



Tsilhqot'in Nation

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ʔELHDAQOX DECHEN TS'EDILHTAN

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(“ʔEsdilagh Sturgeon River Law”)



This written form of Tsilhqot'in *dechen ts'edilhtan* was adopted by the ʔEsdilagh First Nation Chief and Council on May 27, 2020, and endorsed by the Tsilhqot'in Council of Chiefs on May 28, 2020.

## PREAMBLE

- A. We, the ʔEsdilagh people of the T̓silhqot̓in Nation are proud to stand up our T̓silhqot̓in *dechen ts'edilhtan* (literal translation “laying down the stick”, in English the term is better known as “law”) in its written form. This Law is an expression of a critical component of broader T̓silhqot̓in *dechen ts'edilhtan*. Our Nation’s relationships to our territory make us who we are; The River People. These relationships define us a Nation and highlight our protection and stewardship responsibilities that are grounded in our inherent and self-government rights. The *tu* (“waters”) in our territory, including ʔ*Elhdaqox*, are vital to our Nation. We cannot survive without them. The *tu* that our babies are carried in in the womb is sacred and is a direct connection to the *tu* in our landscape which continues to give us life after we are born. It is therefore critical we express this *dechen ts'edilhtan* in written form to protect the *tu* within our territory for our children, grandchildren and the generations to come.
- B. We, the people of the ʔEsdilagh First Nation (translated as Where the Land meets the Water) of the T̓silhqot̓in Nation live in the mountainous region on both sides of the Fraser River, between Williams Lake, B.C and Quesnel, B.C. The ʔEsdilagh of ʔ*Elhdaqox* (Sturgeon River, also known as the Fraser River) are multi-cultural and are related to multiple cultural and language groups, the T̓silhqot̓in, Secwepemc and Dakelh nations.
- C. We, the T̓silhqot̓in Nation, have occupied our ancestral *nen* (“lands”) since time immemorial. We hold and maintain Indigenous rights and title to our *nen* and *tu*. Our identity is bound to our *nen* and *tu*. They are fundamentally connected and cannot be separated. The *tu* run throughout our territory and sustain our Nation. We have never ceded, surrendered or abandoned our rights, title and responsibilities to our *nen* and *tu*. Our rights are sacred and our responsibilities extend throughout our territory, including ʔ*Elhdaqox*. ʔ*Elhdaqox* has sustained us for generations. Our way of life is dependent on the health and wellness of ʔ*Elhdaqox*. Our T̓silhqot̓in culture, livelihood and governance are inextricably linked to the *tu* and life (including fish) in ʔ*Elhdaqox*.
- D. The T̓silhqot̓in Nation have a responsibility to ensure the *tu* is safe and clean for current and future generations and we exercise this responsibility as part of our right to govern and steward the use and the management of *tu* in our territory. Our teachings govern our daily obligations which include taking only what we need, ensuring that *tu* sources are kept clean, refraining from placing anything into ʔ*Elhdaqox* that would degrade it, and immediately pursuing corrective steps to restore the health of ecosystems when damaged. The health of ʔ*Elhdaqox* and the life it sustains are of fundamental importance to our continued preservation of the T̓silhqot̓in way of life. We have always relied on ʔ*Elhdaqox* to drink, fish, swim, carry out our sacred ceremonies, travel and generally exercise our rights.
- E. The T̓silhqot̓in Nation must ensure the transmission of knowledge about ʔ*Elhdaqox* to our children. Intergenerational knowledge guides people to use *tu* and *nen* in predictable ways that ensures sustainability and our ongoing ability to meaningfully exercise our inherent and constitutionally protected rights.
- F. The ʔ*Elhdaqox* is the main river of a network of streams, lakes and wetlands that make up the ʔ*Elhdaqox* watershed. From time immemorial the ʔ*Elhdaqox* has supported a diversity of aquatic and upland species foundational to the T̓silhqot̓in way of life and Indigenous rights including aquatic plants, aquatic invertebrates, and fish, such as ʔ*Elhdachugh* (sturgeon), *Ts'eman*

