

Groups call for comprehensive reform of Ontario's outdated mining laws

Courts being used to punish people who peacefully oppose mining projects

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TORONTO - With the Ontario legislature resuming sitting this week, over 30 groups and organizations are urging the government to overhaul its outdated mining laws and policies. In an Open Letter to the Premier, a wide range of social justice organizations, faith groups and environmental groups express their deep concern that the *Mining Act* in Ontario is taking precedence over human rights and ecological concerns.

Today, six members of the Kitchenuhmaykoosib Inninuwug (KI) First Nation in northern Ontario were sentenced for contempt charges related to their peaceful opposition to drilling for platinum on their traditional lands in the Boreal Forest.

A few weeks earlier, Bob Lovelace, a university professor and spokesperson for the Ardoch Algonquin First Nation, was sentenced to six months detention and fined \$25,000, for opposition to uranium exploration on land subject to a longstanding, unresolved land claim in Eastern Ontario. In addition, the community was fined \$10,000 and Chief Paula Sherman \$15,000. Other leaders of the uranium exploration protest including the neighbouring Shabot Obaadjiwan First Nation are being sentenced this week. Throughout the uranium exploration protest, private property owners have also been fighting exploration, and have organized into the Community Coalition against Mining Uranium (CCAMU). CCAMU and others also support the struggle of the Algonquins.

“We’re deeply concerned about the double standard at play in these cases. On the one hand, individuals and communities are being punished to the full extent of the law for doing what they feel is right,” says Craig Benjamin, Campaigner for the Human Rights of Indigenous Peoples, Amnesty International Canada. “On the other hand, the province is creating these conflicts by ignoring their own legal responsibilities.”

“The ‘Free Entry system’ in Ontario means that mining supersedes all other land uses including cultural and ecological values, and Indigenous rights,” says Anna Baggio, Director of Conservation Land Use Planning of CPAWS Wildlands League. “It’s time for the province to halt exploration and staking and comprehensively reform its mining laws to protect the health of Ontarians and its ecosystems,” Ms. Baggio adds.

The Open Letter to the Premier released today was signed by a wide range of groups including: Amnesty International Canada, CPAWS Wildlands League, MiningWatch Canada, Rainforest Action Network, Environmental Defence, Canadian Friends Service Committee, Bedford Mining Alert, Earth Action, Earthroots, Community Coalition Against Mining Uranium, ForestEthics, Friends of the Earth, Council of Canadians, Christian Peacemaker Teams Canada, David Suzuki Foundation and Ottawa Riverkeeper / Sentinelle Outaouais.

The joint letter echoes concerns raised in an open letter to the Premier from Grand Chief Stan Beardy of Nishnawbe Aski Nation. Grand Chief Beardy states:

“Mr. Premier, the Mining Act of Ontario is antiquated and is being politically and legally challenged. Ontario has agreed that it will review and as appropriate amend the Mining Act... It seems highly improper that a First Nation community such as KI would be facing such dire consequences when there is tacit admission by these very processes of Ontario that something is amiss with the Mining Act and the legal obligations and honour of Ontario to properly consult and accommodate First Nations and their citizens.”

“We are outraged and so are the citizens of Ontario,” says Joan Kuyek, National Coordinator of MiningWatch Canada. “The province must act before further injustices are committed,” Ms. Kuyek adds.

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A copy of the letter and further information are available at www.wildlandsleague.org and www.amnesty.ca.

BACKGROUND

The Ontario Mining Act was passed in 1873, at a time when picks and shovels were used for mining. The free entry system, mandated by the Mining Act, gives the mining industry and others free access to lands in its search of minerals regardless of who owns the surface rights. The Act fails to recognize Aboriginal and Treaty rights and violates the established constitutional right of Indigenous peoples to consultation and accommodation prior to all government decisions that might affect their interests. Other laws, policies and regulations designed to specifically protect ecological values such as the Planning Act, Environmental Protection Act, Ontario Water Resources Act and the Provincial Parks and Conservation Reserves Act are not applicable under the Mining Act. Amendments to the Mining Act requiring progressive rehabilitation, site closure plans and financial assurance requirements came into force in 1991. Many of the achieved mining reforms were then dismantled in the mid and late 1990's.

In the Environmental Commissioner of Ontario's (ECO) most recent annual report (2006-2007), the ECO called for reform of the Mining Act and its associated legal mechanisms. The ECO noted that the Mining Act impeded land use planning and that the existing regulatory structure for mining does not adequately assess the cumulative impacts of development. The Ontario government has acknowledged that the Mining Act is in need of review and committed to this review as a part of its platform for the October 2007 election. Since the election the government has proposed an 18-month time frame, beginning in mid-2008, to complete this review.

Ontario Government's Failure to Consult with KI and Ardoch First Nations

Canadian courts have clearly established that whenever the rights of Indigenous peoples may be affected, governments have a legal duty to ensure that there must always be meaningful consultation to identify and accommodate Indigenous concerns. Depending on the potential impacts, courts have found that this legal duty may include other more stringent measures "to avoid irreparable harm", including in some cases agreeing to proceed only with the consent of the affected peoples.

Despite this clear direction from Canadian courts, the Ontario Government allowed Platinex Inc. a Toronto-based mineral exploration company, to stake claims and begin exploratory drilling on KI's traditional lands without any consultation. In a similar case, the Ardoch Algonquin and Shabot Obaadjiwan First Nations say that trees were cut and blasting begun without them being notified that the province had given Frontenac Ventures permission to carry out uranium exploration on Algonquin land.