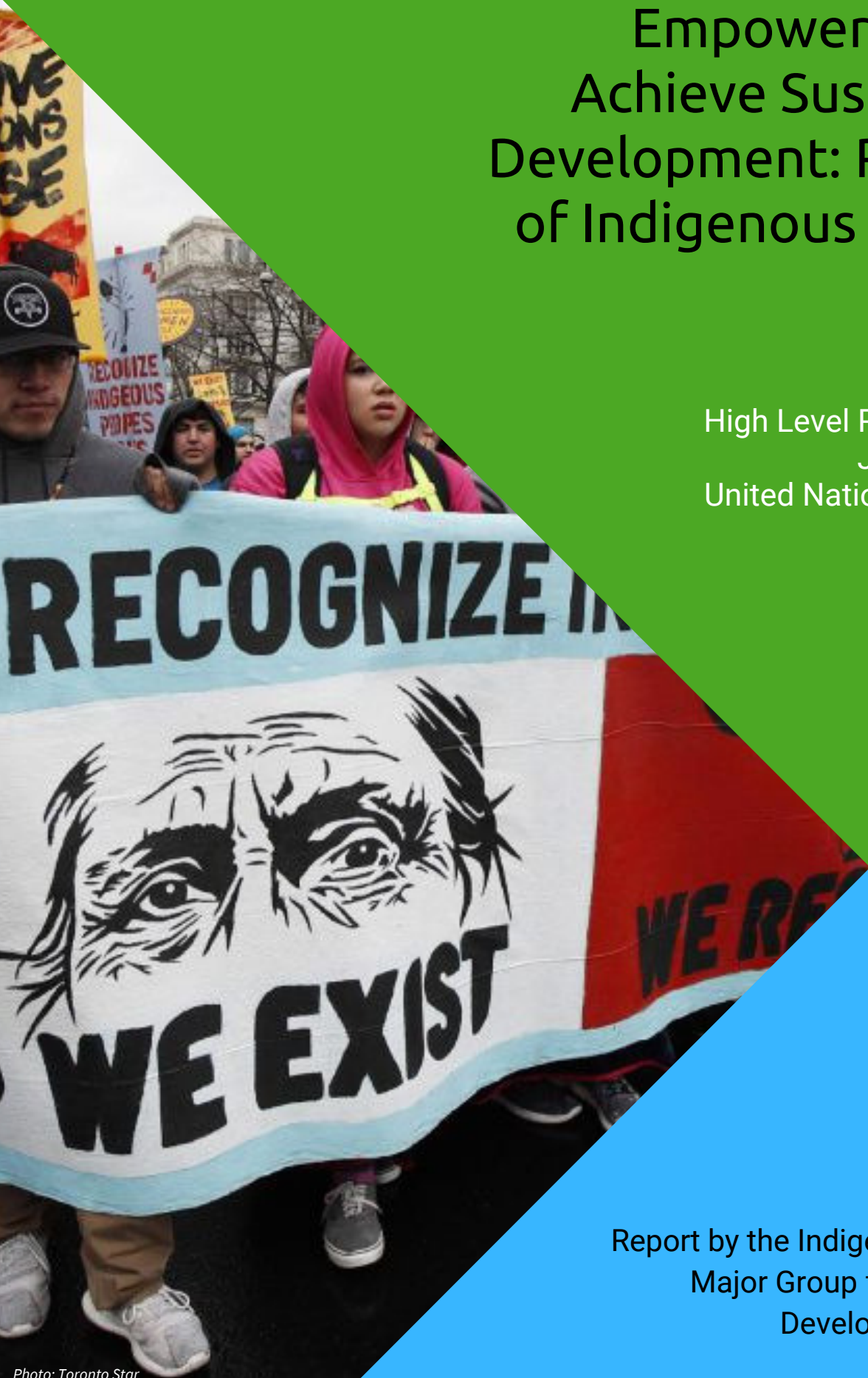


Inclusion, Equality, and Empowerment to Achieve Sustainable Development: Realities of Indigenous Peoples

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Report by the Indigenous Peoples'
Major Group for Sustainable
Development (IPMG)

- There are around 370 million indigenous peoples globally making up 5% of the world's population
- Indigenous peoples constitute around 15% of the world's poor and about 1/3 of the world's 900 million extremely poor
- Indigenous peoples protect 80% of the world's biodiversity
- Indigenous Peoples sustainable manage at least 50% of the world's lands, but they have legal ownership rights to only 10%
- Indigenous peoples have rich indigenous knowledge for sustainable development and climate action



“Many indigenous communities face intractable poverty despite living on resource-rich lands because their rights are not respected and their self-determined development is not supported” (VictoriaTauli-Corpuz).[1]

From the perspective of indigenous peoples, **inclusion and empowerment entail legal recognition of their distinct identities; security of tenure of their lands, territories and resources; peace in their territory and enjoyment of the right to self-governance including their customs, traditions, cultures, and livelihoods linked to sustainable resource management practices.** The last is based on a holistic approach to the reciprocal relations between human beings and nature. These are at the core of indigenous peoples' dignity, wellbeing, collective survival and development which they have been asserting and defending for centuries.

Furthermore, inclusion for indigenous peoples means equal access and opportunities to basic social services that the State should provide, taking into account their specific condition, culture and indigenous ways of life. An enabling environment should be provided for their meaningful participation in decision making including in political and development processes through institutionalized mechanisms for their meaningful engagement in line with the respect and protection of their individual and collective rights. Specifically, their Free Prior and Informed Consent (FPIC) is required when projects and programmes are planned in their territories or have potential adverse impacts on them. To fully take into account their specific condition, needs, priorities and aspirations, including those of indigenous women in the context of “leaving no one behind,” their meaningful participation is required in designing the Sustainable Development Goals' (SDG) implementation of programmes on poverty reduction, ending hunger, quality education, health and wellbeing; access to renewable energy among others. Thus, **the attainment of the SDGs calls for inclusion and partnership of indigenous peoples as rights holders and development actors in developing and implementing specific and targeted measures and programmes.**

More than 200 million indigenous peoples in the Asia-Pacific region are seriously affected by the huge gap in the SDG implementation and are facing serious threats from economic growth targets, climate change and worsening authoritarian governments, among others. A report released by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) states that Asia Pacific will not achieve any of the 17 SDGs by its 2030 target basing on its current trajectory. It further stated that **“ASEAN has moved backwards on decent work and economic growth (SDG 8), climate action (SDG 13), and peace, justice and strong institutions (SDG 16), and areas requiring immediate action to reverse trends including a number of other social and environmental indicators.”[2]**

REALITIES ON THE GROUND

I. PERSISTING MARGINALIZATION, INEQUALITY, DISCRIMINATION AND LACK OF ACCESS TO JUSTICE (GOAL 10 AND 16)

Colonization and the formation of States resulted in the historical injustices committed against the indigenous peoples through forced assimilation, implementation of discriminatory laws, policies and practices, imposition of elite democracy, authoritarian rule and exploitative economic system. Indigenous peoples to this day experience marginalization, exclusion, and disempowerment.

This historical fact of development injustice should be fully acknowledged and addressed as a starting point for the inclusion and empowerment of indigenous peoples in achieving the SDGs. The lack of States' accountability to their international human rights obligations including recognition and protection of the individual and collective rights of indigenous peoples underpins the prevailing discrimination against them and their lack of access to justice and equality.

After decades of struggles and negotiations, and even after the UN General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in September 2007, a huge gap remains in the implementation of UNDRIP at all levels. While there is increasing recognition of the distinct identities and cultures of indigenous peoples (referred to as tribals, ethnic minorities, etc) and some substantive recognition in varying degrees of their collective rights to their lands, territories and resources, the lack of political will by States to fully implement the legal recognition, respect and protection of their collective rights persists.



The Voluntary National Review Reports of many States reflect the situation in remote areas with higher rates of poverty incidence, illiteracy, early marriage, and health issues. The majority of indigenous peoples in developing countries are in rural areas. However, national plans of governments do not reflect targeted interventions to address these challenges, including sufficient budget allocation. On the contrary, economic growth targets in the territories of indigenous peoples are extractive in nature; and protection of their rights to their lands and resources and their effective participation in decision making are not fully provided. Thus, indigenous peoples face serious threats not only in the context of being left behind but also of being pushed behind in the name of “national economic growth for sustainable development.” Further, the lack of data disaggregation by ethnicity is contributing to the invisibility of indigenous peoples as they remain marginalized and discriminated against.



