 12.

⁹⁴ See discussion in U.N. General Assembly, "[Harmony with Nature](#)," A/74/236, July 26, 2019.

⁹⁵ I/A Court H.R., "[The Environment and Human Rights](#)," Advisory Opinion OC-23/17, November 15, 2017, paras 161-170.

⁹⁶ See discussion in Christine Toppin-Allahar, "The Legislative Framework for Environmental Impact Assessment in the Caribbean" (Caribbean Law Institute Centre UWI, Cave Hill Campus, February 2018).

of EIA Regulations to implement the provisions of the parent Acts – and this has not been done in any of these jurisdictions.⁹⁷

- **Failure to account for social and environmental costs:** EIA laws largely fail to account for the social and environmental costs of extraction in EIA processes, including in states with ITPs. In Jamaica, for example, the EIA for SML 173, as in other cases, does not include a Gender Focus/Analysis, a Social Impact Assessment, nor does it include any focus on human rights such as the right to a healthy environment, food and water, or cultural identity, nor on the special vulnerabilities of the population being rural, Indigenous and African-descended. Any and all damage to the environment and any effects on land-use practices are ignored, minimized or said to be easily mitigated. Environmental experts have found that both quantitative and qualitative, natural and social science analyses are completely inadequate, using questionable methodologies, sample sizes, and the data is filled with inconsistencies, inaccuracies and mistakes and shows a stark lack of rigor and even basic knowledge of environmental science.⁹⁸
- **Lack of independence:** In the vast majority of CARICOM states, the project proponent is responsible for carrying out the EIA and the preparation of the EIA report or Environmental Impact Statement.⁹⁹ This presents a serious conflict of interest that undermines the integrity of the process. Moreover, EIA legislation does not always provide for the independence and expertise of the consultant preparing the EIA report.¹⁰⁰ This has caused concerns about the competence and independence of the consultants retained by the project proponent. In this context, challenges to the adequacy of EIA reports have been a major feature of conflict and EIA litigation in the region.
- **Non-transparent decision-making:** The lack of clarity in EIA legislation is exacerbated by an autocratic approach to decision-making, which grants Ministers significant power to determine certain classes of development applications or to overturn the decision of technical agencies. As acknowledged by policymakers in the region, the way this system operates is “very opaque, it is susceptible to politicization, and there is scope for personal corruption. It is also narrowly technically based with limited coordination with other regulatory agencies.”¹⁰¹

In **Jamaica**, for example, the Prime Minister, in his capacity as environment minister, has significant power to overturn the determinations of environmental agencies with respect to extractive projects. Specifically, under s.35 of the Natural Resources Conservation Authority Act, a person who has been refused a permit or licence or who objects to the terms and conditions subject to which a permit or licence is granted may appeal to the Minister, who may set aside the decision of the technical regulator. The Act does not require any hearings, nor does it require the Minister

⁹⁷ Ibid., p. 47.

⁹⁸ See, e.g., Jamaica Environment Trust, “[Review of the Environmental Impact Assessment \(EIA\) For proposed Mining Operations in the Special Mining Lease 173 area Parishes of St Ann and Trelawny](#),” December 2020; Susan Koenig, “[Comments on Environmental Impact Assessment for proposed Mining Operations in the Special Mining Lease 173 \(SML 173\) Area](#),” December 28, 2020.

⁹⁹ An exception is the National Conservation and Environmental Protection Act 1987, No.5 of 1987, of St. Kitts and Nevis, section 25 of which provides that, for the purposes of coastal conservation, the Minister, in consultation with the Conservation Commission is responsible for undertaking EIAs in collaboration with other government departments, agencies and institutions, with respect to development activities. See Christine Toppin-Allahar, “The Legislative Framework for Environmental Impact Assessment in the Caribbean” (Caribbean Law Institute Centre UWI, Cave Hill Campus, February 2018), p. 7.

¹⁰⁰ An exception is the Environmental Protection Act, No. 11 of 1996 of Guyana, section 11(4) of which provides that EIAs shall be carried out by an independent and suitably qualified person approved by the Environmental Protection Agency. Section 4(3)(e) requires that the EPA compile a list of approved persons with the qualifications and experience to undertake EIAs and to maintain a public register of all EIAs carried out. See discussion in Christine Toppin-Allahar, “The Legislative Framework for Environmental Impact Assessment in the Caribbean” (Caribbean Law Institute Centre UWI, Cave Hill Campus, February 2018).

¹⁰¹ Town and Country Development Planning Office, Government of Barbados, “[Green Paper on Planning Law Reform](#),” p. 2.

to provide reasons for the decision. The Minister’s decision is final. Pursuant to this provision, in November 2020, the Prime Minister of Jamaica, in his capacity as environment minister, used Ministerial power to approve an environmental permit for Bengal Development Limited to mine limestone on land in Discovery Bay, St Ann, overturning the May 2020 decision of NEPA not to grant a permit because of the land’s ecological value. The serious environmental risk associated with this project is underlined by the fact that the permit has 72 conditions, which the prime minister said “would mitigate for impact on species biodiversity for the area and ensure greater management of the total acreage.”¹⁰²

Beyond these shortcomings in EIA implementation, the project-level EIA mechanism itself is inherently flawed and does not adequately account for Nature, the right to a healthy environment, and related ESCE rights. EIAs are reactive rather than preventive, in that they react to development proposals, rather than steer development away from environmentally sensitive sites. Moreover, EIAs are financed by the project proponent and often happen after a decision has already been made. In this context, EIAs are not designed to meaningfully change the course of investment or to assess alternatives. Importantly, EIAs do not adequately consider the cumulative impacts caused by several projects.

There is an emerging global trend towards Strategic Environment Assessments (SEAs) or Strategic Environmental and Social Assessments, which are increasingly being used as tools to strengthen democratic control. SEA’s involve “the proactive assessment of alternatives to proposed or existing [Policies, Plans and Programmes, PPPs] in the context of a broader vision, set of goals or objectives.”¹⁰³ There is growing recognition of the importance of SEAs with at least 40 countries having SEA systems in place, including all member states of the European Union.¹⁰⁴ There are some promising developments in Caribbean states, such as Antigua and Barbuda.¹⁰⁵ However, uptake of SEAs has generally been slow in the Caribbean and legal approaches are still deeply rooted in the logic of EIA systems.

3. Supervision and Monitoring Mechanisms are Weak

Across the Caribbean region, there have been consistent complaints about outdated and inadequate monitoring regimes and weak supervision and enforcement mechanisms with respect to extractive industries.

