

Editor's Note

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Recommended Citation

Nakagawa, Melanie and Kirk Herbertson. "Editor's Note." *Sustainable Development Law and Policy*, Summer 2004, 1.

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EDITORS' NOTE

American University's Washington College of Law hosted the *Prior Informed Consent: Emergence as a Principle of International Law, and Implementation at International, National, and Local Levels* conference on March 2, 2004 in Washington, D.C. Practitioners and leaders of the sustainable development community gathered to discuss the importance of "prior informed consent." As a publication committed to advancing current topics in this arena, *Sustainable Development Law & Policy* proudly presents articles and edited transcripts based on the issues that arose during this conference. Disclosure of information is a key component of prior informed consent, so it is our hope that this special issue will inform and educate our readers by recording the powerful ideas raised this spring.

The basic principle of prior informed consent is that the people affected by a project must have a thorough understanding of the potential implications and outcomes and then must be empowered to freely accept or reject the proposal. Through the efforts of numerous leaders, policy-makers, and activists who have contributed to this issue, the concept of prior informed consent has evolved into a tool used to address the problems inherent in a wide range of disciplines. The concept began as a component of medical research, but is now being broadly applied to areas such as environmental policies, access to natural resources, and the rights of indigenous communities. Within this issue, the authors approach the concept of prior informed consent from diverse angles. Some focus on case studies, some on international financial institutions, the inter-American human rights regime, or the multilateral environmental agreements.

Prior informed consent is increasingly recognized as an essential prerequisite to development projects impacting those who lack the political and economic weight to defend their own self-interests. Recently the Environmental Law Institute ("ELI") released a report entitled *Prior Informed Consent and Mining: Promoting Sustainable Development of Local Communities*. Susan Bass, the Director of the ELI Inter-American Program, noted that prior informed consent is about balancing specific short term interests with a community's long term need for survival. Given this context, this special summer issue of

Sustainable Development Law & Policy aims to broaden the discussion of prior informed consent and shed light on how this concept exists in a variety of projects that involve indigenous communities, human rights, the environment, and sustainable development.

It is important to note that requiring prior informed consent as a part of these project proposals does not necessarily guarantee a win-win situation for all parties involved. As the contributors

to this issue emphasize, no single template fits all communities. Rather the concept must be adapted to fit each particular culture and each specific project. As a result, implementation of prior informed consent can be controversial, rousing debates on issues such as: how should a nation's right to develop be balanced with preservation of an indigenous community's cultural integrity? What percentage of a community must consent for the process to be legitimate? How does a developing organization or corporation ensure that the affected people understand the meaning of their consent?

Through a discussion of these and many other difficult questions posed within this issue, we hope to give our readers a sense of the next steps, and perhaps the end results, of integrating prior informed consent into all environmental and development contexts. Later this year, the World Bank will be addressing its perspective on prior informed consent, and perhaps this will set the stage for widely publicized use of the concept among the interna-

tional financial institutions, if not among a wider range of organizations.



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