In the case of Guatemala, the Inter-American Commission on Human Rights (IACHR) in its 2017 report[3] observed that the indigenous peoples face the highest rates of social exclusion, and that the state of rights in the country may only be consolidated once all historically excluded peoples have equal participation in society and in decision making.

Increasing threats and violations to individual and collective rights of Indigenous Peoples

As indigenous peoples continue to assert and defend their right to their lands and resources and to self-determination, they are subjected to countless and systematic human rights violations including, among others, extra judicial killing, torture, arbitrary arrest and detention, disappearance, vilification, and criminalization and trump up charges of legitimate actions.

The 2017 Global Witness report[4] states that indigenous peoples remain massively overrepresented among defenders killed. Brazil saw the most deaths ever registered in one year in any country (57), while the Philippines saw more killings in 2017 than ever seen in an Asian country (48). The National Alliance of Indigenous Peoples in the Philippines (KATRIBU) documented at least 51 indigenous peoples killed in the Philippines from July 2016 to October 2018, many of whom were leaders and members of communities and grassroots organizations who protested destructive projects such as large scale gold mining, agribusiness plantations, mega-dams and energy generation projects. The government of the Philippines is also leveraging the justice system to go after activists and indigenous peoples through filing of trumped-up charges including killing and illegal possession of firearms and explosives. On this, KATRIBU documented 183 cases of illegal arrest of indigenous peoples of whom 42 remain in detention for crimes they did not commit.[5]

A press release dated October 31, 2018 by the Inter-American Commission on Human Rights indicated that at least 20 indigenous leaders had been murdered in Guatemala in 2018, largely activists defending their lands, territories and other rights.[6] In Colombia, the National Indigenous Organization of Colombia (ONIC) has categorically denounced and rejected the systematic violation of human rights and the physical and cultural extermination of indigenous peoples in their country. According to ONIC, in 2018, despite signing the final peace agreement, indigenous peoples have suffered: confinement (9,422 cases); mass/forced displacement (1,047 cases); threats (50 cases); recruitment (20 cases); homicide (21 cases); attacks (19 cases); torture (3 cases); and 3 deaths due to omission on behalf of the State, within a displaced and relocated population of some 10,599 people. They also report the criminalization of protests in the country, especially when demanding the rights of indigenous peoples, with cases being filed against social leaders defending the life and the territories of their communities.[7]

[3] OAS, IACHR, Situation of Human Rights in Guatemala, 31 December 2017 <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2017-en.docx> (TN. Original document, OAS /Ser.L/V/II. Doc. 208/17 in Spanish)

[4] Global Witness, At What Cost?, https://www.globalwitness.org/documents/19595/Defenders_report_layout_AW4_update_disclaimer.pdf

[5] International Work Group for Indigenous Affairs, The Indigenous World 2019, p. 16, 294

[6] Ibid, p. 15

[7] See press release of 3 de July de 2018 <http://www.onic.org.co/>

Further, according to a report by the International Indigenous Womens Forum, 123 murders that occurred in 2018 were related to conflicts on lands, territories and natural resources, representing 83% of murders in that year, and 15.12% of those murdered were women (Radio W, 2018).

A 2017 IACHR report stated that human rights defenders in Guatemala are constantly at risk due to the retaliation they face from the legal system which is used against them. Groundless arrest warrants are commonly issued as well as arbitrary detention and pre-trial imprisonment with the sole purpose of criminalizing their human rights defense activities. Nearly 106 registered cases in the first six months of 2017 alone exceeded the total number in 2016. Some examples are the case of the community leaders in the North of Huehuetenango who were imprisoned for nearly two years because of their opposition to a hydroelectric project. Such has been the case of Bernardo Caal, community leader in the region of the Cahabón River, who went to prison in February 2018 for opposing a hydroelectric project; he was accused of theft, threats, and of instigating crime.

In Cambodia, the disregard of the land rights of indigenous peoples and unjust actions of the State has spurred many land conflicts between indigenous peoples and private businesses **which were granted Economic Land Concessions (ELC) without meaningful consultation with indigenous peoples.** Indigenous communities and indigenous human rights defenders have, therefore, launched actions to protect their land rights against ELCs, illegal logging, agribusiness, among other encroachments. In response, companies and the government have threatened and filed cases in court against leaders of indigenous communities. In 2018 alone, 34 indigenous Human Rights Defenders (IPHRDS) (12 women) had been jailed with cases of incitement against the government, destruction of private property, theft/robbery and other criminal charges. One young indigenous **woman human rights defender** was raped and killed. All the victims are facing serious challenges in getting justice.

In Kenya, human rights defenders advocating against the harmful impacts of mega infrastructure LAPSET project on the rights of indigenous peoples, especially in Lamu on the Kenyan Coast, have been targeted for intimidation and harassment by state security agencies. Human Rights Watch (HRW) and the National Coalition of Human Rights Defenders-Kenya (NCHRDK) released statistics in December 2018 that about 35 human rights defenders challenging the implementation of the project were subjected to arbitrary arrest and detention, physical violence and threats by the Kenyan police and military personnel.[8]

The following are some of governments' discriminatory/conflicting laws and policies that provides legal basis on the actions of the states against indigenous peoples and activists:

1. Laws that limits freedom of expression and exemplifies shrinking of civic spaces

Tanzania: Cyber Crimes Act of 2015, Statistics Act of 2015, Media Services Act of 2016, Access to Information Act of 2016, and Electronic and Postal Communications (Online Contents) Regulations of 2018

Myanmar: Unlawful Association Act, for example, sets out prison terms of up to three years for being either a member of, assisting or making contributions to, an "unlawful association" and was used during Myanmar's decades of military junta rule to detain those linked to rebel groups.

Bangladesh: Special Powers Act which provides special measures to prevent certain prejudicial activities, for more speedy trials, effective punishment of certain grave offenses and for other related matters[9]

India: Armed Force (Special Powers) Act of 1958 which provides the armed forces unfettered powers to shoot, arrest, and search, all in the name of “aiding civil power”[10]

2. Declaration of states of emergency

Peru: The Peruvian State resorts indiscriminately to states of emergency, as demanded by Article 137 of its Constitution, for restriction of fundamental rights and allows police or military intervention, without accrediting the existence of a serious affectation to public order. The best example is the systematic extension of the state of emergency in the districts affected by the Las Bambas mining project. Indeed, as is known, a state of emergency was decreed along the Apurímac-Cusco-Arequipa Road Corridor, which is 482 km long, including 500 meters on each side of the road. In these places, states of emergency have been declared in a preventive manner, restricting fundamental rights such as individual freedom, freedom of assembly, transit and the inviolability of the home. In fact, the population is prevented from meeting along the road. They cannot perform public and private events, much less political ones.

Philippines: Proclamation No. 16 is the 2017 proclamation of martial law and suspension of the privilege of the writ of habeas corpus in the whole of Mindanao issued by Philippine President Rodrigo Duterte on May 23, 2017.

Peru: Third paragraph of Article 200 of the Criminal Code, which makes the taking of roads and public places an offense of extortion, including in contexts of social protest. The corresponding penalty is 5 to 10 years of prison, and from 15 to 25 years when more than two people participate. This Article is part of a set of criminal and procedural-criminal rules that promote the criminalization of protest actions by the population.

3. Anti-terrorism Laws and Policies

Bangladesh: Anti-Terrorism Act (ATA), called “Anti-Terrorism Ordinance, 2008,” was enacted by the military-backed caretaker government on 11 June 2008 to combat religious militancy and terrorist activities of Islamic militant groups active in Bangladesh. ATA imposes the death sentence, 3 to 20 years rigorous imprisonment, and fines for the broadly defined offense of “terrorist activities.” The 2012 Anti-Terrorism Act (Revised) has been enacted along with the 2012 Anti-Money Laundering Act to prevent terrorist activities and funneling of funds to these ends.

These laws were passed when the US Department of State praised Bangladesh for its strong and bold approach against terrorism. Amendment in 2013 empowers the police, Rapid Action Battalion (RAB) and other law enforcement agencies to record and collect videos, still photographs, and conversations posted by people and organizations on social and communication media as well as monitor emails. The said Amendment allows these as admissible evidence in court. The police could use this power in specific circumstances with a court-issued authority.