In **Guyana**, for example, the government has embarked on oil production with outdated laws and a severe lack of monitoring and enforcement capacity. Advocates have complained that oil companies are routinely flouting regulations in place. In May 2020, the Environmental Protection Agency admitted that Esso, Hess and Nexen had flared over 9 billion cubic feet of natural gas.¹⁰⁶ The relevant environmental permit does not permit routine flaring.

In **Jamaica**, there are serious and continuous weaknesses in the monitoring and supervision of the Bauxite-Alumina Industry, including the ineffective monitoring of air quality—despite consistent complaints about the adverse health effects of air pollution—and a chronic lack of attention to detail in monitoring extractive projects.¹⁰⁷

¹⁰² [“PM Defends Mining Decision. Economic Activity Can Co-exist with Environmental Preservation, He Insists,”](#) *Jamaica Observer*, November 13, 2020.

¹⁰³ UNEP, [“Assessing Environmental Impacts- a Global Review of Legislation,”](#) 2018, p. 4.

¹⁰⁴ *Ibid.*, p. 8.

¹⁰⁵ Section 40 of the Environmental Protection and Management Act, 2019 provides for a strategic environmental impact assessment process.

¹⁰⁶ [“Grave Environmental Damage Looms – German NGO Warns,”](#) *Kaieteur News*, May 22, 2020.

¹⁰⁷ Jamaica Environment Trust, [“Red Dirt: A Multidisciplinary Review of the Bauxite-Alumina Industry in Jamaica,”](#) 2020, p. 11.

In **Haiti**, according to the Global Justice Clinic, “The Bureau des Mines (BME), which is responsible for regulating the mining sector, has said that it cannot monitor company activities or compliance without company help.”¹⁰⁸

4. Contingency Plans and Mitigation Measures are Not Always Implemented or Enforced

The Inter-American Court has established that states have an obligation to institute a contingency plan in order to establish safety measures and procedures to minimize the possibility of major environmental accidents.¹⁰⁹ The duty to prepare contingency plans is contemplated by treaties such as the United Nations Convention on the Law of the Sea;¹¹⁰ the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention) and its three Protocols (on Oil Spill, Specially Protected Areas and Wildlife and Land-based Sources of Marine Pollution). Additionally, the state has a duty to mitigate significant environmental damage if it occurs.

Contrary to these standards, the Caribbean is entering an unprecedented era of extraction without having taken adequate measures to ensure basic environmental management in extractive projects, minimize the possibility of major environmental accidents, or mitigate significant environmental damage if it occurs.

In **Jamaica**, the Jamaica Environment Trust (JET) has consistently complained that “environmental legislation to manage the impacts of the mining and quarrying sector is lacking. There are no legal provisions that make it mandatory to screen new projects to ensure adequate environmental management.”¹¹¹

In **Guyana**, the state started oil production without an adequate contingency plan and oil spill legislation in place.

In **Trinidad and Tobago**, despite being one of the oldest hydrocarbon producers in the world, it was only in 2013 that the National Oil Spill Contingency Plan was established.

D. Non-Compliance with the State Obligation to Guarantee Procedural Environmental Rights

States have procedural obligations relating to environmental protection. Specifically, in order to ensure human rights in the context of extractive activities, States have the obligation to guarantee: (1) the right of access to information related to potential environmental harm, established in Article 13 of the American Convention; (2) the right to public participation in policies and decision-making that may affect the environment, in accordance with Article 23(1)(a) of the American Convention; and (3) access to justice, established in Articles 8 and 25 of the American Convention. These rights are reinforced in a range of other human rights and environmental law treaties and best practice documents, including the Escazú Agreement,

¹⁰⁸ Global Justice Clinic, “Haiti’s Emerging Mining Industry,” Submission in response to the request of the Special Rapporteur submission in response to the request of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Professor Tendayi Achiume, for written statements regarding her thematic report on natural resource extraction and racial discrimination, 2019, p.4. On file with authors.

¹⁰⁹ I/A Court H.R., “[The Environment and Human Rights](#),” November 15, 2017, para. 171.

¹¹⁰ This Convention establishes that States shall together prepare and promote emergency plans to deal with incidents of pollution of the marine environment.

¹¹¹ Jamaica Environment Trust, “[Promoting Best Practices in Environmental Management of the Mining and Quarrying Sector in Jamaica](#),” 2015, p. 77.

which entered into force on April 22, 2021 and which has been signed or ratified by a few Caribbean states.¹¹² As discussed below, these rights are routinely violated in the context of extractive projects.

1. Access to Information

There is a systemic lack of access to information and transparency in the Caribbean's extractives sector which, in turn, breeds corruption and a permissive environment for a lack of due diligence in carrying out extractive projects. Researchers in the region have complained that only basic information recorded by the relevant agency in registers open to the public is available, and there may be a fee payable for taking copies of such information. Moreover, there are significant barriers that impact access to information and a toxic culture of secrecy, both in the law and in practice.

In **Jamaica**, for example, JET has expressed concerns about the severe lack of information in Jamaica's Bauxite and Alumina Industry, including a lack of basic information on government websites. JET has also documented significant obstacles to members of the public using the Access to Information Act to obtain information on the Jamaican Bauxite-Alumina Industry.¹¹³ For example, between January to July 2020, JET submitted 27 ATI requests as part of the research for their study. Only four of their requests were received within the statutory 30 days. Ten requests were extended to 60 days and five were only partially satisfied. According to JET, at the time of writing their study, information contained in seven of the requests was neither provided, denied, nor was the request transferred to another agency. The requests were submitted for internal review.¹¹⁴ JET also complained about the difficulty in accessing basic information, such as a Health Impact Assessment, which should be a matter of public record. According to JET, "this important document was very difficult to access, requiring ministerial intervention."¹¹⁵

In **Haiti**, mining affected communities have consistently complained about the lack of access to information and transparency. According to *Kolektif Jistis Min* and Global Justice Clinic, "not a single environmental and social impact assessment concerning gold mining has been made public, and it is not clear whether companies have in fact completed such studies."¹¹⁶ In 2015, these organizations testified at a thematic hearing before the Commission about the lack of access to information, noting among other things that: there is no law implementing this right; the draft mining law has a confidentiality clause that violates the right to access information; and "the failure to inform the populations affected by mining exploration activities, and to make relevant information available in Creole, the language of all Haitians, has increased the vulnerability of those communities to such an extent that they have difficulty asserting their rights in relation to mining companies and the Haitian Government."¹¹⁷

In **The Bahamas**, Waterkeepers Bahamas has informed us about the lack of access to information with respect to oil projects. According to Waterkeepers, members of the Our Islands, Our Future group (OIOF) requested information relative to the signed Agreements with the Government of The Bahamas and BPC. However, according to Rashema Ingraham, Executive Director of Waterkeepers Bahamas:

¹¹² Antigua and Barbuda, Guyana, Saint Vincent and the Grenadines, Saint Kitts and Nevis, and Saint Lucia have ratified the Escazú Agreement. Belize, Dominica, Grenada, Haiti, Jamaica, and the Dominican Republic, have signed but not ratified the agreement.