(sockeye salmon), *Jaš* (chinook salmon), *Lhu šilh ch'il* (whitefish), *Sabay* (bull trout), *Tislagh* (steelhead trout), *Tšintil* (burbot), *Dandzex* (coho salmon), and *Jaš lant'eh* (pink salmon). *ʔElhdaqox* aquatic and riparian habitats also support a diversity of aquatic-dependent wildlife, such as amphibians, birds, and mammals the Tsilhqot'in Nation rely on.

- G. Colonial governments have introduced and enforced unlawful and unjust mechanisms resulting in violations of our rights to the use, management and benefit of our *nen* and our *tu*, without consultation, consent or just compensation. Furthermore, settler governments have grossly mismanaged the *nen* and *tu* causing ecosystem collapse, human induced climate change, severe *tu* quality degradation, extreme stress upon ecologies and the extinction of species at an unprecedented scale and rate. Several *ts'eman* runs are extirpated, or are on a worrisome decline within the watershed. It is evident that the existing regulatory processes have not protected our *nen* and *tu*.
- H. Tšilhqot'in people have suffered severe and widespread detrimental and cumulative impacts to all aspects of our lives and livelihoods as a result of being denied access to our *nen* and *tu*. Subsequently, the gross mismanagement of the *nen* and *tu* has caused significant adverse impacts and harm to our health, economy and social well-being.
- I. We remain strong in our sovereignty that was handed down from the *ʔEsggidam* (ancestors) and our Tšilhqot'in War Chiefs who sacrificed their lives for our people and our way of life. Their teachings include the *dechen ts'edilhtan*. Since time immemorial, the *ʔEsggidam* have thrived as a powerful Nation, guided by the wisdom of our legends and our *dechen ts'edilhtan*. Our ancestral creation stories define who we are and guide our cultural and traditional protocols.
- J. We, as Tšilhqot'in people, have exercised and continue to exercise authority and jurisdiction over our *nen* and *tu* through our values, principles and *Dechen Ts'edilhtan*. Our inherent lawful authority is recognized and affirmed under s. 35 of the *Constitution Act, 1982*, in Canadian jurisprudence<sup>i</sup>, as well as in the *United Nations Declaration on the Rights of Indigenous Peoples*<sup>ii</sup>.
- K. Any proposed activities within our territory, which could impact *ʔElhdaqox*, must have our free, prior and informed consent. We mandate all Persons to comply with our laws and rights in the use of *ʔElhdaqox*. All economic development within and along the waterways and tributaries affecting *ʔElhdaqox*, must also align with our rights and obligations to protect our sacred *nen* and *tu*. The Tšilhqot'in Nation recognize *ʔEsdilagh* responsibilities over its Caretaker Area, which includes *ʔElhdaqox*. We support sustainable economic development initiatives that respect our rights and responsibilities.
- L. The *ʔEsdilagh* are at a time in our history where it has become necessary to share our *dechen ts'edilhtan* in writing as part of our laws that bind us as Tšilhqot'in people. We have been preparing to formally record our *tu* laws in writing for several years. This law is the first we publically share in a formal written format as part of our exercise of our caretaker role within the Tšilhqot'in Nation. We realize the contemporary necessity in recording our laws in English written form, even though many deeply embedded teachings are lost in translation. We also realize the necessity in developing new approaches in our laws to protecting our *nen* and *tu* in the current reality.

## **PART 1 – PURPOSE, VALUES, AND PRINCIPLES**

### **Purpose**

1. The ?Esdilagh of the T?silhqot'in Nation have rights and responsibilities as caretakers of ?Elhdaqox to ensure that ?Elhdaqox provides for the entire T?silhqot'in Nation and is protected for this generation and the generations to come.
2. The purpose of this Law is to ensure ?Elhdaqox is managed and protected in accordance with T?silhqot'in *dechen ts'edilhtan* to ensure ?Elhdaqox is healthy.