Philippines: Republic Act 9372: An Act to Secure the State and Protect our People from Terrorism (Human Security Act, HSA) which defines new crimes such as terrorism and conspiracy to commit terrorism; and made terrorism “a crime against the Filipino people, against humanity, and against the law of nations.” The HSA also provides measures to prevent acts of terrorism. These include the “surveillance of suspects and the interception and recording of their communications (Section 7), proscription of organizations deemed terrorist by declaration of a Regional Trial Court (Section 17), detention of suspects without judicial warrant of arrest (Section 18), travel restrictions and house arrest for terror suspects on bail (Section 26), and the examination of bank deposits, accounts and records as well as the seizure and sequestration thereof (Section 27).”[11]

Chile: Anti-Terrorism Act which is being used against members of the Mapuche people, especially against leaders and traditional authorities.[12]

4. Laws criminalizing the practice of shifting cultivation and policies that prohibit and/or restrict traditional occupations of indigenous peoples particularly shifting cultivation/rotational agriculture, gathering of non-timber forest products, and other livelihood activities within areas declared as conservation areas or national parks

Cameroon: 1994 Forest Law restricts the ability of forest indigenous communities to hunt a vast number of species (outside protected areas), which are their traditional foods and important elements for many cultural practices.

Peru: Cordillera Escalera Regional Conservation Area (ACR-CE), a natural protected area created by supreme decree in 2005 imposed on indigenous peoples, has resulted in a series of limitations and restrictions to access and use of the territory and its natural resources and has caused criminalization of some members of the Kichwa peoples; the situation affects not only their ability to feed themselves but also their right to reproduce their customs and choose their own futures.

Philippines: National Integrated Protected Areas and the Department of Environment and Natural Resources’ (DENR) requirement of permits for indigenous peoples to be able to harvest/gather their non-timber forest products in their forests.

[11] Asia Indigenous Peoples Pact (AIPP), National Security Laws and Measures: The Impacts on Indigenous Peoples, https://aippnet.org/wp-content/uploads/2015/07/iva.aippnet.org_wp-content_uploads_2015_07_NATIONAL-SECURITY-2015-Low.pdf

[12] IWGIA, The Indigenous World 2019, p.147

Thailand: Forest Act of 1941, National Forest Reserve Act of 1964, Wildlife Sanctuary Act of 1964, National Park Act of 1961, June 30, 1998 Cabinet Resolution, and the Community Forest Act of 2007.[13] The NCPO Order No. 64/2557 and Order No. 66/2557 (Return Forest Policy) issued in June 2014 outline plans to stop deforestation, change forest management, and protect the forest from harmful forces with the goal of increasing forest cover throughout the country. These policies have resulted to judicial actions against indigenous peoples who practice their traditional livelihoods. A case in point is the conviction of 39 Karen indigenous peoples in October 2014 by the Criminal Court in Maesa Riang on charges of illegal logging and forest encroachment; they were sentenced with imprisonment and fines.[14]

Bangladesh: Office Order No. 1033/CA/7/ education-1/88/442 dated 27 August 1988 of the General Officer Commanding (GOC), Chittagong Cantonment banning jum cultivation. This order was eased in 1991 by the GOC, Chittagong Cantonment through order No. 1033/CA/21/miscellaneous/99/754, dated 4 September 1991, which stated that considering the livelihood of hill people, the ban of jum cultivation is relaxed but with certain conditions that still limit the practice of traditional livelihoods of indigenous peoples in the Chittagong Hill Tracts.

VIOLENCE AGAINST INDIGENOUS WOMEN AND GIRLS

Domestic violence and sexual violence against women remain pervasive in many Pacific Island nations. For example, in Fiji, the Fiji Women's Crisis Centre reports that 64% of women who have been in intimate relationships have experienced physical or sexual violence from their partner, including 61% who were physically attacked and 34% who were sexually abused. Other island nations such as Kiribati (68%), Solomon Islands (64%), Vanuatu (60%), and the Republic of the Marshall Islands (51%) have recorded high rates of intimate partner physical and/or sexual violence for women. Women in the Pacific, especially from Small Island Developing States, are also extremely vulnerable to sexual exploitation and human trafficking, as a combination of factors such as the lack of economic capacity amongst Pacific women, certain cultural attitudes, and lack of infrastructure or practices in Pacific Island governments to combat human trafficking have made the Pacific a more common source of human trafficking. Violence against Pacific women has major detrimental implications for their health and wellbeing, but cultural perceptions and practices also have implications for how violence impacts women and how incidences of violence are generally perceived and addressed.[15]

[13] Asia Indigenous Peoples Pact, Indigenous Peoples Initiatives for Land Rights Recognition in Asia, p. 91.

[14] Ibid, p. 92.

[15] International Indigenous Women's Forum, Draft Report on Sustainable Development Goals (SDGs) Goals 10 & 16 regarding the situation of Indigenous Women (unpublished)

CITIZENSHIP RIGHTS

Among the targets of the SDG Goal 16 is the provision of legal identity for all, including birth registration. This remains a big challenge for many indigenous peoples. Many State bodies do not have facilities in remote areas for birth registration. At the same time, hundreds of thousands of indigenous peoples in remote areas can hardly comply with requirement for legal registration and birth registration due to high rates of illiteracy, language barriers, lack of assistance from government agencies

The lack of legal identity reduces their mobility and access to basic government social services such as health, education, and employment. They are also more vulnerable to abuse, discrimination, exploitation, violence and have no recourse to justice, especially indigenous women and girls.

Indigenous peoples known as Hilltribes have been struggling for decades to secure citizenship in Thailand, with over 100,000 indigenous persons estimated to be without citizenship. They are also facing oppression from government officials, many of whom still view indigenous peoples as “foreigners” and dangerous. It is for these reasons that the plan to give indigenous people access to citizenship has slowed. The existing policy on the nationality verification process and implementation thereof have failed in many cases due to a lack of knowledge and understanding by both indigenous peoples and officials about the registration and verification systems. Lack of citizenship is also a serious problem for indigenous peoples in Malaysia and Indonesia, particularly those in highly remote areas.

A community study carried out in 2018 in Cameroon revealed that half of the forest peoples do not possess identity documents which limits their enjoyment of their right to citizenship, the right to move around freely, to vote, to access education and participate in the public affairs of their country. A national dialogue on indigenous peoples’ rights and access to citizenship was conducted in December 2018 which resulted in a number of resolutions that include the issuance of 6,000 birth certificates and national identification cards to indigenous communities, among others.[16]





In 2018 in Russia, the Parliament discussed an amendment to the Federal Framework Law on Guarantees of the Rights of Indigenous Peoples which would make it possible for citizens to register themselves as indigenous peoples. This proposed amendment raised concern among indigenous representatives and organizations because it introduces highly bureaucratic procedures to register as indigenous peoples.

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INDIGENOUS PEOPLES IN CONFLICT AREAS

Armed conflicts between state forces and armed groups, state-sponsored evictions in the name of conservation and development, and land grabbing of indigenous peoples' lands are among the many causes of widespread conflicts in indigenous territories. Likewise, conflicts between pastoralists and farmers competing for lands, water, and forage and how these are managed and allocated are prevalent in Africa. Border areas are also experiencing attacks, such as those from jihadists in the north of Burkina Faso in 2017 and those against the Fulani people living in the border areas of Niger. In the Democratic Republic of Congo, indigenous women have been victims of rape and violence during armed conflicts. Some of them were forced to work as sex slaves for soldiers and after wars could not be integrated into society. Many of them become HIV positive while others are left with children whose fathers are unknown.[17]

LAND CONFLICTS IN KENYA AND TANZANIA

In Kenya, the Sengwer and Ogiek indigenous peoples have been battling waves of state-sponsored eviction from their ancestral homes in Cherangany Hills, Embobut, Kabolet and Mau forests in Western Kenya and Rift Valley under the guise of conserving or protecting these forests from destruction due to “human activities.” Reports abound on the atrocities these two indigenous groups have suffered at the hands of Kenya’s security agencies that have at times led to deaths and injuries and destroyed livelihoods and production systems, shelters, property, cultures and beliefs.

In Tanzania, the Maasai pastoralists have been struggling since 1992 against forced occupation of their ancestral land by a wildlife hunting company. Attacks were committed against them in an attempt by the company together with Tanzanian state forces to evict them from their land. The most recent assault in 2017 saw burning of Maasai settlements, torture, humiliation, harassment as well as arrests and prosecution of people. The pastoralists filed a legal case with the East African Court of Justice (EACJ) which in 2018 ruled in favour of the pastoralists and ordered the respondents to stop the eviction and cease harassing and intimidating the people. This did not stop the company though as in December 2018, two human rights activists from Loliondo were detained for several days without bail for an alleged offense of sedition. They were released but detained again in January 2019.