¹¹³ Jamaica Environment Trust, "[Red Dirt: A Multidisciplinary Review of the Bauxite-Alumina Industry in Jamaica](#)," 2020.

¹¹⁴ *Ibid.*, p. 2.

¹¹⁵ *Ibid.*, p. 13.

¹¹⁶ Global Justice Clinic, "Haiti's Emerging Mining Industry," Submission in response to the request of the Special Rapporteur submission in response to the request of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Professor Tendayi Achiume, for written statements regarding her thematic report on natural resource extraction and racial discrimination, 2019, p.4. On file with authors.

¹¹⁷ Global Justice Clinic, NYU School of Law, LaFontaine Orvild, Kolektif Jistis Min, Observatoire Mega-Projet, "Access to Information in Haiti: Obstacles to the Enjoyment of the Right of Access to Information in the Context of the Development of the Mining and Tourism Industries and the Practice of Journalism Executive Summary of Submission to the Inter-American Commission on Human Rights," March 17, 2015.

none of the requests were answered and no information was made available to the public ... many Cabinet Ministers along with the Attorney General made public statements about the Agreement with BPC being “air-tight” and the Government not being able to terminate the Agreement ... OIOF again requested information related to the drilling and geologist reports and for the Government to provide an update on the status of the sealed well. Still no information has been provided to OIOF or the public.¹¹⁸

2. Effective Participation: Free Prior and Informed Consultation and Consent

There are widespread concerns about the lack of public participation in environmental matters in the Caribbean. A 2018 survey of EIA legislation in 14 Caribbean states found that:

[d]espite being constitutional democracies, the ex-colonial Caribbean countries studied all share a tradition of top-down government which is at odds with the modern governance philosophy that values public participation in decision-making. Hence, the adequacy of public participation in decision-making for projects that are, or should be, subject to EIA requirements is emerging as another common theme in EIA litigation in the region.”¹¹⁹

There are also specific structural problems related to the participation of ITPs and rural communities, whose rights to free, prior and informed consultation and consent are routinely violated, either through the complete absence of a normative framework (e.g. Jamaica) or through shortcomings in the existing framework or in its implementation (e.g. Guyana). As one study notes, in Belize, Guyana and Suriname, “State agencies have been issuing natural resources concessions unilaterally to third parties over an ever-increasing percentage of ITP customary lands.”¹²⁰

In **Guyana**, there are serious shortcomings in the normative framework governing consultation as well as concerns about the lack of implementation of the framework that exists. The APA, for example, has stated that “Most often, conflicts inside titled lands arise from logging or mining concessions being granted inside the title without any consultation with or the consent of the village.”¹²¹ There have also been reports that the government of Guyana is not enforcing requirements for environmental permits with accompanying EIAs for small or medium scaled mining. The granting of gold mining licenses without environmental permits means that there is no consultation process taking place regarding mining, or if it does exist, it excludes those most affected by mining, that is the Indigenous People whose lands are being mined.

In **Haiti**, *Kolektif Jistis Min* and the Global Justice Clinic has noted that communities affected by mining activities have been excluded from meaningful participation in decisions related to legal reform and have reported violations of their right to participation in the context of mining exploration:

some residents of communities where mining companies have explored for gold and other metals in Haiti have complained of individuals entering their lands, marking their property, taking samples without permission, and failing to provide adequate information about the purposes of these

¹¹⁸ Email from Rashema Ingraham, Executive Director of Waterkeepers Bahamas, April 15, 2021.

¹¹⁹ Christine Toppin-Allahar, “The Legislative Framework for Environmental Impact Assessment in the Caribbean” (Caribbean Law Institute Centre UWI, Cave Hill Campus, February 2018), p. 10.

¹²⁰ Janette Bulkan, “[Settling Indigenous Rights and Building a Social Contract in the Circum-Caribbean Territories of Belize, Guyana and Suriname](#),” in *Re-Imagining the Guyanas*, ed. Lawrence Aje, Thomas Lacroix, and Judith Misrahi-Barak (Montpellier: Presses Universitaires de la Méditerranée), para. 5.

¹²¹ Amerindian Peoples Association and Forest Peoples Programme and Rainforest Foundation USA, “Our Land, Our Life. A Participatory Assessment of the Land Tenure Situation of Indigenous Peoples in Guyana. Report for Regions 1, 2, 7, 8 & 9,” 2021, p. 10.

preliminary mining activities ... Community members have expressed frustration at being excluded from decisions that affect their lives. There is a risk that these violations would be exacerbated during the extraction phase of gold mining, when large tracts of land would be occupied and community members likely displaced.¹²²

In **Jamaica**, after an EIA has been submitted for review, the Natural Resources Conservation Authority is required by law to consult only relevant government agencies exercising functions in connection with the environment under section 9(5)(a) of the Natural Resources Conservation Authority Act. In other words, there is no statutory duty to consult the public, much less Maroon and rural communities, nor does the statute grant the public a right to participate in EIA decisions. NEPA has adopted guidelines that indicate that the consultant who prepares the EIA should consult those directly affected, after which the NRCA may decide whether a public meeting should be held to discuss the findings of the EIA. However, the guidelines are discretionary and do not provide an adequate basis for public participation, especially for ITPs and rural communities.

3. Access to Remedies

In the Caribbean, there are a number of obstacles that impede access to effective remedies in environmental matters, especially for Indigenous Peoples and Afro-descendent and rural communities. In the context of the EIA process, a 2018 survey of EIA legislation in 14 Caribbean states found that, in the majority of cases, there is no adequate provision for appeals against decisions on their technical merits or legality.¹²³ For instance, the report notes that “in some countries rights of appeal are conferred on any ‘person aggrieved’ by the decision of the relevant authority ... Hence, the principle means of challenging the adequacy of the EIA process and decisions made as an outcome of the process remains by way of judicial review proceedings in the law courts.”¹²⁴ In other words, when it comes to regulatory decisions made on the basis of the EIA process, in many cases there is no provision for appeals against the *merits* of such decisions and/or their legality. Additionally, the definition of “aggrieved” person is sometimes vague and open to narrow interpretation.¹²⁵

In other cases, such as **Barbados**, certain classes of development applications are referred to the Minister for decision-making, whose decision is final and not subject to appeal.¹²⁶ Or the right of appeal against a decision made during the EIA process is to the relevant Minister, rather than a tribunal, and the Minister’s decision is final (e.g. **Jamaica**).