### **Values**

3. (1) The following values form the foundation of T?silhqot'in laws regarding ?Elhdaqox:
  - (a) *Tu* is sacred;
  - (b) T?silhqot'in people have a sacred relationship with ?Elhdaqox and we have an ancestral responsibility to ?Elhdaqox that defines us as T?silhqot'in people;
  - (c) *Tu* is a gift, not a resource;
  - (d) T?silhqot'in birth givers carry the first *tu* we live in to bring us the next generation. Without healthy *tu* we would not exist today;
  - (e) ?Elhdaqox cannot be subject to pollution or harm;
  - (f) Humans and non-humans are interconnected and their actions impact one another;
  - (g) There are consequences for mistreating ?Elhdaqox. ?Elhdaqox is powerful and any mistreatment of it can have dire foreseen and unforeseen consequences for the next generations;
  - (h) T?silhqot'in people rely on ?Elhdaqox for our survival. We must take care of it so it will take care of us. Without this *tu* there would be no animals, no plants, and no people;
  - (i) T?silhqot'in people must respect ?Elhdaqox as a responsibility and *dechen ts'edilhtan* of the T?silhqot'in people;
  - (j) The T?silhqot'in peoples' duty and authority to govern *tu* and manage fish populations is grounded in our ancestral connection to our territory;
  - (k) *Tu* is a life form, it has its own spirit with human qualities;
  - (l) Sharing ?Elhdaqox ensures the well-being and survival of others;
  - (m) T?silhqot'in people have a special relationship with the ?Elhdachugh (sturgeon), *Ts'eman* (sockeye salmon), *Ja? (chinook salmon), Lhu ?ilch ch'il* (whitefish), *Sabay* (bull trout), *Tislagh* (steelhead trout), *T?sintil* (burbot), *Dandzex* (coho salmon), *Ja? lant'eh* (pink salmon) from ?Elhdaqox; and,
  - (n) We are deeply grateful for ?Elhdaqox.

## Principles

4. (1) The following principles apply to *?Elhdaqox*:

- (a) We must maintain the health of the *tu* and surrounding *nen*. Nothing should be put into the *tu* that would harm it. We have a duty to the next generations to leave the *nen* and *tu* clean and safe for their use;
- (b) We must only take and use what *tu* is minimally required from *?Elhdaqox* and leave plenty of resources behind for other species and future generations;
- (c) T̓silhqot'in people cannot be healthy unless their *tu* are;
- (d) T̓silhqot'in people must be pro-active in planning and managing the care of *?Elhdaqox*;
- (e) We must consider the needs of the fish, plants and other relations before we take, use, or allow the use of any *tu*;
- (f) People, animals, fish, plants, the *nen*, and the *tu* have rights in the decisions about their care and use that must be considered and respected;
- (g) *Tu* in *?Elhdaqox* must be sufficient in river flows, quality and conditions to support annual salmon returns from the ocean to the rivers of the T̓silhqot'in territory, and to support healthy resident fish populations including the distinct mid-river white sturgeon population;
- (h) We must share our *tu* with those in need but our community's needs must be met;
- (i) We have been taught that there are consequences if we disrespect or improperly use or pollute *?Elhdaqox*;
- (j) T̓silhqot'in people have a responsibility to regulate activities related to the use of *tu* in accordance with their inherent stewardship rights; and,
- (k) T̓silhqot'in people have a duty to teach our *dechen ts'edilhtan* to our youth and non-T̓silhqot'in about respecting *tu*.