(Source: IWGIA, The Indigenous World 2019)

CONTINUING CONFLICTS AND DISPLACEMENT IN MYANMAR

In Myanmar, armed conflicts between the Myanmar military and ethnic armed groups intensified over the course of 2018 in Kachin, Shan, and Karen States, stoked by large-scale development projects and disputes over natural resources. Civilians were endangered by the military’s indiscriminate attacks, forced displacement, and aid blockages. Reports emerged of their using civilians as human shields. The UN fact finding mission determined that the military’s actions in Shan and Kachin States since 2011 amounted to war crimes and crimes against humanity.

In January 2018, clashes broke out between the military and the Kachin Independence Army (KIA) in several townships in Kachin State, with the military employing aerial bombing and heavy artillery shelling. More than 3,500 civilians attempting to flee the fighting were trapped, some for over two weeks, without access to adequate food or basic supplies. Hostilities in Kachin State resumed in April.

Source: <https://www.hrw.org/world-report/2019/country-chapters/burma>

Government shelling and airstrikes killed at least 10 civilians and forced approximately 2,000 to flee into the jungle, where they were stranded for nearly a month without access to aid, in dire conditions.

An estimated 106,000 civilians remain in long-term displacement camps in Kachin and northern Shan States, many near areas of active conflict, while more than 30,000 were temporarily displaced in 2018. Thousands were also displaced by fighting in Karen State in March and in Chin State in May.

Authorities continued throughout 2018 to bar the UN and international organizations from delivering aid in areas controlled by ethnic armed groups. Access was also restricted in government-controlled areas and for local organizations. The resulting shortages of food, medicine, and shelter have had a ruinous effect on displaced populations, contributing to a rise in exploitative practices including portering and trafficking. Aid workers who traveled to a nongovernment-controlled area in 2018 to provide humanitarian support were threatened with arrest under the Unlawful Associations Act.

In July, 2018 following clashes in northern Shan State, the military allegedly detained six female medics from the Ta'ang National Liberation Army (TNLA), who were found dead from gunshot and stab wounds shortly thereafter.

Ongoing fighting has fostered conflict-related sexual violence, with internally displaced women and girls especially vulnerable to sexual exploitation and abuse.

Trafficking of women and girls remains a serious problem in Kachin and northern Shan States, where conflict and economic desperation have put them in peril of being lured to China under false promises and sold as “brides.” The Myanmar government has failed to take sufficient steps to prevent trafficking, recover victims, bring perpetrators to justice, or assist survivors.

Source: <https://www.hrw.org/world-report/2019/country-chapters/burma>

USING NATIONAL LEGAL SYSTEM TO SEEK REDRESS

The absence of law enforcement, irregularities in implementing existing legislation, conflicting laws and policies relevant to indigenous peoples and lack of consultation and consent have led to the proliferation of human rights abuses and land conflicts over land, territories, and resources between indigenous communities, corporations and various state agencies. Access to justice for many indigenous peoples has been a major challenge given the cost, location of courts, language used in legal proceedings, lack of legal support, discrimination and lack of trust in the authorities and their procedures.

For indigenous peoples in the U.S. and Canada, their governments have never, to date, established just, participatory and fair processes to address, adjudicate, and correct Treaty and land rights violations.

EXAMPLES OF CURRENT TREATY VIOLATIONS IN US AND CANADA

ISSUE

RIGHTS VIOLATED, INTER ALIA

Standing Rock- Dakota Access Pipeline[18]

Description:

Standing Rock Sioux Tribe and other parties to the 1868 Fort Laramie Treaty exercising Federal and Treaty rights to prevent the construction of the Dakota Access oil pipeline underneath Lake Oahe

- Violation of UN Declaration on the Rights of Indigenous Peoples and other International Human Rights Standards, including the right to Free, Prior and Informed Consent
- Violations of International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
- Violation of the Treaties of 1851 and 1868
- Excessive force carried out against Human Rights Defenders
- Violation of the Human Rights to Water, Culture and Sacred Sites
- Lack of Redress and Response using “domestic remedies”

First Nations Canada- Tar Sands Development and Keystone XL[19]

Description:

No. 6, No. 7, and No. 8 Treaty stand for the protection of traditional territories, hunting territories, sacred sites, and fragile ecosystems impacted by the Tar Sand development

- Violation of UN Declaration on the Rights of Indigenous Peoples and other International Human Rights Standards, including the right to Free, Prior and Informed Consent
- Violation of No. 6, No. 7, and No. 8 Treaty rights including rights to hunt, fish, gather and subsist on treaty territory
- Violation of the Human Right to Water
- Lack of Redress and Response using “domestic remedies”

Source: Status of Indigenous Peoples' Lands, Territories and Resources in North America, www.indigenouspeoples-sdg.org

Amidst these challenges and the lack of recognition of indigenous peoples' justice system, indigenous peoples, with the help of support groups and lawyers, have been utilizing the court system at national and regional levels for the protection of their rights.

[18] IITC and Standing Rock Tribe Joint Urgent Action Report found at: <http://bit.ly/2IPQZLE>

[19] Assembly of Treaty Chiefs (AoTC). Treaties 6,7 & 8 Resolution 2008. Despite the fact that “the Chiefs of Treaty No. 6, Treaty No. 7, and Treaty No. 8 (Alberta) through their All Chiefs Assembly known as the AoTC (Assembly of Treaty Chiefs) have called for a moratorium on any further expansion of this development, the government of Alberta continues to grant leases, licenses and permits to the extraction companies.”



As a result of the relentless advocacy and legal work of indigenous peoples in **Indonesia** for the legal recognition of their rights, Indonesia's Constitutional Court ruling 24/200 in 2003 recognized the *kesatuan masyarakat hukum adat* (customary law societies/communities who live by law) as having legal standing and eligible petitioners. Accordingly, the Court accepted petitions from two indigenous communities together with AMAN[20] as a supporting organization for review of provisions in the Forestry Laws 41/1999. One of the articles in this Law claimed that the customary forests (*hutan adat*) are part of state forests covering about 65% of Indonesia. In May 16, 2013, the Constitutional Court issued decision No. 35/PUU-X/2012 (MK 35) recognizing indigenous peoples as legal subjects and people with rights over land, territories and natural resources, including customary forests. This is a landmark decision which declared that the state must return customary forests to indigenous peoples, opening a window of opportunity to potentially secure at least 40 million hectares of customary territory. Challenges still remain for implementing this decision on the ground, as regulations have to be formulated and issued at the provincial or district level including required budgets, and above all, political will of the local governments and leaders. AMAN and its members are lobbying provincial and district governments to issue such regulations in support of MK 35.

In another case, indigenous peoples filed a petition requesting the Constitutional Court to grant their demands and review some of the provisions in the Law on Prevention and Eradication of Forest Degradation and Forestry Law, as these have become a source of criminalization and violence against indigenous communities. On December 10, 2015, the Court granted indigenous peoples and other forest dependent communities permission to collect forest products for non-commercial purposes. However, the demand to review criminalization was rejected.

[20] AMAN (Aliansi Masyarakat Adat Nusantara), also known as the Indigenous Peoples' Alliance of the Archipelago, is a national alliance of indigenous peoples with more than 2,000 indigenous communities in Indonesia.