Mining-affected communities have also complained about inadequate compensation provided for extraction-related damage and harm. In **Jamaica**, for example, JET has found that communities affected by dust in the bauxite-mining industry complain that “dust nuisance” compensation offered by bauxite companies to be inadequate – between JMD7,000 and JMD8,000 per household per incident. At 2020 rates of exchange, this is between USD50 and USD55. According to JET’s interviews with mining-affected communities “respondents complained the compensation was too low for the range of impacts they said they experienced, which, along with public health, included damage to crops, roofs, clothes drying outdoors, and water stored in tanks (collected via open rainwater catchments).”¹²⁷

¹²² Kolektif Jistis Min and Global Justice Clinic, NYU School of Law, “[Submission to the United Nations Universal Periodic Review. Human Rights Impacts of Gold Mining in Haiti](#),” November 2016, para. 18.

¹²³ Christine Toppin-Allahar, “The Legislative Framework for Environmental Impact Assessment in the Caribbean” (Caribbean Law Institute Centre UWI, Cave Hill Campus, February 2018).

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*, p. 19, 20.

¹²⁷ Jamaica Environment Trust, “Red Dirt: A Multidisciplinary Review of the Bauxite-Alumina Industry in Jamaica,” 2020, p. 18.

There have also been complaints about extreme delay in the processing of legal cases dealing with Indigenous Peoples. In **Guyana**, for example, six villages in the Upper Mazaruni filed a court case in 1998, claiming a Constitutional right to legal recognition of this collective form of property ownership. However, that case is still pending a decision.

Another obstacle is the prohibitive cost of litigation and difficulty in finding environmental experts to review highly technical documents.

Environmental Groups in The Bahamas Say the Justice System “Prices Out” Public Interest Litigation in Environmental Matters

In January 2021, Supreme Court Justice Petra Hanna-Adderley granted two environmental groups, Save the Bays and Waterkeepers Bahamas, leave to seek Judicial Review to challenge the government’s approvals for BPC to drill an exploratory well in Bahamian waters. However, the Supreme Court subsequently ordered the applicants to find \$200,000 to cover BPC’s “security for costs” within a 30-day period. The Chairman of Save the Bays has complained that the requirement to come up with a bond to cover the oil explorer’s legal costs effectively “prices out” public interest litigation brought by NGOs from the justice system.

E. Non-Compliance with the State Obligation to Guarantee Communal Land Rights

Many of the ESCE rights violations described above are related to structural failures on the part of states to comply with the obligation to recognize, delimit and demarcate and title lands inhabited by ITPs and rural communities. The case studies below of Jamaica’s Maroon communities and Indigenous Peoples in Guyana illustrate aspects of this issue.

The Maroons of Jamaica and the Struggle for Recognition

In Jamaica, Maroon towns—Accompong Town, Moore Town, Charles Town and Scott’s Hall—hold lands allotted to them in the 1739-1740 treaties with the British. However, Jamaica’s independence constitution does not address the political and legal status of the Maroon communities. The domestic legal framework does not recognize the right of the members of Jamaica’s Maroon communities to the use and enjoyment of property in accordance with their system of communal property and the government. The Government has, moreover, granted large-scale mining concessions without their free, prior and informed consultation and consent. The Jamaica Labour Party government, led by Prime Minister Andrew Holness, has agreed to prohibit mining in Cockpit Country in 2017, declaring a Cockpit Country Protected Area. However, Maroon leaders have contested the government’s designated CCPA boundary. The lack of recognition of the Maroons as a juridical personality makes them ineligible under domestic law to receive communal title to property as a “tribal” community and to have equal access to judicial protection of their property rights.

The Insecurity of Indigenous Land Rights in Guyana

Indigenous communities have expressed concerns about the efficacy of the 2006 Amerindian Act in recognizing and protecting their land rights. The CESCR Committee has also expressed concerns about the Amerindian Act, noting: (a)The lack of recognition and protection of indigenous peoples’ customary

systems of land tenure or customary laws pertaining to land and resource ownership and the lack of recognition of collective territories that are held jointly by several communities; (b)The absence of clear criteria based on which Amerindian land title areas are determined; (c)The limitation of indigenous communities with land titles to manage and control resources within their territories; (d)The lack of protection of the land rights of indigenous peoples who still lack a legal land title or are in the process of obtaining one; (e)The broad range of exceptions that allow mining and logging activities by external investors without the free, prior and informed consent of the affected indigenous peoples; (f)The absence of effective legal remedies by which indigenous peoples may seek and obtain restitution of their lands that are held by third parties.¹²⁸

In this context, the CESCR has called on Guyana to revise the Amerindian Act 2006 and other relevant laws with a view to ensuring, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, that the Amerindian people’s rights to their lands, territories and resources are fully recognized and protected and that their free, prior and informed consent is obtained in respect of the adoption of any legislation, policy and/or project affecting their lands or territories and other resources.¹²⁹

F. Non-Compliance with Climate Change Obligations

All CARICOM member states have ratified the United Nations Framework Convention on Climate Change and some have ratified the Paris Agreement. By ratifying these two instruments, state parties have committed to limit the increase of global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C.¹³⁰ Parties recognized that keeping global temperature increase below this threshold would “[s]ignificantly reduce the risks and impacts of climate change”¹³¹ and that “[d]eep reductions in global emissions will be required in order to achieve the ultimate objective of the Convention”.¹³² The International Energy Agency and other scientific experts have warned that the world must immediately halt approvals of new oil and gas projects to keep warming below 1.5°C.¹³³

The recent expansion of oil exploration and fossil fuel extraction in the Caribbean is incompatible with climate change obligations under international law. The failure of governments across the region to prevent extraction-related environmental degradation and deforestation is also incompatible with climate obligations to take precautionary measures to prevent or minimize the causes of climate change and mitigate its adverse effects.

II. Conclusion and Requests

The U.N. Environmental Programme has warned that, “[t]he well-being of today’s youth and future generations depends on an urgent and clear break with current trends of environmental decline.”¹³⁴ Similarly, the U.N. Special Rapporteur on racism has stated that “without fundamental reform, the global

¹²⁸ CESCR Committee, “[Concluding Observations on the Combined Second to Fourth Periodic Reports of Guyana](#),” E/C.12/GUY/CO/2-4, October 28, 2015, para. 14.