## **PART 2 – INTRODUCTORY PROVISIONS**

### Definitions

5. (1) In this Law:

“Council” means the Chief and Council of ?Esdilagh First Nation, which is elected pursuant to *?Esdilagh First Nation Election Code*;

“?Esdilagh Caretaker Area” means the area ?Esdilagh historically and contemporaneously occupy and that ?Esdilagh are responsible to manage and protect in accordance with T̓silhqot'in *dechen ts'edilhtan*;

“?Esdilagh Government” means either the Council, or the administrative body implementing T̓silhqot'in laws and policies within the ?Esdilagh Caretaker Area, whichever is appropriate in the circumstances;

“*?Elhdaqox*” means the Sturgeon River (otherwise known as the Fraser River), as depicted in Schedule A, and all its tributaries, including groundwater, within the ?Esdilagh Caretaker Area;

“Free, Prior and Informed Consent” or “FPIC” includes, at a minimum, the specific right that is recognized in the *United Nations Declaration on the Rights of Indigenous People* and embedded within the universal right to self-determination. FPIC in the context of this Law means the ʔEsdilagh people have the right to give or withhold consent to a project that may affect them, their rights, or their territory, including the ʔElhdaqox. FPIC enables ʔEsdilagh people to direct the conditions under which a project will be designed, implemented, monitored and evaluated;

“Habitat” means the area or type of site where fish, plants and wildlife:

- (a) naturally occur;
- (b) depend on directly or indirectly in order to carry out life processes; or
- (c) formerly occurred and have the potential to be reintroduced;

“Law” means ʔElhdaqox Dechen Ts’edilhtan, or the ʔEsdilagh Sturgeon River Law;

“Fish” means all species of fish living in ʔElhdaqox including all salmon species and sturgeon; and,

“Persons” includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law.

### **Area of Application and Scope of Law**

6. The scope of the application of this Law is ʔElhdaqox.
7. This Law applies to Persons using ʔElhdaqox, discharging into ʔElhdaqox, or impacting Tsilhqot’in title, rights and interests to ʔElhdaqox.

### **Tsilhqot’in Title and Rights**

8. The Aboriginal title and rights of the Tsilhqot’in people includes the *tu* in our territory, including ʔElhdaqox. *Nen* and *tu* cannot be separated but are interconnected.

### **Tsilhqot’in Rights to ʔElhdaqox**

9. Tsilhqot’in people have a right to:
  - (a) clean *tu* from ʔElhdaqox; and,
  - (b) use and access *tu* from ʔElhdaqox for basic human needs, social, economic and cultural purposes, and the exercise of our Aboriginal rights; and,
  - (c) ʔElhdaqox for safe and unhindered navigation.
10. Tsilhqot’in people have a right to FPIC on all uses, projects, or proposed projects that may affect or impact ʔElhdaqox and/or our Aboriginal rights that depend on.
11. Tsilhqot’in people have a right to participate in decisions on the planning, and management of ʔElhdaqox. This right, with respect to the ʔEsdilagh Caretaker Area, may be made operational through engagement with the ʔEsdilagh Government utilizing the principles of FPIC.

### **PART 3 – ORDERS, PERMITS AND AUTHORIZATIONS**

#### ***ʔElhdaqox***

12. *ʔElhdaqox* is of vital cultural, spiritual, ecological and economic importance to the Tʔilhqot'in Nation and has been since time immemorial.
13. *ʔElhdaqox* must be protected and maintained in its natural conditions in terms of quality and quantity. *ʔElhdaqox* must not be subject to degradation of its natural condition including discharging effluent that is of lower quality than *ʔElhdaqox* or use of *ʔElhdaqox* for dilution purposes.
14. The protection of *ʔElhdachugh* (sturgeon), *Ts'eman* (sockeye salmon), *Jaʔ* (chinook salmon), *Lhu ʔil ch'il* (whitefish), *Sabay* (bull trout), *Tislagh* (steelhead trout), *Tʔintil* (burbot), *Dandzex* (coho salmon), *Jaʔ lant'eh* (pink salmon), other fish, plants, and animals the Tʔilhqot'in people rely on from *ʔElhdaqox*, and their Habitat, is paramount to all decisions by ʔEsdilagh Government made under this Law.