Thousands of cases have been filed in the District Courts against private companies which have acquired land without free, prior and informed consent. According to the National Land Agency, there were around 8,000 land conflicts in Indonesia in 2012. “The National Human Rights Commission of Indonesia (Komnas HAM) has recorded an increase in complaints against companies since 2010, as well as an increase in land conflicts between individuals/communities and companies, in particular large-scale plantation operators”.[21] “In most cases, lack of respect for and implementation of FPIC has been a root cause of ensuing land conflicts.” Some of the lawsuits filed in the last two years include the lawsuit filed by Talonang indigenous peoples against PT. Pulau Sumbawa Agro at the Sumbawa District Court and the lawsuit by Semunying Jaya indigenous peoples against PT. Ledo Lestari in West Kalimantan. The judges dismissed the cases on the grounds that they were unclear. In the judges’ legal consideration, the indigenous peoples have no legal status in the form of a local regulation or decree from the relevant Ministries that would recognize their existence as indigenous peoples.[21]

In **Malaysia**, most of the cases involve the acquisition of or entry into customary lands by corporations and government entities, almost always without the knowledge or consent of indigenous communities. In 2013, Sarawak recorded over 200 cases of this nature, a similar number in Sabah and a substantial number in Peninsular Malaysia. While a number of victories were gained on land rights-related cases, there were also extremely disappointing decisions such as the Federal Court’s majority decision on 20 December 2016 on the Sarawak government’s appeal in the case brought by TR Sandah. “It ruled that the customary practice of indigenous peoples do not have the force of law because -even if shown to exist- it did not fall within the definition of customary laws under the Sarawak Land Ordinance. The Federal Court’s decision will have major implications for large tracts of customary lands and forests currently occupied by the indigenous peoples of Malaysia.”[22]

In **Nepal** in 2017, The Lawyers for Human Rights of Indigenous Peoples (LAHURNIP)[23] provided legal support to 13 cases of human rights violations and to the resistance movements in different parts of the country. Of the 13 cases, two were on displacement by road expansion projects (in Kathmandu and Dhankutta); two on hydropower projects - Padam Khola hydropower project and Upper Trishuli-1 Hydropower Project; two on high-tension electricity transmission lines - Kabeli and Bhulbule Marsyangdi; one on mining of limestone in Palpa; one on animal slaughterhouse in Gulariya in Bardiya; one on pollution by Birat Poultry Farm in Morang; one on dignity and identity of the Khadgi in Kathmandu; one on forest, water and sacred sites of the Magar in Kailali; one on land takeovers by the Nepal Army in Panchthar; and one a continuing case of gross human rights violation by the state against Tharu indigenous peoples in Kailali. What is common to all these cases is that neither the State nor the private sector have ever sought the free prior and informed consent of the concerned indigenous peoples or given due compensation to those whose lands and property have been destroyed.

[21] State of Indigenous Peoples’ Lands, Territories and Resources in Asia, <https://www.indigenouspeoples-sdg.org/index.php/english/>

[22] Ibid

[23] Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples

The **Waorani** indigenous peoples of Ecuador co-filed a lawsuit with Pastaza CONCONAWEP and the Ecuadorian Human Rights Ombudsman against the Ecuadorian Ministry of Energy and Non-Renewable Natural Resources, the Secretary of Hydrocarbons and the Ministry of Environment for violation of Waorani's rights granted to them under the Ecuadorian Constitution due to an improper consultation process prior to an oil auction covering their lands. On April 26, 2018 the three-judge panel of the Pastaza Provincial Court issued a landmark decision immediately and indefinitely suspending plans to auction around 180,000 hectares of indigenous Waorani territory to oil companies. In particular, the ruling voids the consultation process with the Waorani undertaken by the Ecuadorian government in 2012, which the judges said violated the Waorani's right to free, prior and informed consultation and to self-determination. Just a day after the historic court ruling, the Ministry of Energy and Non-Renewable Natural Resources announced that they would appeal the court ruling.[24]

RECOGNITION AND RESPECT FOR INDIGENOUS PEOPLES GOVERNANCE AND JUSTICE SYSTEM: KEY TO LASTING PEACE AND SECURITY FOR INDIGENOUS PEOPLES

Indigenous peoples have long been able to maintain peace and security and manage their lands and territories through their indigenous governance and justice systems. These institutions though are either not recognized by States or where there is recognition, their role in governing their communities is sometimes limited.

In the **Pacific** region, customary forms of authority have been weakening due to increased interaction with outsiders such as governments, democratic institutions, and religion. Globalisation has also had an impact through external actors with new ways of using land, including large-scale harvesting of timber and minerals, agribusiness, roads and other infrastructure, and tourism. New ideas and opportunities for customary groups to benefit from their land can mean that customary authority is less effective in regulating the behaviour of members or leaders of the group. Changes in customary authority can reduce land tenure security for some members of customary groups and strengthen it for others—for example, when land deals take place without the consent of all landowning members of the group. Historically in the Pacific region, such changes have tended to reduce women's access to land. Loss of authority can also weaken processes for resolving disputes involving customary land, so that disputes remain unresolved for a long time.[25]

[24] See <https://www.opendemocracy.net/en/democraciaabierta/los-pueblos-ind%C3%ADgenas-han-ganado-una-victoria-hist%C3%ADrica-protegiendo-a-la-amazon%C3%ADa-del-extractivismo-en/>

[25] Status of Indigenous Peoples' Lands, Territories and Resources in the Pacific, www.indigenouspeoples-sdg.org

Land Rights



Photo: Toronto Star

In **Mexico**, according to state information, 418 of the 624 indigenous municipalities are governed by their own legal system (417 in Oaxaca and 1 in Michoacán). The indigenous peoples have set up various initiatives to address the lack of security and protection. In Guerrero, the community police force has carried out security, justice and reintegration activities in accordance with indigenous customs and practices which has helped reduce violence and impunity. On the downside, access to justice with respect to femicide in indigenous areas frequently goes unpunished in the country. [26]

In **Guatemala**, the indigenous authorities exercise their jurisdiction across large areas of the country. Violent crime rates are the lowest in the areas in which indigenous justice applies, such as San Marcos, Sololá, Totonicapán, Baja Verapaz and Quiché departments, where, according to information received, there was not a single murder in a number of municipalities in 2017. [27]

In Timor Leste, the vast majority of conflicts are settled in the customary justice system at the hamlet (aldeia) or village (suco) level. These are decided by local Elders (Lia Nain) or the elected Suco Council according to customary rules established by the local community. These rules are based on spiritual traditions of sacred practice (Lulik) which for many centuries have regulated community relationships according to kinship in sacred houses (Uma Lulik). Local regulations and moral codes of conduct are often referred to as Tara Bandu, 'hanging prohibitions' as these traditionally were signalled by placing items in trees. Strong compliance is ensured by the sense of community belonging and spiritual duty, sanctions may for example entail community work. For most Timorese these customary practices are an integral part of everyday life and play a central role in resolving disputes between individuals and communities, such as land disputes, conflict between communities and natural resources management. These practices focus on maintaining community and environmental harmony, in contrast to the formal justice system, which is perpetrator focused. Customary justice is the natural first resort for the vast majority of the population.[28]

[26] A/HRC/39/17/Add.2

[27] A/HRC/39/17/Add.3

[28] End of mission statement by the United Nations Special Rapporteur on the rights of indigenous peoples, Victoria Tauli-Corpuz on her visit to Timor-Leste, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24492&LangID=E>

II. ACCESS TO QUALITY EDUCATION (GOAL 4): PROGRESS AND CONTINUING GAPS

In **Africa**, although the past decade has witnessed rapid progress towards access to quality education – with some countries significantly increasing enrolment, narrowing gender gaps and extending opportunities for disadvantaged groups including indigenous peoples, provision of formal education for hard-to-reach areas in sub-Saharan countries has remained a matter of concern. More than half of children that have not enrolled in school live in sub-Saharan Africa and an estimated 50% of out-of-school children of primary school age live in conflict-affected areas. For indigenous girls, early marriage and Female Genital Mutilation (FGM) were recognized as major impediment to girl child education among other factors. Pastoralists and forest dependent groups in particular still face marginalization which is historical and associated with their mobile lifestyles. To address this, the Kenyan government and UNICEF initiated mobile schools that travel with the students, and the school calendar is planned around weather patterns; most formal learning is scheduled during the rainy season when children do not have to balance helping out their families and are more likely to stay in one place. Also in Kenya, the Maji-moto community has initiated a community self-driven movement to mobilize funds among themselves to support needy and bright students joining secondary level. This initiative will help improve the primary to secondary transition rates and student academic performance.

In **Democratic Republic of Congo**, the impact of conflict prevents women and girls from going to school due to the long distances which make them vulnerable to gang rape, armed forces circulating in the forests, especially in the east of the country. Also early marriage of girls in violation of the law NO 09/001 of 10 January 2009 protecting the child, harassing and insulting other students as well as sexual harassment by teachers discourage girls' education and prevent them from continuing their studies.[29]

In **Tanzania**, indigenous communities found in Terrat, Kimwati and Orbomba villages have low level of formal education. This could be caused by the economic status and livelihood system which allows the children to graze livestock and depend on nature for survival. Access to education for girls is still a challenge in this region. In some areas in Terrat village it was found that 4/5 of boys reported attending nursery to primary school compared to 3/5 of girls. In Kimwati village, from 2015–2018 the undergraduates from recognized universities were 15% boys and 10% girls; in high school boys comprised 20%, and girls 10%. [30]



[29] International Indigenous Women's Forum, Draft Report on Sustainable Development Goals (SDGs) Goals 10 & 16 regarding the situation of Indigenous Women (unpublished)

[30] Data from the Indigenous Navigator Initiative being implemented in Tanzania

In **Latin America**, there is a greater retention of indigenous men in educational establishments. It is only in Costa Rica, Nicaragua and Venezuela where young indigenous women have higher average years of study compared to men. With regard to attendance rate, some countries have achieved universal attendance at the primary school level both for indigenous populations and the rest of the population, as in Chile and Mexico, for example, while in Panama the gap remains high (Cabrol and Székely, 2012). On completion rate, Chile had high rates for the entire population, with very few differences with the indigenous population, while in Panama the latter's completion rates were half of those of the rest of the population (Cabrol and Székely, 2012). In the case of the adult indigenous population, an important difference was observed in Bolivia, Guatemala, Mexico and Panama where indigenous people reached half of their schooling years compared to the rest of the population, while in Chile and Nicaragua the difference was less than two years. In general illiteracy ranges under 3% (Ecuador) to approximately 13% (Venezuela).