¹²⁹ *Ibid.*, para. 15.

¹³⁰ UNFCCC, Paris Agreement adopted at the 21st Session of the Conference of the Parties, December 12, 2015 (Paris Agreement), art. 2(1)(a).

¹³¹ Paris Agreement, preamble.

¹³² *Ibid.*

¹³³ International Energy Agency, “[Net Zero by 2050: A Roadmap for the Global Energy Sector](#),” May 2021.

¹³⁴ U.N. Environment Programme, “[Making Peace with Nature. A Scientific Blueprint to Tackle the Climate, Biodiversity and Pollution Emergencies](#),” 2021, p.13.

extractivism economy will one day make our planet unliveable for humans.”¹³⁵ The U.N. General Assembly, for its part, has called for Harmony with Nature—i.e. a new non-anthropocentric paradigm in which “the fundamental basis for right and wrong action concerning the environment is grounded not solely in human concerns.”¹³⁶

Consistent with these warnings, the Caribbean experience highlights the existential nature of the threat posed by extractive industries and the urgent need for a transition to sustainable development. There is also an urgent need for international cooperation to build a pathway for Caribbean states to move to a future beyond extractivist development. The inter-American system could play an important role in this process by articulating and advancing a new rights-based, earth-centred framework for development in the Caribbean, drawing on the emerging discourse on the Rights of Nature. Thematic hearings can also contribute towards this transition by providing a platform for dialogue and amplifying the voices of Caribbean communities who have been routinely marginalized at the domestic level.

Requests:

We therefore urge the Commission to grant this request for a thematic hearing and, after the hearing, to take the following steps:

We ask the Commission to:

1. Reaffirm the right to a healthy environment as an autonomous right and use the Commission’s working tools (promotion, monitoring and protection) to protect that right in the Caribbean, including through the precautionary measures mechanism.
2. Develop and promote standards with respect to the rights of Peasants and rural communities.
3. Include the issues raised in this hearing in the final report on the Period of Sessions and issue a press release on the urgent issue of extraction in the Caribbean.

We ask the Commission to call upon Caribbean states to:

1. Take concrete and effective actions to stop activities that aggravate the climate crisis and threaten the effective enjoyment of human rights, such as fossil fuel extraction.
2. Comply with the state obligation of prevention of environmental harm and, in particular, the obligation to regulate, monitor and supervise activities of private entities that could impact the right to a healthy environment.
3. Take specific measures to guarantee access to information in relation to the impacts of extractive industries; ensure public participation in environmental decision-making processes; and provide accessible and effective mechanisms to achieve environmental justice.
4. Ratify and implement treaties that address the right to a healthy environment, including the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, and join initiatives that promote transparency and good governance in the extractives sector.
5. Embed environmental, economic, social, and cultural rights throughout the legal framework, including in the constitution, legislation, policies and programmes.
6. Enact climate legislation that integrates human rights and addresses gender equality.
7. Develop norms, policies and institutions to protect environmental defenders who challenge extractive activities from intimidation, harassment and criminalization.

¹³⁵ Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (Tendayi Achiume), “[Global Extractivism and Racial Equality](#),” U.N. Doc. A/HRC/41/54, U.N. Human Rights Council, May 2019, para. 20.

¹³⁶ U.N., [Harmony with Nature](#), accessed April 18, 2021.

8. Carry out free prior and informed consultation and consent with respect to any activities that affect the land of Indigenous Peoples and Afro-descendent communities, and in the case of Peasants, at a minimum, guarantee active, free, effective, meaningful and informed participation.

IV. Supporters of the Request

In addition to Malene Alleyne (Freedom Imaginaries) and Dr. Esther Figueroa, this request is supported and endorsed by the following non-governmental organizations and individuals:

Bernard Lodge Farmers Group

Caribbean Centre for Human Rights (CCHR)

Coalition to Protect Clifton Bay (Save The Bays)

The Cockpit Country Warriors

The Cropper Foundation

Fishermen and Friends of the Sea (FFOS)

Freedom Imaginaries

The Greenheart Movement

Guyanese Organization of Indigenous Peoples (GOIP)

Help and Shelter

Jamaica Conservation and Development Trust

Jamaica Environment Trust (JET)

Jamaicans for Justice (JFJ)

Jamaica Network of Rural Women Producers

National Toshias Council (NTC)

Network of Rural Women Producers Trinidad and Tobago

North Rupununi District Development Board (NRDDB)

Our Islands Our Future

Panos Caribbean

Red Thread, Guyana

South Rupununi Conservation Society (SRCS)

Southern Trelawny Environmental Agency

Stand Up for Jamaica

University of the West Indies, Mona, Institute of Gender & Development

Waterkeepers Bahamas

Windsor Research Centre

Opal Palmer Adisa
University Director
The Institute for Gender and Development Studies UWI, Mona
Jamaica

Jacqueline Allicock
Councillor, Surama Village, Eco-Tourism Coordinator
Guyana

Paulette Allicock
Coordinator
Makushi Research Unit
Guyana

Prof. Rose-Marie Belle Antoine
Dean
Faculty of Law
UWI, St. Augustine Trinidad and Tobago

Paul Graham Atkinson
Guyana

Jacqui Binns
Founder
The Cockpit Country Warriors
Jamaica

Nicole Brown
Panos Caribbean
Jamaica

Dr. Arif Bulkan
Senior Lecturer
Faculty of Law
University of the West Indies
Member, U.N. Human Rights Committee

Dr. Janette Bulkan
Associate Professor
Faculty of Forestry University of British Columbia, Canada

P. Bullen
Director
University of Guyana / Institute of Gender Studies

Immaculata Casimero
Aishalton Village
Wapichan Women's Movement
Guyana

Darin Chan
Law Student, NTC Scholarship Awardee,
University of Guyana

Joan Joy Grant Cummings
Gender and Development Activist
Jamaica

Jocelyn Dow
Businesswoman
Guyana

Imani Duncan-Price
Former Senator, Gender and Development Activist
Jamaica

Peter Edwards, PhD
Environmental Economist
Jamaica

Peter Espeut
Dean of Studies
St. Michael's Theological College
Jamaica

Loretta Fiedtkou
Muritaro Village, Region 4
Executive Member National Toshias Council
Guyana

Hollis France (Guyana-Caribbean)
Associate Professor
Chair, Dept. of Political Science
College of Charleston, South Carolina

Faye Fredericks
Finance Officer
South Central Peoples Development Association (SCPDA)
Region 9, Guyana