### **PART 4 – MANAGEMENT OF ʔELHDAQOX**

15. ʔEsdilagh Government may make orders, or regulations, or issue permits or other authorizations for Persons, projects, or proposed projects that may impact *ʔElhdaqox*, to ensure compliance with this Law (each an "Authorization").
16. No person may undertake any use or activity, or construct, operate, modify or abandon a project, with the potential to negatively affect *ʔElhdaqox* or contravene the protections set out in this Law unless the person first obtains an Authorization.
17. ʔEsdilagh Government may attach terms or conditions to any Authorization, including but not limited to:
  - a. monitoring;
  - b. reporting;
  - c. adaptive management; and,
  - d. other appropriate terms or conditions,as determined by the ʔEsdilagh Government in accordance with this Law.
18. ʔEsdilagh Government must not grant an Authorization for any use, project or proposed project that could adversely impact the quality, quantity of *tu* in *ʔElhdaqox* or Tʔilhqot'in rights and responsibilities.
19. Any Authorization granted under section 15 must be based on the legal principles established under FPIC.
20. Any applicant for an Authorization, at the applicant's own expense, must research current and historic information on Tʔilhqot'in use as directed by ʔEsdilagh Government.

21. Any applicant for an Authorization, at the applicant's own expense, must compile adequate background data on quality and quantity of *?Elhdaqox* prior to making any application for any Authorization.
22. ?Esdilagh Government may suspend or cancel an Authorization where necessary to protect fish, Habitat, water flow, or for reasons of non-compliance.
23. ?Esdilagh Government may impose reasonable monetary prescribed penalties to finance the costs of recovery for harm caused by a person using, or harm the person using is responsible for, under any Authorization.
24. ?Esdilagh Government may inquire into compliance and monitoring of projects within the ?Esdilagh Caretaker Area and an Authorization holder must, at their own expense, provide requested information to ?Esdilagh Government within 72 hours, subject to other directives made by ?Esdilagh Government.
25. ?Esdilagh Government may require a holder of an Authorization, at the holder's expense, to communicate and coordinate their activities with other Authorization applicants or holders.

### **Emergency Protection Order**

26. ?Esdilagh Government may make a temporary protection order, based on sufficient evidence that one is warranted, such as:
  - (a) A declaration of significant *tu* shortage protection order;
  - (b) Serious adverse harm to *?Elhdaqox* protection order;
  - (c) A critical environmental flow protection order; or,
  - (d) A fish population, or fish Habitat, protection order.
27. A temporary protection order made by ?Esdilagh Government is intended to address the critical environmental concern identified in section 26.
28. ?Esdilagh Government may add, or alter conditions of any Authorization, or temporarily suspend Authorizations, to address the issues that caused a temporary protection order to be ordered.
29. ?Esdilagh Government will repeal any temporary protection order, based on sufficient evidence, if it is no longer warranted.

### **Immediate Action to Prevent or Repair Harm**

30. Any Authorization holder must, at the holder's expense, immediately intervene in situations to prevent harm, or further harm, under an Authorization.

31. Any Authorization holder must immediately notify ?Esdilagh Government of any breach or lack of compliance under their Authorization.
32. All Authorization holders must, at the holder's expense, take prompt action to remediate and restore the health of ?Elhdaqox for harm caused, directly or indirectly, under an Authorization.
33. ?Esdilagh Government may add or amend terms or conditions to an Authorization to take corrective action where reasonably warranted under this section.
34. ?Esdilagh Government may require a holder of an Authorization to collaborate with ?Esdilagh Government to determine the appropriate corrective measure under this section.

### **Emergency Use or Testing**

35. A person is not prohibited from:
  - (a) diverting or storing and beneficially using *tu* from a stream or an aquifer for extinguishing a fire, but if flow is diverted from a stream channel for that use, the flow must promptly be restored to that stream channel when the fire extinguished, or
  - (b) diverting *tu* to test the quality or quantity or to conduct a flow test.