According to available information, in Latin America indigenous students in post-secondary and higher education are few. Information from SITEAL (2011) indicates that the gap in access and retention of indigenous youth in this education level is high. Uruguay has the smallest gap between the indigenous and non-indigenous populations, while Guatemala and Panama have the highest. In summary, in Latin America indigenous students' access to higher education is low which impacts the proportion of indigenous professionals in the region.

Indigenous children in **Bangladesh** are still deprived of education in their mother tongue. In January 2017, the government developed textbooks for indigenous children in five languages[31] at the pre-primary level. About 50,000 textbooks were printed and distributed among approximately 25,000 indigenous students.[32] However, many indigenous children still have not received mother-tongue textbooks. Moreover, new teachers with expertise in alphabets of five indigenous languages have not been appointed, and current teachers have not been trained. Hence, a comprehensive action plan on mother-tongue based education needs to be formulated and implemented by the Government of Bangladesh to make the initiative a success.

In the **Philippines**, the Department of Education adopted a National Indigenous Peoples Policy framework, but indigenous children and youth still do not have access to education given their location, economic condition, and discrimination, among others. In Mindanao, indigenous peoples (lumad) and civil society organizations have initiated the establishment of community schools, but they are presently subject to attack by State and paramilitary forces. Militarization of indigenous schools and communities resulted in displacements, with as many as 73 of 228 lumad schools closed since the start of the Duterte administration.[33]

Indigenous children in Bangladesh are still deprived of education in their mother tongue.

[31] The languages are Chakma, Kokborok, Garo, Marma and Sadri languages.

[32] The Daily Star (8 January 2017) 'Santal students yet to get books in mother tongue' available at: <http://www.thedailystar.net/backpage/santal-children-yet-get-textbooks-mother-tongue-1342030>.

[33] Read more: <https://newsinfo.inquirer.net/1089300/after-fleeing-bomb-threats-lumad-youth-resume-studies-at-up#ixzz5iwtmnhpL>

For Thailand, the five-year National Language Policy Strategy Plan for 2018-2022 has been completed and made available online for final public hearing until December 10, 2018 and submission to the Cabinet for approval. The national language policy covers local languages including indigenous languages. The twelve strategy indicators include increased percentage of schools using the local language and the national language as languages of instruction (i.e., mother tongue-based bilingual education). The current baseline is about 19 schools nationwide. Another indicator is the percentage of projects that promote, preserve, and revitalize local languages.[34]

Also in **Thailand**, communities can organize and manage basic education under the ministerial regulation National Education Act Article 12 which stipulates that communities can register their school as community learning center. However, this is not yet financed by the government, thus the Alternative Education Network groups are advocating for government subsidy for students in community learning centers similar to the support provided to students in private schools. Presently, 41 centers nationwide are registered as community learning centers.

In **Indonesia**, the Indigenous Peoples' Alliance of the Archipelago (AMAN) established 16 traditional cultural schools that teach culture and tradition to indigenous children, while in Malaysia, Thailand, Philippines, and Nepal, indigenous organizations have been providing indigenous children mother tongue education at pre and primary school level, and this needs to be protected and supported to achieve Goal 4.

Indigenous women in the Mbororo pastoralist communities in **Cameroon** started a campaign on promoting equal access to education which offered scholarships to girls, carried sensitization campaigns and encouraged pastoralists to stay put so that their children can access education. Other organizations joined the fight against inequality in the education sector by encouraging families to give equal opportunities to their children, sensitization on gender-based violence, and working on ending early and forced marriages in the Mbororo community. Today many Mbororo girls are educated, some work in various sectors while others are in universities. Illiteracy among Mbororo women and girls of the Northwest region has gone down.[35]

III. ECONOMIC GROWTH TARGETS (GOAL 8): UNDERMINING INDIGENOUS PEOPLES' TRADITIONAL OCCUPATIONS

Governments' current economic priorities and policies being implemented with "business as usual" approach are marginalizing indigenous peoples and even pushing them further behind.

In **Southeast Asia**, the Association of Southeast Asian Nations' (ASEAN) investment plans are focused on dams and extractive industries such as large-scale mining which are mostly located in indigenous peoples' territories. These projects are implemented with militarization in certain areas in the Philippines, Indonesia, Myanmar, and Cambodia resulting in the destruction of indigenous peoples' resources and traditional occupations, food insecurity, destabilization of indigenous institutions and increase of indigenous women's and children's vulnerability to violence. This is in addition to undermining women's roles in sustainable resource management and food security, among others.

[34] See <http://www.royin.go.th/?p=21018> for more information.

[35] International Indigenous Women's Forum, Draft Report on Sustainable Development Goals (SDGs) Goals 10 & 16 regarding the situation of Indigenous Women (unpublished)



The infrastructure development plans including more than 100 large hydropower dams and major highways for ASEAN connectivity are now causing conflicts due to displacements, outright disregard for indigenous peoples' rights to their lands and resources including forests, loss of livelihood, and destruction of sacred sites, among others.

Corporate agribusiness expansion plans for oil palm and corn production and sugar plantations result in land grabbing and devastation of the economic base of indigenous peoples' traditional occupations in many countries. Their traditional occupations which are decent work and sources of livelihood being criminalized by states include shifting cultivation, gathering of non-timber forest products, and traditional fishing. Social injustice, food insecurity, indigenous women's disempowerment, and undermining of the dignity and wellbeing of indigenous peoples are the dire consequences. While indigenous peoples' territories are targeted for various projects for "economic growth," they have least access to basic social services such as education, health services, electricity, communication facilities, among others.

IV. CLIMATE CHANGE AND CLIMATE SOLUTIONS WITH ADVERSE IMPACTS ON INDIGENOUS PEOPLES (GOAL 13)

Indigenous peoples inhabit marginal and fragile ecosystems such as tropical and temperate forest zones, low-lying coastlines, high mountainous areas, flood plains and riverbanks. These areas are some of the most threatened with increased climatic uncertainties and unpredictability of extreme events, and slow onset climatic events like cyclones, hailstorms, desertification, sea level rise, floods, and prolonged droughts. Although indigenous peoples contribute least to climate change, they are the first to face its impacts and suffer the most. Their positive contributions to sustainable resource management, biodiversity conservation and enhancement, and abatement of greenhouse gases lack recognition, protection, compensation and support.[36]

The effects of climate change is strongly felt by the Inuits of Greenland with the observed shrinking of sea ice which affects their essential transportation routes during winter. Sea ice coverage in 2018 was reported at a historical low, according to the National Snow and Ice Data Center.[37] Shrimp fisheries in the country will also be highly impacted by climate change as the higher sea temperatures lead to an increase in cod which feed on the shrimp.

[36] See <https://aippnet.org/wp-content/uploads/2012/11/Adaptation-and-Indigenous-Peoples-20121112092932.pdf>

[37] The Indigenous World 2019, p. 29.

Food Shortage and Emergence of Pests and Diseases due to Climate Change

The Danuwar community in Battar Village in Nepal are facing irregular rainfall and drought. The production of potatoes has gone down by 20% which experts say is due to less rainfall. Production has decreased in other areas as well.

The Mahji community in Bhimtar village in Nepal shared that there used to be regular rainfall in the past. However, the pattern has changed and rain does not come in the right time leading to scarcity of water for agriculture.

The Binogan people in Magao province in the Philippines observed that because of the change in climate there are now more rats, small earthworms, and rice bugs which damage the crops. The number of mosquitoes has also increased and caused diseases. The community experienced rice scarcity, with the longest lasting for six months.