Nicholas Fredericks

Councillor, Shulinab Village, Region 9
Chair, National Toshaos Council
Guyana

Duane de Freitas
Rupununi Trails
Guyana

Dr. Doreen Gordon
Lecturer
University of the West Indies
Jamaica

Maria Carla Gullotta
Executive Director
Stand Up for Jamaica
Jamaica

David James
Attorney-at-Law
Guyana

Hugh Johnson
Public Relations Officer
Bernard Lodge Farmers Group

Jennifer Jones
Jamaica

Vidyaratha Kissoon
Taxpayer
Guyana

Colin Klautky
Deputy Chief (outgoing)
Guyanese Organization of Indigenous Peoples (GOIP)

Wendy A. Lee
Seven Oaks Sanctuary for Wildlife
Jamaica

Horace Levy
Advocate for Social & Environment Justice
Jamaica

Romola Lucas
The Greenheart Movement
Guyana

Ivor Marslow
Indigenous Rights Advocate Guyana

Diana McCaulay
Founder
Jamaica Environment Trust
Jamaica

Edward McGarrell
Chenapou Village, Region 8
Executive Member National Toshaos Council
Guyana

Michael McGarrell
Coordinator for Human Rights and Policies for the Amazon Basin (COICA)

Omar Mohammed
Chief Executive Officer
The Cropper Foundation
Trinidad and Tobago

Theresa Rodriguez-Moodie
CEO
Jamaica Environment Trust
Jamaica

Sherlina Nageer, MPH
Guyana

Hilary Nicholson
Director
Video for Change
Jamaica

Angelique V. Nixon
Trinidad and Tobago / Bahamas
Institute for Gender and Development Studies
UWI St Augustine, TT
CAISO Sex & Gender Justice, TT

Dr. Patricia Northover
Senior Fellow
Sir Arthur Lewis Institute of Social and Economic Studies
The University of the West Indies, (UWI)
Chair of the Sustainable Rural and Agricultural Development, Research cluster (SALISES)
Jamaica

Paul Pierre
Kwebana Village, Region 1
Vice-Chairman, National Toshaos Council Guyana

Danuta Radzik
Mother and human rights advocate and activist

Board Director of Help & Shelter
Guyana

Vanda Radzik
Advocate for Social, Gender & Environment Justice
Guyana

Yves Renard
Former President, Caribbean Conservation Association
Former Executive Director, Caribbean Natural Resources Institute
St. Lucia

Christine Samwaroo
Founder
The Breadfruit Collective
Guyana

Karen de Souza
Coordinator Red Thread
Guyana

Dr. Honor Ford-Smith
Associate Professor, Cultural and Artistic Practices for Environmental and Social Justice Associate
Director, Centre for Research on Latin America and the Caribbean
York University, Faculty of Environmental & Urban Change

Douglas Stiebel
Chair
Jamaica Environment Trust

Gia Gaspard Taylor
President
Network of Rural Women Producers Trinidad and Tobago
Trinidad and Tobago

Troy Thomas, PhD
Dean, Faculty of Natural Sciences University of Guyana

D. Alissa Trotz
Director
Women and Gender Studies
Professor, Caribbean Studies at New College University of Toronto

Alicia Wallace
Equality Bahamas

Judith Wedderburn
Independent Gender and Development Practitioner
Jamaica

Nigel Westermaas

Guyana

Michael Williams,
Toashao, Annai District, (5 villages)
North Rupununi,
Guyana

V. Annexes

Annex 1: Examples of Extractive Industries and Socioenvironmental Conflicts in Five CARICOM States

Oil Exploration in The Bahamas

The economy of the Bahamas has traditionally relied on tourism and fisheries. However, the Bahamas Petroleum Company (BPC), which has spent more than a decade on an exploration project, announced plans to drill its first exploratory well by October 2020 in waters some 100 miles south-west of Andros, and close to the maritime boundary with Cuba. The Minnis administration recently provided BPC authorization to proceed, placing the prospect of commercial oil fields below the nation's seabed at the centre of its hopes to diversify beyond tourism and fisheries.¹³⁷ Waterkeeper Bahamas and Coalition to Save Clifton Bay (Save the Bays) have challenged this decision.

In January 2021, Supreme Court Justice Petra Hanna-Adderley ruled that BPC's oil drilling exercise may continue, but agreed to allow a full hearing of the challenge against the government's decision to approve the drilling. A growing grassroots coalition is calling for the Government to "cancel all existing oil exploration licenses, reject all proposed renewals and impose a permanent ban on fossil fuel exploration anywhere within our maritime borders."¹³⁸ According to this coalition, on February 8, 2021, BPC announced that after 48 days of drilling in the waters of The Bahamas, they did not find commercially viable quantities of oil. However, BPC is still reportedly "exploring ways to monetize the rest of their leases in The Bahamas."¹³⁹

Gold and Oil Production in Guyana

In Guyana, economic growth is driven largely by exports from agricultural, forestry, fishery and mineral sectors, though this growth is not distributed equitably.¹⁴⁰ In 2017, the mining sector (primarily gold, diamonds and bauxite) accounted for 20.90% of total GDP and 65.1% of exports, with gold as the top earner.¹⁴¹ Gold in Guyana was historically produced by medium and small-scale artisanal miners, who continue to dominate the industry. However, from 1992 to its closure in 2005, the Canadian-owned Omai Gold Mines Limited pioneered large-scale, open-pit mining. In the past decade, two large-scale, foreign-owned open-pit mines—Guyana Goldfields Inc. and Troy Resources Inc.—entered the sector and in 2017 accounted for about one third of gold production.¹⁴² Gold mining typically takes place in the interior of Guyana, which is predominantly inhabited by Indigenous communities who have consistently complained about violations of their human rights in the context of extraction, including rights to lands, territories and resources; effective participation; health and a healthy environment, and cultural heritage and way of life.¹⁴³

¹³⁷ Leandra Rolle, "[US Call to Halt Bahamian Oil](#)," *The Tribune*, April 19, 2020.

¹³⁸ Our Islands, Our Future, "[Stop Oil Drilling in The Bahamas](#)," accessed April 18, 2021.

¹³⁹ *Ibid.*

¹⁴⁰ See, e.g., Janette Bulkan and John Palmer, "[Rentier Nation: Landlordism, Patronage and Power in Guyana's Gold Mining Sector](#)," *The Extractive Industries and Society* 3, no. 3 (July 2016): 676–89.

¹⁴¹ Guyana Extractive Industries Transparency Initiative, "[GYEITI Report for 2017 Fiscal Year](#)," 2019, p.13.