### **Shared Planning and Management of ?Elhdaqox**

36. Council may enter into agreements with other parties and governments regarding the use of *tu* in the ?Esdilagh Caretaker Area that comply with this Law.
37. When responding to applications for projects, or proposed projects, or other activities, that may affect ?Elhdaqox, the ?Esdilagh Government will engage:
  - a. its community on critical decisions; and,
  - b. specific knowledge holders, such as the elders, Women's Council, or medicine people, in decisions where appropriate.
38. In cases of conflict regarding uses of ?Elhdaqox the following dispute resolution processes must be followed:
  - a. observing the *nen* and gathering information;
  - b. consulting key knowledge holders;
  - c. seeking permission from the T'silhqot'in people;
  - d. planning or determining appropriate responses; and,
  - e. discussion with applicable interest holders to seek an appropriate resolution that aligns with this Law.

### **Inter-governmental/Inter-Jurisdictional Management of *ʔElhdaqox***

39. The ʔEsdilagh Government may collaborate with surrounding federal, provincial, First Nation, regional, local or municipal governments on the planning and management of *ʔElhdaqox* to ensure the effectiveness of this Law and the achievement of its purposes.

### **PART 4 – GENERAL PROVISIONS**

#### **Enactment, Amendment, and Repeal of Law**

40. ʔEsdilagh Government may enact, amend, or repeal this Law by consensus of the Council.

#### **Power to Enact Regulations**

41. Further laws, regulations and policies may be enacted by ʔEsdilagh Government and/or T̓silhqot'in Nation to implement this Law. Such laws, regulations and policies must be consistent with this Law.

#### **Review of law**

42. Any amendment or repeal of this Law pursuant to section 40 may only be carried out after the ʔEsdilagh Government has engaged the T̓silhqot'in people and taken into account any direction provided.

#### **Inherent Jurisdiction**

43. This Law is enacted pursuant to the T̓silhqot'in inherent jurisdiction, self-governance and law-making authority.

#### **Endorsement of Law**

44. By Nation Resolution, the T̓silhqot'in Council of Chiefs may:

(a) following enactment of this law by ʔEsdilagh Government Council, endorse this law;

(b) following amendment of this law by ʔEsdilagh Government Council, endorse any amendments to this Law; and,

(c) following repeal of this law by ʔEsdilagh Government Council, endorse the repeal of this law.

**Date Written Law Adopted**

45. This written Law has been adopted by consensus of the Council on May 27, 2020.

**BY CONSENSUS:**

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Chief Victor Roy Stump

\_\_\_\_\_  
Councillor William Baptiste

\_\_\_\_\_  
Councillor Howard Johnny

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Councillor Chad Stump



*This map is illustrative only. Do not rely on this map as being a precise location of features, routes or boundaries, including the boundaries of the declaration of Aboriginal Title, or for any representations, express or implied.*

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<sup>i</sup> “The history of the interface of Europeans and the common law with aboriginal peoples is a long one...Yet running through this history, from its earliest beginnings to the present time is a golden thread – the recognition by the common law of the ancestral laws and customs of the aboriginal peoples who occupied the land prior to European settlement,” (*R. v Van der Peet*, 2 S.C.R. 507). (*R. v Van der Peet*, 2 S.C.R. 507). [A]boriginal interests and customary laws were presumed to survive the assertion of sovereignty and were absorbed into the common law as rights... (*Mitchell v MNR*, 1 S.C.R. 911) ...the recognition of Indigenous peoples’ power to make laws is central to reconciliation. (The Truth and Reconciliation Commission of Canada).

<sup>ii</sup> *Key Articles of United Nations Declaration on the Rights of Indigenous Peoples:*

Article 18 Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19 States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 23 Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 25 Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

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2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources. 3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 40 Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.