The **Pacific** region has experienced devastating cyclones, storm surges, coral bleaching, and irregular rainfall patterns. Sea level rise threatens low-lying islands, where salt water infiltrates drinking water wells and kills staple food crops, as well as damages property. For example, in Guam, the biggest challenge is coral bleaching, but in the last few years the cyclones have become more intense. Abnormally warm ocean waters can bleach corals, which occurs when stressed corals expel the colorful algae living within their tissues. Coral bleaching threatens the reef ecosystem, and increasingly intense cyclones and tropical storm surges pose immediate danger to island residents. Two category five cyclones hit the Pacific in the past two years; Cyclone Pam struck Vanuatu in March 2015 and Cyclone Winston in Fiji in February 2016. Winston was the strongest tropical cyclone to hit the Southern Hemisphere in recorded time.[38]

The National Park Bill of 2019 of **Thailand** poses a threat to many indigenous peoples in the country. Under the new National Park Bill, forest officials can summon people for questioning, enter any household without court orders, and have the authority to destroy any dwelling deemed illegal without having to go through court procedures. Forest communities are considered illegal even though they have long existed before the demarcation of protected areas. The traditional rotational farming system for subsistence living is considered a crime because it involves tree cutting and burning, even though the area is very small, the fires are controlled, and rotational farming fosters biodiversity and forest regeneration. The punishment for clearing land for farming is even harsher. The jail sentence is four to 20 years or fine of between 400,000 and 2 million baht, or both. If farmers let loose their cattle into the forest, they will be fined 10,000 baht for each animal, an obvious effort to make the villagers' way of life extremely difficult.[39]

WHAT DOES ARTICLE 52 OF THE NATIONAL PARK BILL SAY?

- The areas marked for temporary settlements should not affect the ability to preserve the forest.
- People granted temporary land rights should meet the qualifications and have a specific need to live in the national park.
- No more than 20 rai (3.2 hectares) will be granted per family and the rights will expire in between five and 20 years.
- The temporary land rights cannot be transferred outside of the family.
- If the granted land is left uninhabited for over a year, the rights will be revoked.
- The rights can be transferred within the family, but the expiry date will remain the same.
- The terms and conditions of the temporary land rights are in the hands of the National Park, Wildlife and Plant Conservation Department committee.
- People granted land rights would be required to pay rent to the national park.

Advantages

- Key areas of the forest, such as headwaters, will be protected from human activities.
- Communities living in the forest will be better managed.

Disadvantages

- The qualifications of people eligible remain unclear.
- Activities allowed on the granted land remain unclear.
- Occupants feel insecure about their future as the land rights are temporary.
- Communal rights are not protected.
- Conflicts between forest communities and authorities may intensify.

Source: The Nation

NATION GRAPHICS

[38] Status of Indigenous Peoples' Lands, Territories and Resources in the Pacific, www.indigenouspeoples-sdg.org
[39] <https://www.bangkokpost.com/opinion/opinion/1645556/forests-cannot-grow-on-state-violence>

The indigenous peoples' sustained engagement in global processes relating to climate change has been gaining support from States, UN agencies, NGOs and others. The traditional knowledge of indigenous peoples and local communities is now formally acknowledged and recognized by the UN Scientific Body (SBSTA) for its critical contributions to climate change mitigation and adaptation. In particular, the Local Communities and Indigenous Peoples Platform (LCIP) has been established to strengthen the knowledge, technologies, practices, and efforts of local communities and indigenous peoples related to addressing and responding to climate change, to facilitate the exchange of experience and the sharing of best practices and lessons learned on mitigation and adaptation in a holistic and integrated manner and to enhance the engagement of local communities and indigenous peoples in the UNFCCC process.[40]

Some climate change solutions identified by States have been resulting to displacements and loss of livelihood without the meaningful participation of or consent by indigenous peoples. Large hydroelectric, geothermal, and wind power plants are causing conflicts due to violations of indigenous peoples' rights to their lands, and adverse social, cultural and environmental impacts.

Ironically, while indigenous peoples are hosts to these energy projects, they have least access to the same as the energy generated from their territories is consumed by industries and urban areas. Indigenous peoples fully support the transition from fossil fuels to renewable energy to combat climate change. However, the implementation of renewable energy projects needs to be fully aligned to a human rights framework and principles of equity. To address this, the Indigenous Peoples Major Group (IPMG) initiated the Right Energy Partnership (REP) to ensure that renewable energy projects are fully aligned with the respect and protection of human rights and provide indigenous peoples access to energy. (See <https://www.rightenergypartnership-indigenous.org> for more information and <https://www.rightenergypartnership-indigenous.org/resources> for the background paper on the Right Energy Partnership.)

Indigenous women face higher risks and greater burdens from the impacts of climate change in situations of poverty and due to existing roles, responsibilities and cultural norms. In Nepal, for example, where indigenous peoples constitute at least 38% of the population, women account for 66% of the agricultural labour force but own only an estimated 8% of the land. In economic terms, too, women are highly dependent on land, as cash income is often derived directly from natural resources found on their community lands (e.g. non-timber forest products). In some areas of Andhra Pradesh in India, 77% of women's income comes directly from forests, yet women's crucial role in forest management is often not recognised under community forest management systems. When land is lost or degraded, their daily life is seriously affected, as the burden of providing for the family's subsistence becomes heavier. Psychologically as well as socially, women are under huge pressure, and their dignity and status in society are threatened. [41]

Indigenous peoples and local communities are often on the frontline of climate change and have invaluable insights and perspectives on coping with its effects.

INDIGENOUS WOMEN FACE HIGHER RISKS AND GREATER BURDENS FROM THE IMPACTS OF CLIMATE CHANGE IN SITUATIONS OF POVERTY AND DUE TO EXISTING ROLES, RESPONSIBILITIES AND CULTURAL NORMS.

[40] <https://unfccc.int/topics/local-communities-and-indigenous-peoples-platform/the-big-picture/introduction-to-the-local-communities-and-indigenous-peoples-platform-lcipp#eq-1>

[41] Birgitte Feiring 2013, Indigenous peoples' rights to lands, territories, and resources, p. 68

Para Kore Initiative

Para Kore is established as an independent organization specializing in providing waste minimization services to **Māori**, enabling Para Kore to identify as a Māori organisation, “by Māori, for Māori”. Para Kore means Zero Waste. Zero Waste is a call to action that aims to end the current take, make, and dispose mentality of human society. Zero Waste is a policy, a path, a target. It is a process, a new way of thinking. Most of all it is a vision. It is a new planning approach which closes the loop, so that all waste is a resource for another process. Zero Waste is excellence, where waste, pollution and resource are designed out, and job creation, economic prosperity and resource abundance are designed in.

Para Kore delivers education and training on marae to create behaviour change that aligns with the principles of a circular economy by eliminating waste in the planning process, sorting waste so that as little as possible goes to landfills and educating whānau about how to reduce plastic and recycling. As a Māori organisation, Para Kore is grounded in relationships with and whakapapa to Papatūānuku, Ranginui me ō rāua uri.

The Para Kore programme is designed to support marae, kōhanga reo, kura and community organisations to reduce waste. (See: <http://parakore.maori.nz>)

THERE IS THEREBY A NEED FOR STATES TO PRIORITISE CAPACITY BUILDING AND ALLOCATION OF SUFFICIENT RESOURCES FOR DATA DISAGGREGATION INCLUDING ETHNICITY.

V. DATA DISAGGREGATION BY ETHNICITY (GOAL 17)

Data disaggregation by ethnicity remains a huge gap in measuring and evaluating the level of inclusion of indigenous peoples in the SDG implementation. There is thereby a need for States to prioritise capacity building and allocation of sufficient resources for data disaggregation including ethnicity.

The Statistical Coordination Group for the 2030 Agenda in Latin America and the Caribbean carried out a diagnosis of national statistical capacities to produce SDG indicators. A survey was applied to the countries of the region to assess their capacities to disaggregate information for indigenous peoples.[42]

In the 2018 census of Guatemala, the authorities are going to use the criterion of self-identification for the first time on the basis of a respondent's ethnic group and other elements of cultural identity that could help clarify official estimates of the indigenous population.[43]

In the Philippines, data disaggregation by ethnicity was integrated in the national census of the government but was limited to the factor on language spoken and thus cannot fully capture the population of the many indigenous peoples in the country. The National Commission on Indigenous Peoples does not also have the tools to monitor the actual population of indigenous peoples.