¹⁴² *Ibid.*, p. 23.

¹⁴³ See, e.g., Amerindian Peoples Association and Forest Peoples Programme and Rainforest Foundation USA, "Our Land, Our Life. A Participatory Assessment of the Land Tenure Situation of Indigenous Peoples in Guyana. Report for Regions 1, 2, 7, 8 & 9," 2021; South Rupununi District Council, "Wapichan Environmental Monitoring Report," September 2018.

The oil and gas sector is also rapidly expanding, fuelling socio-environmental and political conflicts around issues of climate change and corruption. In 2015, Esso Exploration and Production Guyana Ltd. (a subsidiary of Exxon Mobil Corp. of the United States, 45%; Hess Corp. of the United States, 30%; and CNOOC Ltd. of China, 25%) discovered an offshore oilfield, which some reports describe as “one of the world’s largest crude petroleum discoveries of the past decade.”¹⁴⁴ By 2019, Guyana began producing crude oil and in 2020, Guyana sent its first-ever shipment of crude oil for export.¹⁴⁵ In early 2021, Guyana’s president announced that the first oil project had achieved its intended full production capacity of around 130,000 barrels per day.¹⁴⁶ This oil deal has been described as unfair, with Guyana receiving a mere 2% in royalties.¹⁴⁷ A 2020 report by the Institute for Energy Economics and Financial Analysis warns that the long-term costs of petroleum extraction outweigh short-term benefits to Guyana.¹⁴⁸ In this context, there have been a number of legal and other challenges to the Oil and Gas Industry, including the first constitutional climate case in the Caribbean to challenge fossil fuel production on the grounds that it exacerbates global warming and threatens human rights.¹⁴⁹

Haiti’s Emerging Mining Sector

To date, there are no active metal mines in Haiti. However, since the 2010 earthquake, the government has consistently identified the mineral sector as key to the country’s economic growth.¹⁵⁰ Across the border, the Government of the Dominican Republic has prioritized extraction, including gold mining, as a key goal of the administration. The Pueblo Viejo mine in the Dominican Republic—with reportedly the highest production in all of Latin America—could further incentivize the Haitian Government to push forward with gold mining or create anxiety among anti-mining communities that investors in the Dominican Republic may set their sights on Haiti.

According to *Kolektif Jistis Min*, a coalition of Haitian civil society organizations monitoring Haiti’s nascent mining industry, “between 2006 and early 2013, two Canadian and two U.S. companies reportedly invested \$30 million to explore for gold, copper, and other metal.”¹⁵¹ According to a 2014 report, foreign mining companies hold prospecting, research, and exploitation permits to at least 8% of Haiti’s land mass.¹⁵²

In early 2013, the Haitian Senate passed a resolution calling for a moratorium on mining, citing concerns about the process for granting mining permits and the danger mining poses to the environment. However, a draft mining law, drafted in 2014 with technical support from the World Bank, was presented to

¹⁴⁴ Philip A. Szczesniak, “[2016 Minerals Yearbook Guyana](#),” *USGS*, January 2020, p. 12.1.

¹⁴⁵ Marianna Parraga and Neil Marks, “[Guyana’s First-Ever Oil Cargo to Be Refined by Exxon in the U.S.](#),” *Reuters*, January 20, 2020.

¹⁴⁶ “[UPDATE 1-Guyana President Says First Oil Project Has Reached Full Capacity](#),” *Reuters*, March 17, 2021.

¹⁴⁷ “[This Petroleum Contract Is Not Worth the Paper It Is Written On](#),” *Kaieteur News*, July 2, 2019.

¹⁴⁸ Institute for Energy Economics and Financial Analysis, “[Guyana’s Oil Deal: Promise of Quick Cash Will Leave Country Shortchanged. Long-Term Costs Far Outweigh Benefits as Oil Industry Declines](#),” October 2020.

¹⁴⁹ Center for International and Environmental Law, “[Guyanese Citizens File Climate Case Claiming Massive Offshore Oil Project is Unconstitutional](#),” May 21, 2021.

¹⁵⁰ Haiti Justice Initiative and The Global Justice Clinic, NYU School of Law, “[Byen Konte, Mal Kalkile? Human Rights and Environmental Risks of Gold Mining in Haiti](#),” December 2015, p. 38.

¹⁵¹ Kolektif Jistis Min and Global Justice Clinic, NYU School of Law, “[Submission to the United Nations Universal Periodic Review. Human Rights Impacts of Gold Mining in Haiti](#),” November 2016, para. 3.

¹⁵² Tèt. Kole Ti Peyizan Ayisyen, Mouvmman Demokratik Popilè, Plateforme des Organisations Haïtiennes de Droits Humains, Plateforme Haïtienne de Plaidoyer pour un Développement Alternatif, Défenseurs des Opprimées/Opprimés, Commission Episcopale Nationale Justice et Paix, Global Justice Clinic, NYU School of Law, Accountability Counsel, “[Complaint to The Inspection Panel of the World Bank](#),” January 7, 2015, p. 3.

Parliament in the summer of 2017.¹⁵³ Civil society organizations have complained that this law was drafted without adequate consultation with civil society organizations and communities affected by mining activity.¹⁵⁴ According to one report, “once passed, the [mining] law may usher in Haiti’s first modern, industrial gold mine.”¹⁵⁵

Haiti’s mineral belt lies in the Massif du Nord, which transverses the predominantly rural Northeast, North, and Northwest departments.¹⁵⁶ Companies holding permits for exploratory work have undertaken a variety of activities in rural communities, from surveying and path construction to drilling and sampling. Farmers and workers have denounced gold and other metal mining in the North. In April 2020, following the COVID-19 pandemic, eight farmers and workers’ rights organizations in rural Northwest Haiti signed a declaration encouraging residents to reject the gold mining projects of Newmont.¹⁵⁷ The declaration “encourage[s] communities that are under threat of metal mining, especially farmers, to remain vigilant of the State and mining companies, and ensure that they do not take advantage of the COVID-19 outbreak and subsequent economic crisis to push their projects forward and take our land.”¹⁵⁸