[42] https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/SE180877-Report-to-UNPFII_ECLAC_Dec2018-def-latest-version.pdf

[43] A/HRC/39/17

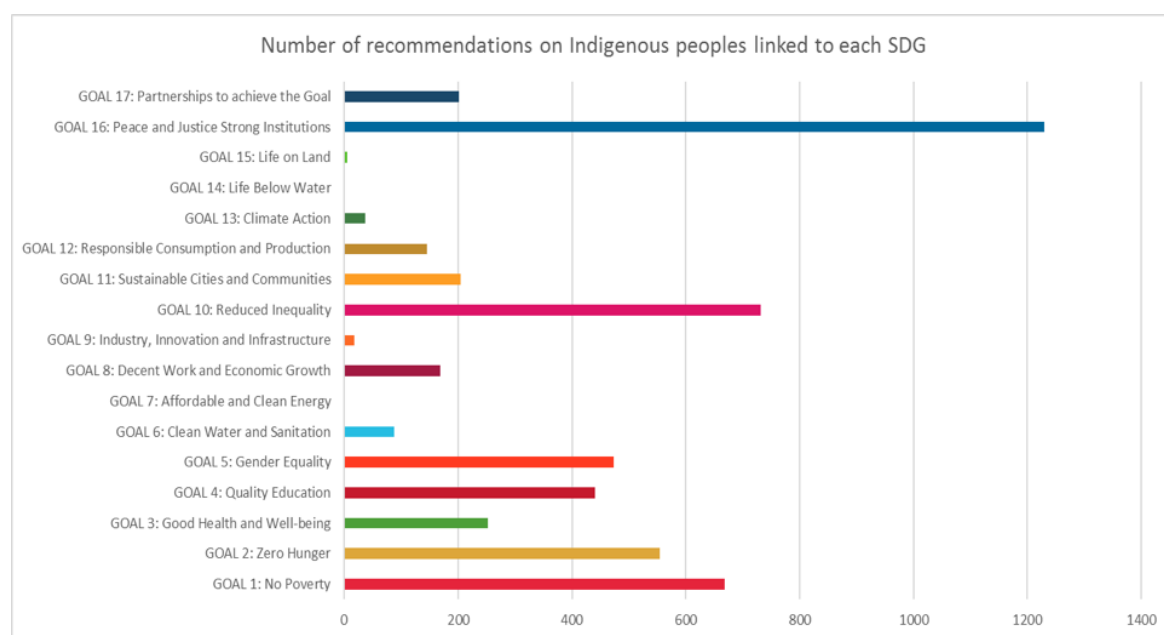
RECOMMENDATIONS OF UN HUMAN RIGHTS SYSTEM ON RECOGNITION AND PROTECTION OF INDIGENOUS PEOPLES RIGHTS LINKED TO SDGS

Central to the achievement of the Sustainable Development Goals is the compliance of States to their human rights obligations and commitments. In the case of indigenous peoples, thousands of recommendations from the UN Human Rights system including the Universal Periodic Review, the Committee for the Elimination of Racial Discrimination demonstrate the link between marginalization, discrimination, exclusion, inequality and disempowerment of indigenous peoples.

States' obligation to recognise, promote and protect Rights of Indigenous Peoples is imperative in achieving SDGs

The continuing violation of the individual and collective rights of indigenous peoples as demonstrated in this report is a major obstacle to ensuring the pledge of “leaving no one behind.” In fact, the 2030 Agenda provides the framework for the realization of human rights as fundamental to achieving the SDGs.

The data explorer of the Danish Institute for Human Rights (DHIR) which provides the link of the UN Human Rights system's recommendations to SDG Goals and Targets shows that more than 5,000 recommendations addressing indigenous peoples are relevant to the SDGs. Of all 17 Goals, Goal 16 on Peace and Justice and Strong Institutions has the highest number of recommendations with more than 1,200, followed by Goal 10 on reducing inequality with more than 700 recommendations.



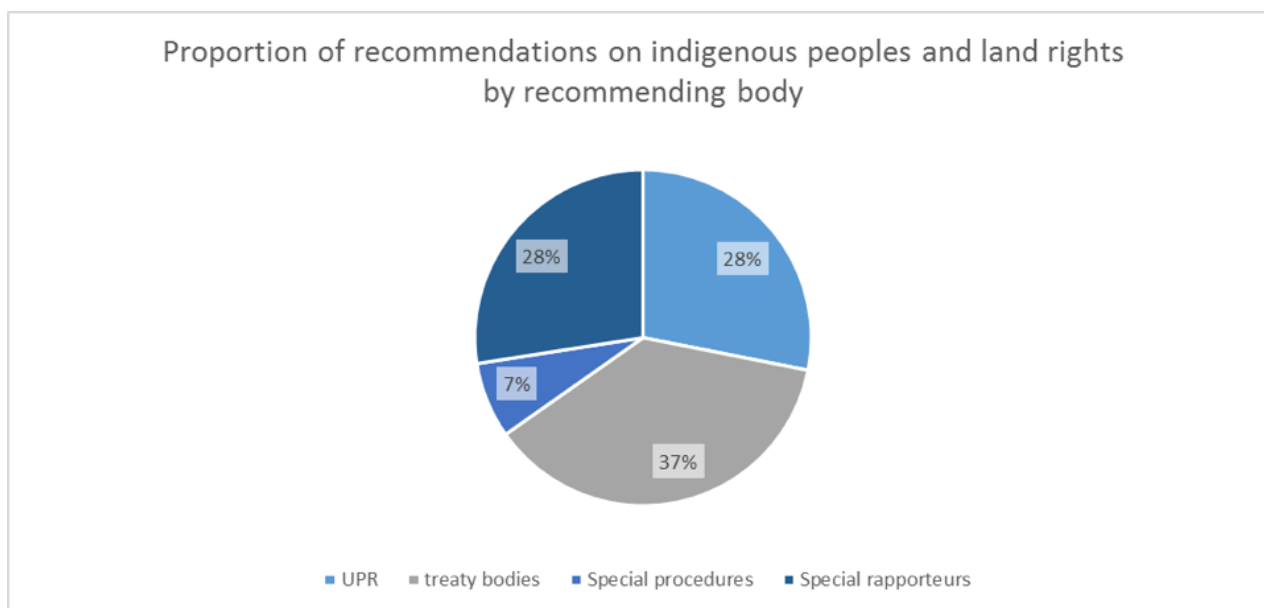
This is likewise reflected in the recommendations to States under the Universal Periodic Review (UPR), of which more than 25% are related to Goal 16 and Goal 10. In particular, the key elements relate to:

- **Participation and consultation in decision-making, 16.7%**
- **Protection of human rights defenders, 16.10%**
- **Access to justice, 16.3%**
- **Birth registration, 16.9%**
- **Elimination of discriminatory laws and practices, 19%**
- **Closing the gap in opportunities and life outcomes, 10.3%**

[42] https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2019/01/SE180877-Report-to-UNPFII_ECLAC_Dec2018-def-latest-version.pdf

[43] A/HRC/39/17

The need to recognise the collective land rights of indigenous peoples is also a consistent recommendation across the different human rights bodies and mechanisms as illustrated below. This further demonstrates that the inherent collective land rights of indigenous peoples are not just based on the UN Declaration on the Rights of Indigenous Peoples but also on the International Covenant on Economic, Social and Cultural Rights, the International Covenant for Elimination of Racial Discrimination. The recognition and protection of this right is thereby included in the Universal Periodic Review of States that have ratified these Conventions as well as in the work of Special Procedures and the Special Rapporteur.



Based on the report on the realities of indigenous peoples, these recommendations largely remain unimplemented by States. The continuing attitude and approach by States and other development actors to de-link human rights from the SDGs needs to be underscored, and States' accountability to their human rights obligations and commitments should also be at the center of SDG implementation, monitoring and reporting. If not, indigenous peoples will remain marginalized, discriminated against and pushed behind in the implementation of the SDGs. Further, their invaluable contributions, knowledge and sustainable resource management systems and practices will not only be undermined but diminished.

We thereby call on States to immediately implement the recommendations of treaty bodies, the Universal Periodic Review, Special Procedures and Special Rapporteur for the protection and enjoyment of the rights of indigenous peoples including their access to justice. Further, data disaggregation by ethnicity shall be prioritized in the SDG implementation, monitoring.

Measures to integrate indigenous peoples' self-determined development and their meaningful participation, including of indigenous youth and women, in the implementation of the Sustainable Development Goals shall also be ensured.

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