Expansion of Mining in Jamaica

Jamaica is one of the largest producers of bauxite and alumina in the world.¹⁵⁹ Minerals and mineral products, including bauxite, limestone, alumina, cement, sand and gravel, account for more than 75% of the annual value of Jamaica's traditional exports.¹⁶⁰ Mineral extraction has seen an expansion with the increased production of alumina and crude bauxite¹⁶¹ and the Government’s granting of some 90 exploratory licences for semiprecious minerals since March 2018.¹⁶² The Jamaican Government is looking at expanding the limestone industry and has signalled that revitalizing the bauxite and alumina sector is a strategic priority.¹⁶³ In the words of the Transport and Mining Minister, “[r]ight now, almost every square inch of Jamaica is under a prospecting licence for some kind of mineral.”¹⁶⁴ Prospecting licenses have even been granted in the Blue and John Crow Mountains, a UNESCO World Heritage Site and the location of Jamaica’s only national park.¹⁶⁵

The Government of Jamaica’s permitting of extraction in ecologically sensitive areas and in lands of Afro-descendent and rural communities is fuelling socio-environmental conflicts, including at least two landmark constitutional challenges which are now pending. In the most recent case, in January 2021, the Southern

¹⁵³ “[Haïti: La proposition de loi sur l’exploitation minière, un “véritable danger,” selon le Collectif justice mines](#),” *Alterpresse*, July 24, 2017. Cited in Global Justice Clinic, NYU School of Law, “Haiti’s Emerging Mining Sector,” October 2015. Last Updated August 2017.

¹⁵⁴ See, e.g., Tèt. Kole Ti Peyizan Ayisyen, Mouvman Demokratik Popilè, Plateforme des Organisations Haïtiennes de Droits Humains, Plateforme Haïtienne de Plaidoyer pour un Développement Alternatif, Défenseurs des Opprimés/Opprimés, Commission Episcopale Nationale Justice et Paix, Global Justice Clinic, NYU School of Law, Accountability Counsel, “[Complaint to The Inspection Panel of the World Bank](#),” January 7, 2015, p. 3.

¹⁵⁵ Ellie Happel, “[Community Organizations in Haiti Say “NO” to Newmont](#),” *Earth Works*, May 18, 2020.

¹⁵⁶ Haiti Justice Initiative and The Global Justice Clinic, NYU School of Law, “[Byen Konte, Mal Kalkile? Human Rights and Environmental Risks of Gold Mining in Haiti](#),” December 2015, p. 42.

¹⁵⁷ “[On the Occasion of Newmont’s Annual General Meeting, Communities in Haiti Say NO to Gold Mining](#),” Jean-Rabel, Haiti, April 21, 2020.

¹⁵⁸ “[On the Occasion of Newmont’s Annual General Meeting, Communities in Haiti Say NO to Gold Mining](#),” Jean-Rabel, Haiti, April 21, 2020, p.1.

¹⁵⁹ Jamaica Bauxite Institute, “[Development of the Bauxite/Aluminum Sector](#),” Jamaica Bauxite Institute, accessed April 5, 2021.

¹⁶⁰ Latonya Linton, “[Minerals Sector Contributes 2.7 Per Cent To GDP](#),” *Jamaica Information Service*, November 22, 2019.

¹⁶¹ Douglas McIntosh, “[Mining and Quarrying Top-Performing Sector](#),” *Jamaica Information Service*, May 23, 2018.

¹⁶² Alecia Smith, “[Gov’t Grants 90 Exploratory Mining Licences Since March 2018](#),” *Jamaica Information Service*, November 15, 2019.

¹⁶³ Ministry of Transport and Mining, “[Integrated Strategic Business Plan, 2019/2020 - 2022/2023](#),” p. 13.

¹⁶⁴ Alecia Smith, “[Gov’t Grants 90 Exploratory Mining Licences Since March 2018](#),” *Jamaica Information Service*, November 15, 2019.

¹⁶⁵ U.N. Educational, Scientific and Cultural Organization, “[Blue and John Crow Mountain](#),” accessed April 16, 2021.

Trelawny Environmental Agency and a local farmer filed a constitutional case, challenging the granting of a special mining lease to mine bauxite on lands which include parts of Jamaica's Cockpit Country—the largest remaining intact wet rainforest in Jamaica and home to the Maroons. This case claims violation of the right to a healthy environment, among other violations.

There are other emerging socio-environmental conflicts. Special Mining Lease (SML) 172, for example, expands mining into Western St. Ann, including Gibraltar and Endeavor, despite these communities petitioning the government to not allow mining in their communities. Most recently, in April 2021, bauxite mining began in Retreat, an area to which communities had been previously relocated by Kaiser Bauxite. In other words, the relocated communities are now again threatened by bauxite mining. There was no EIA or public consultation process before the granting and permitting of SML 172.

The Oil and Gas and Quarry Sectors in Trinidad and Tobago

In Trinidad and Tobago, the Oil and Gas and Quarry sectors are the two predominant extractive industries. For the last five decades, Trinidad and Tobago's oil and gas sector has been the country's economic driving force and contributes to approximately 34% of Gross Domestic Product.¹⁶⁶ In 2020, oil and gas accounted for 24% or 7.9 Billion TTD of the state's total revenue.¹⁶⁷ Trinidad and Tobago houses one of the largest natural gas processing facilities in the Western Hemisphere and is also the largest LNG exporter country in Latin America. Prior to the COVID-19 pandemic, Trinidad and Tobago was the world's largest exporter of ammonia and the second largest exporter of methanol, according to IHS Global Insight (2013).

With respect to quarrying, there are approximately 131 active mining operations (both public and private), forty-five of which are sand and gravel quarries.¹⁶⁸ Minerals that are extracted are blue coloured limestone, sharp sand, plastering sand, or red sand, yellow-coloured limestone, gravel, clay, argillite, porcellanite, oil sand and asphalt and andesite in Tobago. In 2020, a total of 1,191,573.23 cubic meters of minerals and 2760 Tonnes of asphalt were extracted.¹⁶⁹ At the end of September 2018, quarry operators owed TT\$174 million to the Government of Trinidad and Tobago in outstanding royalty payments.¹⁷⁰

¹⁶⁶ [Ministry of Energy and Energy Industries](#), accessed April 10, 2021.

¹⁶⁷ Trinidad and Tobago Extractive Industries Transparency Initiative, "[Trinidad and Tobago EITI Report October 1st 2017 – September 30th 2018](#)," 2020.

¹⁶⁸ Mark de Verteuil, "[Sand and Gravel Gangsters Illegal Quarry Operators Rob State of Billions](#)," *Trinidad and Tobago Guardian*, October 27, 2019.

¹⁶⁹ Rep. n.d. Request for Access to Official Documents. Government of the Republic of Trinidad and Tobago.

¹⁷⁰ Trinidad and Tobago Extractive Industries Transparency Initiative, "[Trinidad and Tobago EITI Report October 1st 2017 – September 30th 2018](#)," 2020.